

**OHIO**

**SENATE**

**JOURNAL**

**WEDNESDAY, JUNE 1, 2005**

FIFTY-NINTH DAY  
Senate Chamber, Columbus, Ohio  
**Wednesday, June 1, 2005, 1:30 p.m.**

The Senate met pursuant to adjournment.

Prayer was offered by Pastor Brian Hanson, Linworth Baptist Church, Worthington, Ohio, followed by the Pledge of Allegiance to the Flag.

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

**REPORTS OF REFERENCE AND BILLS FOR SECOND  
CONSIDERATION**

Senator Schuring reports for the Standing Committee on Reference, recommending that the following bill, standing in order for second consideration, be referred to committee as recommended:

**H. B. No. 100**-Representatives Taylor, Carano, Collier, C. Evans, McGregor, Otterman, Reidelbach, Seitz, White, Willamowski, J. Stewart, Cassell, Domenick, Aslanides, Daniels, Flowers, Hood, Hughes, Kearns.

To enact section 3734.576 of the Revised Code to authorize a solid waste management district to exempt automotive shredder residue from the district's generation fee.

To the Committee on Environment and Natural Resources.

YES - 5: J. KIRK SCHURING, MARK MALLORY, C. J. PRENTISS, JEFF JACOBSON, BILL HARRIS.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Said bill was considered a second time and referred to committee as recommended.

**REPORTS OF STANDING AND SELECT COMMITTEES**

Senator Carey submitted the following report:

The standing committee on Finance and Financial Institutions, to which was referred **Am. Sub. H. B. No. 66**-Representative Calvert, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Amstutz, Goodman, Clancy.

YES - 9: DAVID GOODMAN, JOHN A. CAREY, TOM NIEHAUS, RANDY GARDNER, GARY W. CATES, JOY PADGETT, RON AMSTUTZ, PATRICIA M. CLANCY, STEPHEN C. AUSTRIA.

NO - 4: TOM ROBERTS, CHARLES A. WILSON, RAY MILLER, DANIEL R. BRADY.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Hottinger submitted the following report:

The standing committee on Insurance, Commerce and Labor, to which was referred **S. B. No. 7**-Senator Cates, having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsor: Spada.

YES - 6: JAY HOTTINGER, STEPHEN C. AUSTRIA, GARY W. CATES, PATRICIA M. CLANCY, LYNN R. WACHTMANN, JEFFRY J. ARMBRUSTER.

NO - 3: ERIC D. FINGERHUT, MARK MALLORY, RAY MILLER.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

### **BILLS FOR THIRD CONSIDERATION**

**Sub. H. B. No. 66**-Representatives Calvert, Flowers, Martin, McGregor, Peterson, Schlichter, Webster, Aslanides, Blasdel, Coley, Collier, Combs, DeWine, Dolan, C. Evans, D. Evans, Hagan, Kearns, Kilbane, Law, T. Patton, Seaver, Setzer, Wagoner, White, Widowfield, Husted Senators Amstutz, Goodman, Clancy.

To amend sections 9.24, 101.68, 102.02, 102.06, 105.41, 108.05, 109.54, 109.57, 109.60, 109.79, 109.91, 109.98, 117.10, 120.06, 120.13, 120.23, 120.52, 120.53, 121.37, 121.38, 122.011, 122.17, 122.171, 122.18, 122.40, 122.603, 122.71, 122.72, 122.73, 122.74, 122.75, 122.751, 122.76, 122.77, 122.78, 122.79, 122.82, 122.83, 122.95, 122.951, 123.01, 123.152, 123.17, 124.01, 124.02, 124.04, 124.07, 124.09, 124.11, 124.133, 124.14, 124.15, 124.20, 124.23, 124.231, 124.241, 124.25, 124.26, 124.27, 124.29, 124.30, 124.31, 124.311, 124.32, 124.321, 124.322, 124.323, 124.324, 124.325,

124.328, 124.33, 124.34, 125.041, 125.05, 125.09, 125.11, 125.831, 125.832,  
126.25, 127.16, 131.02, 131.23, 133.09, 140.01, 140.08, 141.011, 141.04,  
147.05, 147.10, 147.11, 147.12, 147.371, 149.30, 150.07, 150.10, 173.26,  
173.40, 173.99, 181.251, 181.51, 181.52, 181.54, 181.55, 181.56, 183.28,  
184.02, 305.171, 307.36, 307.37, 307.695, 307.76, 307.86, 307.88, 317.08,  
317.36, 319.20, 319.302, 321.24, 323.01, 323.152, 325.31, 329.04, 329.051,  
339.72, 339.88, 340.03, 340.16, 731.14, 731.141, 742.59, 901.43, 903.05,  
905.32, 905.33, 905.331, 905.36, 905.37, 905.38, 905.381, 905.50, 905.501,  
905.66, 907.16, 913.02, 913.23, 915.02, 915.16, 915.24, 921.02, 921.16,  
923.44, 923.45, 923.46, 926.01, 927.69, 1111.04, 1327.511, 1502.02, 1509.06,  
1509.072, 1509.31, 1515.14, 1517.02, 1521.062, 1531.27, 1533.10, 1533.11,  
1533.111, 1533.112, 1533.12, 1533.32, 1533.99, 1541.03, 1548.06, 1707.01,  
1707.17, 1707.19, 1707.20, 1707.22, 1707.23, 1707.25, 1707.261, 1707.431,  
1707.44, 1707.46, 1711.52, 1711.53, 1713.03, 1751.03, 1751.04, 1751.05,  
1751.89, 1901.26, 1901.31, 1907.24, 2113.041, 2117.061, 2151.352,  
2151.416, 2152.43, 2152.44, 2152.74, 2303.201, 2305.234, 2329.66,  
2743.191, 2744.05, 2744.08, 2901.07, 2913.40, 2921.13, 2923.25, 2971.05,  
3107.10, 3111.04, 3119.54, 3121.12, 3121.50, 3125.18, 3301.079, 3301.0710,  
3301.0711, 3301.0714, 3301.0715, 3301.12, 3301.16, 3301.311, 3301.32,  
3301.56, 3301.86, 3301.88, 3302.03, 3311.059, 3313.207, 3313.208,  
3313.209, 3313.489, 3313.975, 3313.976, 3313.977, 3313.978, 3313.98,  
3314.01, 3314.013, 3314.015, 3314.02, 3314.021, 3314.03, 3314.031,  
3314.032, 3314.033, 3314.06, 3314.074, 3314.08, 3314.13, 3314.17, 3315.17,  
3315.18, 3315.37, 3316.06, 3316.16, 3317.013, 3317.02, 3317.021, 3317.022,  
3317.023, 3317.024, 3317.026, 3317.027, 3317.028, 3317.029, 3317.0216,  
3317.0217, 3317.03, 3317.031, 3317.05, 3317.052, 3317.053, 3317.06,  
3317.063, 3317.07, 3317.081, 3317.09, 3317.10, 3317.16, 3317.20, 3317.21,  
3317.22, 3317.23, 3317.50, 3317.51, 3318.091, 3318.33, 3319.081, 3319.17,  
3319.22, 3319.235, 3319.55, 3323.021, 3323.091, 3323.14, 3323.16, 3327.01,  
3332.092, 3333.04, 3333.044, 3333.12, 3333.121, 3333.27, 3333.28, 3333.36,  
3333.38, 3334.01, 3334.02, 3334.03, 3334.07, 3334.08, 3334.09, 3334.10,  
3334.11, 3334.12, 3334.15, 3334.16, 3334.17, 3334.18, 3334.19, 3335.02,  
3345.10, 3345.19, 3345.32, 3353.01, 3353.04, 3353.06, 3353.07, 3362.02,  
3365.01, 3365.02, 3375.48, 3375.49, 3375.54, 3375.55, 3381.02, 3381.04,  
3381.05, 3381.06, 3381.07, 3381.15, 3383.02, 3383.09, 3501.17, 3517.13,  
3517.151, 3701.023, 3701.146, 3701.65, 3702.141, 3702.51, 3702.68,  
3702.72, 3702.74, 3703.01, 3703.03, 3703.04, 3703.05, 3703.06, 3703.07,  
3703.08, 3703.10, 3703.99, 3704.035, 3704.143, 3704.99, 3705.24, 3709.29,  
3709.34, 3712.03, 3714.07, 3721.01, 3721.011, 3721.02, 3721.03, 3721.07,  
3721.15, 3721.19, 3721.21, 3721.50, 3721.51, 3721.52, 3721.56, 3721.58,  
3722.01, 3722.02, 3722.04, 3734.01, 3734.20, 3734.21, 3734.22, 3734.23,  
3734.28, 3734.57, 3734.573, 3734.85, 3734.901, 3734.9010, 3735.27,  
3743.01, 3743.02, 3743.04, 3743.05, 3743.06, 3743.15, 3743.17, 3743.18,  
3743.19, 3743.57, 3743.59, 3743.65, 3743.75, 3745.11, 3745.12, 3746.04,  
3746.071, 3748.07, 3748.13, 3773.34, 3773.38, 3773.39, 3773.40, 3773.57,  
3781.07, 3781.10, 3781.102, 3793.09, 3901.021, 3901.17, 3901.3814,

3901.78, 3903.14, 3903.42, 3905.04, 3905.36, 3905.40, 3923.27, 4112.12, 4115.03, 4115.032, 4115.071, 4115.32, 4115.34, 4117.10, 4117.24, 4121.12, 4121.121, 4121.125, 4123.27, 4123.44, 4123.47, 4301.10, 4301.43, 4303.182, 4501.01, 4501.37, 4503.103, 4503.471, 4503.48, 4503.50, 4503.53, 4503.571, 4503.59, 4503.73, 4503.85, 4503.91, 4505.06, 4506.03, 4506.07, 4511.191, 4511.75, 4517.01, 4519.01, 4519.02, 4519.09, 4561.17, 4561.18, 4561.21, 4703.15, 4705.09, 4709.05, 4713.02, 4717.05, 4723.32, 4723.63, 4731.65, 4731.71, 4736.11, 4736.12, 4740.14, 4753.03, 4753.06, 4753.071, 4753.08, 4753.09, 4755.03, 4755.48, 4766.09, 4905.10, 4905.54, 4905.95, 4911.18, 4973.171, 5101.16, 5101.181, 5101.21, 5101.241, 5101.26, 5101.31, 5101.35, 5101.36, 5101.46, 5101.47, 5101.75, 5101.752, 5101.80, 5101.801, 5101.821, 5104.01, 5104.02, 5104.30, 5104.32, 5104.38, 5107.05, 5107.10, 5107.26, 5107.30, 5107.58, 5110.01, 5110.05, 5110.352, 5110.39, 5111.011, 5111.019, 5111.0112, 5111.02, 5111.021, 5111.022, 5111.023, 5111.025, 5111.042, 5111.06, 5111.082, 5111.11, 5111.111, 5111.113, 5111.16, 5111.17, 5111.172, 5111.19, 5111.20, 5111.204, 5111.21, 5111.22, 5111.221, 5111.23, 5111.231, 5111.235, 5111.241, 5111.25, 5111.251, 5111.255, 5111.257, 5111.26, 5111.261, 5111.263, 5111.264, 5111.27, 5111.28, 5111.29, 5111.291, 5111.30, 5111.31, 5111.32, 5111.33, 5111.62, 5111.81, 5111.85, 5111.87, 5111.871, 5111.88, 5111.911, 5111.97, 5111.99, 5112.03, 5112.08, 5112.17, 5112.30, 5112.31, 5115.20, 5115.22, 5115.23, 5119.61, 5120.09, 5120.51, 5121.01, 5121.02, 5121.03, 5121.04, 5121.05, 5121.06, 5121.061, 5121.07, 5121.08, 5121.09, 5121.10, 5121.11, 5121.12, 5121.21, 5122.03, 5122.31, 5123.01, 5123.045, 5123.046, 5123.047, 5123.049, 5123.0412, 5123.34, 5123.41, 5123.701, 5123.71, 5123.76, 5126.01, 5126.035, 5126.042, 5126.054, 5126.055, 5126.056, 5126.057, 5126.12, 5139.01, 5139.36, 5153.16, 5502.01, 5531.10, 5540.01, 5540.09, 5552.01, 5703.052, 5703.053, 5703.26, 5703.50, 5703.70, 5703.80, 5703.99, 5705.091, 5705.19, 5705.391, 5711.16, 5711.21, 5711.22, 5711.28, 5715.01, 5715.24, 5725.01, 5725.19, 5727.01, 5727.02, 5727.06, 5727.08, 5727.10, 5727.11, 5727.111, 5727.12, 5727.23, 5727.47, 5727.81, 5727.82, 5727.84, 5727.85, 5727.99, 5728.01, 5728.02, 5728.03, 5728.04, 5728.06, 5728.08, 5728.99, 5729.08, 5731.01, 5731.05, 5731.131, 5731.14, 5731.18, 5731.181, 5731.39, 5731.41, 5731.99, 5733.01, 5733.065, 5733.066, 5733.33, 5733.351, 5733.352, 5733.40, 5733.41, 5733.49, 5733.98, 5733.99, 5735.99, 5737.03, 5739.01, 5739.02, 5739.021, 5739.025, 5739.026, 5739.029, 5739.03, 5739.033, 5739.034, 5739.035, 5739.09, 5739.10, 5739.12, 5739.16, 5739.17, 5739.99, 5741.02, 5741.16, 5741.99, 5743.01, 5743.02, 5743.03, 5743.05, 5743.071, 5743.08, 5743.10, 5743.111, 5743.112, 5743.14, 5743.15, 5743.16, 5743.18, 5743.19, 5743.20, 5743.32, 5743.33, 5743.99, 5747.01, 5747.012, 5747.02, 5747.05, 5747.08, 5747.212, 5747.331, 5747.70, 5747.80, 5747.98, 5747.99, 5749.02, 5907.15, 5919.33, 5920.01, 6109.21, 6121.04, and 6123.04; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 181.251 (5502.63), 181.51 (5502.61), 181.52 (5502.62), 181.54 (5502.64), 181.55 (5502.65), 181.56 (5502.66), 3314.031 (3314.21), 3314.032 (3314.22), 3314.033 (3314.23), 3314.034 (3314.24), 3317.21 (3318.47), 3317.22

(3318.48), 3317.23 (3318.49), 4115.21 (4115.16), 4723.63 (4723.91), 5101.75 (173.42), 5101.752 (173.43), 5111.02 (5111.021), 5111.021 (5111.022), 5111.022 (5111.023), 5111.023 (5111.0115), 5111.112 (5111.113), 5111.113 (5111.114), 5111.231 (5111.232), 5111.257 (5111.258), 5111.81 (5111.085), 5111.88 (5111.97), 5111.97 (5111.86), 5121.01 (5121.02), 5121.02 (5121.03), and 5121.03 (5121.01); to enact new sections 3317.012, 3353.02, 3353.03, 3704.14, 4723.63, 5111.02, 5111.112, 5111.231, 5111.24, 5111.257, 5111.262, 5111.88, and 5123.048, and sections 9.23, 9.231, 9.232, 9.233, 9.234, 9.235, 9.236, 9.237, 9.238, 9.239, 9.241, 101.391, 103.132, 109.579, 109.981, 120.07, 120.36, 121.373, 121.381, 121.382, 121.403, 122.075, 122.083, 122.12, 122.121, 122.172, 122.173, 125.18, 125.25, 125.60, 125.601, 125.602, 125.603, 125.604, 125.605, 125.606, 125.607, 125.608, 125.609, 125.6010, 125.6011, 125.6012, 131.51, 153.02, 173.39, 173.391, 173.392, 173.393, 173.44, 173.45, 173.46, 173.47, 173.48, 173.49, 173.50, 306.331, 341.192, 901.44, 907.111, 1533.122, 1547.721, 1547.722, 1547.723, 1547.724, 1547.725, 1547.726, 1707.164, 1707.165, 1711.531, 1751.271, 2151.282, 2151.652, 2305.2341, 2307.65, 2744.082, 2913.401, 2927.023, 3125.191, 3302.10, 3310.01, 3310.02, 3310.03, 3310.04, 3310.05, 3310.06, 3310.07, 3310.08, 3310.09, 3310.10, 3310.13, 3310.14, 3310.16, 3310.17, 3311.11, 3313.6410, 3314.016, 3314.061, 3314.084, 3314.085, 3314.12, 3314.18, 3314.19, 3314.25, 3314.26, 3314.27, 3314.28, 3314.35, 3314.36, 3316.043, 3317.016, 3317.017, 3317.201, 3318.18, 3319.06, 3319.0810, 3319.172, 3323.20, 3323.30, 3323.31, 3323.32, 3323.33, 3325.10, 3325.11, 3325.12, 3325.15, 3325.16, 3325.17, 3333.047, 3333.122, 3333.123, 3333.162, 3354.25, 3701.073, 3702.83, 3704.144, 3705.242, 3714.073, 3715.04, 3721.032, 3721.541, 3721.561, 3745.015, 3745.114, 3770.061, 3781.191, 3903.421, 4115.36, 4117.103, 4501.07, 4506.101, 4506.161, 4713.441, 4121.126, 4121.127, 4121.128, 4123.441, 4123.444, 4123.445, 4723.61, 4723.62, 4723.621, 4723.64, 4723.65, 4723.66, 4723.67, 4723.68, 4723.69, 4766.14, 4912.01, 5101.07, 5101.071, 5101.163, 5101.244, 5101.461, 5101.802, 5101.803, 5101.93, 5101.94, 5107.301, 5111.0114, 5111.027, 5111.028, 5111.061, 5111.062, 5111.083, 5111.084, 5111.10, 5111.161, 5111.162, 5111.163, 5111.164, 5111.165, 5111.176, 5111.191, 5111.222, 5111.223, 5111.242, 5111.243, 5111.244, 5111.254, 5111.265, 5111.266, 5111.65, 5111.651, 5111.66, 5111.661, 5111.67, 5111.671, 5111.672, 5111.673, 5111.674, 5111.675, 5111.676, 5111.677, 5111.68, 5111.681, 5111.682, 5111.683, 5111.684, 5111.685, 5111.686, 5111.687, 5111.688, 5111.851, 5111.852, 5111.853, 5111.854, 5111.855, 5111.856, 5111.881, 5111.882, 5111.883, 5111.884, 5111.885, 5111.886, 5111.887, 5111.888, 5111.889, 5111.89, 5111.891, 5111.892, 5111.893, 5111.914, 5111.915, 5111.971, 5111.98, 5112.341, 5121.30, 5121.31, 5121.32, 5121.33, 5121.34, 5121.35, 5121.36, 5121.37, 5121.38, 5121.39, 5121.40, 5121.41, 5121.42, 5121.43, 5121.44, 5121.45, 5121.46, 5121.47, 5121.49, 5121.50, 5121.51, 5121.52, 5121.53, 5121.54, 5121.55, 5123.16, 5540.032, 5703.057, 5707.031, 5709.112, 5725.32, 5727.031, 5727.241, 5727.812, 5729.032, 5739.012, 5739.36, 5743.031, 5743.072, 5743.71, 5747.056, 5751.01,

5751.011, 5751.012, 5751.013, 5751.02, 5751.03, 5751.031, 5751.032, 5751.033, 5751.04, 5751.05, 5751.051, 5751.06, 5751.07, 5751.08, 5751.081, 5751.09, 5751.10, 5751.11, 5751.12, 5751.20, 5751.21, 5751.22, 5751.23, 5751.31, 5751.50, 5751.51, 5751.52, 5751.53, 5751.98, 5751.99, 5919.31, 5919.341, 6111.30, 6111.31, and 6111.32; and to repeal sections 181.53, 339.77, 742.36, 1541.221, 3301.31, 3301.33, 3301.34, 3301.35, 3301.36, 3301.37, 3301.38, 3301.80, 3301.85, 3301.87, 3311.40, 3317.012, 3317.0212, 3317.0213, 3353.02, 3353.03, 3501.141, 3506.17, 3704.14, 3704.142, 3704.17, 3721.511, 3901.41, 3901.781, 3901.782, 3901.783, 3901.784, 4115.16, 4519.06, 4519.07, 5101.751, 5101.753, 5101.754, 5111.041, 5111.205, 5111.24, 5111.262, 5111.34, 5115.10, 5115.11, 5115.12, 5115.13, 5115.14, 5123.041, 5123.048, 5731.20, 5733.122, and 6111.028 of the Revised Code; to amend Sections 16.09, 19.01, 20.01, 22.03, 22.04, 23.02, 23.12, 23.13, 23.26, 23.45, and 24.01 of Am. Sub. H.B. 16 of the 126th General Assembly; to amend Section 3 of Am. H.B. 67 of the 126th General Assembly; to amend Sections 203.03.09, 203.03.10, and 203.06.15 of Am. Sub. H.B. 68 of the 126th General Assembly; to amend Section 41.36 of Am. Sub. H.B. 95 of the 125th General Assembly and to amend Section 41.36 of Am. Sub. H.B. 95 of the 125th General Assembly for the purpose of codifying it as section 3323.19 of the Revised Code; to amend Section 14 of Sub. H.B. 434 of the 125th General Assembly; to amend Section 4 of Am. Sub. H.B. 516 of the 125th General Assembly; to amend Sections 26.01 and 74 of Am. Sub. S.B. 189 of the 125th General Assembly; to amend Section 22 of Am. Sub. S.B. 189 of the 125th General Assembly, as amended by Am. Sub. H.B. 16 of the 126th General Assembly; to amend Section 3 of Am. Sub. H.B. 621 of the 122nd General Assembly, as subsequently amended; to amend Section 153 of Am. Sub. H.B. 117 of the 121st General Assembly, as subsequently amended; to amend Section 5 of Am. Sub. S.B. 50 of the 121st General Assembly, as subsequently amended; and to repeal Sections 59.19, 89.17, and 147 of Am. Sub. H.B. 95 of the 125th General Assembly to make operating appropriations for the biennium beginning July 1, 2005 and ending June 30, 2007, and to provide authorization and conditions for the operation of state programs, and to repeal Section 553.01 of this act on December 16, 2005, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 66**, pass?"

Senator Gardner moved to amend as follows:

In line 82072, after "5731.20," insert "and"; delete the last comma

In line 82073, delete "and 6111.028"

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

The motion was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 66**, pass?"

On the motion of Senator Prentiss, the Senate recessed.

The Senate met pursuant to the recess.

On the motion of Senator Jacobson, the Senate recessed.

The Senate met pursuant to the recess

Senator Amstutz moved to amend as follows:

In line 79536, delete "2008" and insert "2009"

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

The motion was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 66**, pass?"

Senator Miller moved to amend as follows:

In line 252, delete "9.24,"

In line 259, delete "131.23,"

In line 263, delete "323.01,"

In line 264, delete "329.051,"

In line 272, delete "2305.234,"

In line 273, delete "2744.05,"

In line 275, delete "3111.04, 3119.54,"

In line 285, delete "3317.10,"

In line 294, delete "3702.74,"

In line 307, delete "4123.27,"

In line 312, delete "4731.65, 4731.71,"

In line 315, delete "5101.181,"; delete "5101.26, 5101.31,"; delete "5101.36,"

In line 318, delete "5110.01, 5110.05,"

In line 326, delete "5112.03, 5112.08,"

In line 327, delete "5112.17,"

In line 327 delete "5115.20, 5115.22, 5115.23,"

Delete lines 412 through 552



In line 6449, reinsert "or payments or provider agreements under"

Reinsert line 6450

In line 6451, reinsert "Chapter 5115. of the Revised Code"

Delete lines 6680 through 6796

Delete lines 9279 through 9334

In line 9528, reinsert "Administer disability medical assistance, as required by"

Reinsert lines 9529 and 9530

In line 9531, reinsert "(4)"

In line 9534, reinsert "(5)" and delete "(4)"

In line 9537, reinsert "(6)" and delete "(5)"

In line 9540, reinsert "(7)" and delete "(6)"

In line 9546, reinsert "(8)" and delete "(7)"

In line 9548, reinsert "(9)" and delete "(8)"

In line 9552, reinsert "(10)" and delete "(9)"

In line 9560, reinsert "(11)" and delete "(10)"

In line 9564, reinsert "(12)" and delete "(11)"

Delete lines 9578 through 9592

Delete lines 14504 through 14773

Delete lines 15285 through 15371

Delete lines 17196 through 17251

Delete lines 30803 through 30861

Delete lines 40018 through 40083

Delete lines 43451 through 43574

Delete lines 44679 through 44750

Delete lines 45147 through 45185

Delete lines 45315 through 45336

Delete lines 46941 through 47055

Delete lines 52909 through 53084

Delete lines 53133 through 53308

In line 74192, delete "9.24,"

In line 74199, delete "131.23,"

In line 74203, delete "323.01,"

In line 74204, delete "329.051,"

In line 74213, delete "2305.234,"; delete "2744.05,"

In line 74215, delete "3111.04, 3119.54,"

In line 74225, delete "3317.10,"

In line 74235, delete "3702.74,"

In line 74248, delete "4123.27,"

In line 74252, delete "4731.65, 4731.71,"

In line 74255, delete "5101.181,"; delete "5101.26,"

In line 74256, delete "5101.31,"; delete "5101.36,"

In line 74258, delete "5110.01, 5110.05,"

In line 74266, delete "5112.03,"

In line 74267, delete "5112.08, 5112.17,"; delete "5115.20, 5115.22, 5115.23,"

In line 74300, delete "5115.10, 5115.11, 5115.12, 5115.13,"

Delete lines 81219 through 81270

In line 80606, delete "\$3,777,442,629 \$3,795,940,675" and insert "\$3,834,083,830 \$3,879,036,128"

In line 80608, delete "\$9,430,092,916 \$9,527,633,251" and insert "\$9,486,734,117 \$9,610,728,704"

In lines 80615, 80617, and 80689, add \$56,641,201 to fiscal year 2006 and \$83,095,453 to fiscal year 2007

Between lines 80730 and 80731, insert:

**"REDUCTION IN GENERAL REVENUE FUND OBJECT CODE 13 EXPENDITURES**

The Director of Budget and Management shall reduce General Revenue Fund Object Code 13 expenditures in the Department of Job and Family Services by \$56,641,201 in fiscal year 2006 and \$83,095,453 in fiscal year 2007 without disrupting essential services of the state. This shall be used to provide additional funding in General Revenue Fund appropriation item 600-525, Health Care/Medicaid."

In line 88253, delete "5112.03,"

In line 89577, delete "9.24,"; delete "131.23,"

In line 89578, delete "323.01, 329.051,"

In line 89579, delete "2305.234, 2744.05, 3111.04, 3119.54,"

In line 89579, delete "3702.74,"

In line 89580, delete "4731.65, 4731.71,"; delete "5101.181,"

In line 89581, delete "5101.26, 5101.31, 5101.36,"; delete "5110.01, 5110.05,"

In line 89585, delete "5112.03, 5112.08,"

In line 89586, delete "5112.17, 5115.10,"

In line 89587, delete "5115.22, 5115.23,"

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

In line 10 of the title, delete "131.23,"

In line 16 of the title, delete "323.01,"

In line 29 of the title, delete "2305.234,"; delete "2744.05,"

In line 32 of the title, delete "3111.04, 3119.54,"

In line 45 of the title, delete "3317.10,"

In line 58 of the title, delete "3702.74,"

In line 76 of the title, delete "4123.27,"

In line 83 of the title, delete "4731.65, 4731.71,"

In line 87 of the title, delete "5101.181,"; delete "5101.26,"

In line 88 of the title, delete "5101.31,"; delete "5101.36,"

In line 91 of the title, delete "5110.01,"

In line 92 of the title, delete "5110.05,"

In line 103 of the title, delete "5112.03, 5112.08, 5112.17,"

In line 104 of the title, delete "5115.20, 5115.22, 5115.23,"

In line 219 of the title, delete "5115.10, 5115.11, 5115.12, 5115.13,"

In line 220 of the title, delete "5115.14,"

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

Senator Hottinger moved that the amendment be laid on the table.

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

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 18, nays 13, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Clancy	Gardner	Goodman	Grendell
Hottinger	Jacobson	Jordan	Mumper
Niehaus	Padgett	Schuler	Spada
Wachtmann			Harris-18.

Those who voted in the negative were: Senators

Brady	Coughlin	Dann	Fedor
Fingerhut	Hagan	Mallory	Miller
Prentiss	Roberts	Schuring	Wilson
			Zurz-13.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 66**, pass?"

Senator Mallory moved to amend as follows:

In line 93956, delete "\$444,372,980 \$435,584,650" and insert "\$458,510,155 \$458,510,155"

In lines 93964 and 93965, add \$14,137,175 to fiscal year 2006 and \$22,925,505 to fiscal year 2007

Between lines 97134 and 97135, insert:

**"Section 557.11.** Notwithstanding any provision of law to the contrary, not later than the thirty-first day of July of 2005 and of 2006, the Director of Budget and Management shall transfer any appropriated but unexpended or unobligated balance remaining in a state agency's General Revenue Fund appropriation item at the close of the preceding fiscal year to the Library and Local Government Support Fund."

In line 97313, after "amounts" insert "equal, when added to the amount credited to the fund under Section 557.11 of this act, to the amount credited in each month beginning with July 2004 and ending with June 2005"

In line 97315, delete "as follows:" and insert "in each respective month beginning with July 2005 and ending with June 2007."

Delete lines 97316 through 97351

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

Senator Hottinger moved that the amendment be laid on the table.

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

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 18, nays 13, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Clancy	Coughlin	Gardner	Goodman
Hottinger	Jacobson	Jordan	Mumper
Niehaus	Padgett	Schuler	Spada
Wachtmann			Harris-18.

Those who voted in the negative were: Senators

Brady	Dann	Fedor	Fingerhut
Grendell	Hagan	Mallory	Miller
Prentiss	Roberts	Schuring	Wilson
			Zurz-13.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 66**, pass?"

Senator Brady moved to amend as follows:

In lines 70216, 70232, 70248, 70264, and 70280, delete all after "\$200,000" and insert "\$11,506.20 plus 7.5% of the"

Between lines 89432 and 89433, insert:

**"Section \_\_\_\_.** There is hereby created in the state treasury the Local Government Reimbursement Fund (Fund xxx). The fund shall consist of amounts transferred by the Director of Budget and Management from the General Revenue Fund. The total amount transferred each fiscal year shall equal the amount the Tax Commissioner determines is collected because of the highest state income tax bracket. The Tax Commissioner shall use the Local Government Reimbursement Fund to provide money to each city in fiscal years 2006 and 2007 so that, when that money is added to the distributions each city receives that originates from the Local Government Fund or the Local Government Revenue Assistance Fund in each of those fiscal years, the resulting sum for each fiscal year equals the amount each city received that originated from the Local Government Fund and the Local Government Revenue Assistance Fund in fiscal year 2005. The Tax Commissioner shall determine the procedures for monthly distribution from the Local Government Reimbursement Fund."

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

Senator Hottinger moved that the amendment be laid on the table.

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

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 20, nays 11, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Clancy	Coughlin	Gardner	Goodman
Grendell	Hottinger	Jacobson	Jordan
Mumper	Niehaus	Padgett	Schuler
Schuring	Spada	Wachtmann	Harris-20.

Those who voted in the negative were: Senators

Brady	Dann	Fedor	Fingerhut
Hagan	Mallory	Miller	Prentiss
Roberts	Wilson		Zurz-11.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 66**, pass?"

Senator Roberts moved to amend as follows:

In line 286, delete "3319.081, 3319.17,"

In line 382, delete "3319.0810, 3319.172,"

Delete lines 26057 through 26321

In line 74227, delete "3319.0810, 3319.17,"

Delete lines 89493 through 89499

In line 47 of the title, delete "3319.081, 3319.17,"

In line 174 of the title, delete "3319.0810, 3319.172,"

In line 306, delete "4115.03, 4115.032, 4115.071,"

In line 356, delete "4115.21 (4115.16),"

Delete lines 39532 to 39731

In line 74246, delete "4115.03,"

In line 74247, delete "4115.032, 4115.071, 4115.21,"

In line 74299, delete "4115.16,"

In line 75 of the title, delete "4115.03, 4115.032, 4115.071,"

In line 145 of the title, delete "4115.21 (4115.16),"

In line 217 of the title, delete "4115.16,"

In line 307, delete "4117.10,"

Delete lines 39840 through 39967

In line 74247, delete "4117.10,"

In line 76 of the title, delete "4117.10,"

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

Senator Hottinger moved that the amendment be laid on the table.

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

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 19, nays 13, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Grendell	Hottinger	Jacobson
Jordan	Mumper	Niehaus	Schuler
Spada	Wachtmann		Harris-19.

Those who voted in the negative were: Senators

Brady	Dann	Fedor	Fingerhut
Hagan	Mallory	Miller	Padgett
Prentiss	Roberts	Schuring	Wilson
			Zurz-13.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 66**, pass?"

Senator Zurz moved to amend as follows:

In line 320, after "5111.042," insert "5111.05,"

In line 397, after "5111.028," insert "5111.051,"

Between lines 47415 and 47416, insert:

"Any rule the director adopts establishing deadlines by which the department must reimburse persons or entities for the provision of state medicaid plan services is subject to division (C) of section 5111.051 of the Revised Code."

Between lines 47615 and 47616, insert:

"**Sec. 5111.05.** (A) The department of job and family services may contract with any person or persons as a fiscal agent for the examination, ~~processing~~, and determination of medical assistance claims under this chapter. The contracting party may provide any of the following services, as required by the contract:

(1) Design and operate medicaid management information systems,

including the provision of data processing services;

(2) Determine the amounts of payments to be made upon claims for medical assistance;

(3) Prepare and furnish to the department lists and computer tapes of such claims for payment;

(4) In addition to audits which may be conducted by the department and by the auditor of state, make audits of providers and the claims of providers of medical assistance according to the standards set forth in the contract;

(5) Assist providers of medical assistance in the development of procedures relating to utilization practices, make studies of the effectiveness of such procedures and methods for their improvement, implement and enforce standards of medical policy, and assist in the application of safeguards against unnecessary utilization;

(6) Assist any institution, facility, or agency to qualify as a provider of medical assistance;

(7) Establish and maintain fiscal records for the medical assistance program;

(8) Perform statistical and research studies;

(9) Develop and implement programs for medical assistance cost containment;

(10) Perform such other duties as are necessary to carry out the medical assistance program.

(B) The department of job and family services may contract with any person or persons as an insuring agent for the examination, ~~processing~~, and determination of medical assistance claims, as provided in division (A) of this section, and for the payment of medical assistance claims through an underwritten program in which the state pays the insuring agent a monthly premium and the insuring agent pays for medical services authorized under the state's medical assistance program. The person with whom the department contracts, with respect to the awarding, provisions, and performance of such contract, shall not be subject to the provisions of Title XXXIX of the Revised Code or to regulation by the department of insurance, nor to taxation as an insurance company pursuant to section 5725.18 or 5729.03 of the Revised Code. A contract with an insuring agent shall specify the qualifications, including capital and surplus requirements, and other conditions with which the insuring agent must comply.

(C) In entering into a contract under this section, the department, in cooperation with the director of budget and management, shall determine that the contracting party is qualified to perform the required services and shall follow applicable procedures required of the department of administrative services in sections 125.07 to 125.11 of the Revised Code. A contract shall be



awarded to the bidder who, with due consideration to the bidder's experience and financial capability, offers the lowest and best bid to the state for control of the costs of the medical assistance program consistent with meeting the obligations under that program for fair and equitable treatment of recipients and providers of medical services. Any arrangement whereby funds are paid to an insuring or fiscal agent for administrative functions under this section shall, for the purposes of section 125.081 of the Revised Code, be deemed to be a contract or purchase by the department of administrative services; however, money to be used by an insuring agent to pay for medical services authorized under the state's medical assistance program shall not be deemed a contract or purchase within the meaning of such section.

Sec. 5111.051. (A) As used in this section, "provider" has the same meaning as in section 5111.06 of the Revised Code.

(B) The department of job and family services shall contract with a person or government entity for provision of medicaid claims processing services on behalf of the department and for performance of other services needed to carry out the delivery of health care services required under medicaid. From July 1, 2005, to October 1, 2005, the department shall take all necessary steps to receive and review bids for the contract. Not later than November 1, 2005, the department shall contract with a person or entity for medicaid claims processing services. The contract shall contain a termination clause that is consistent with division (D) of this section.

(C) Effective January 1, 2006, the department shall ask all providers of medicaid services to file claims for reimbursement electronically with the person or entity with which the department has contracted under this section. The department, person, or entity is not required to comply with any payment timelines established in rules adopted under section 5111.021 of the Revised Code for claims submitted in a form other than electronic form.

(D) If the department implements a new medicaid information technology system, it is no longer required to contract under this section, may terminate any contract entered pursuant to this section, and may use the medicaid information technology system to perform medicaid claims processing."

In line 74260, after "5111.042," insert "5111.05,"

Between lines 81287 and 81288, insert:

**"Section \_\_\_\_ . MEDICAID COVERAGE OF CHIROPRACTIC SERVICES**

Beginning January 1, 2006, and continuing through June 30, 2007, the Medicaid program shall cover chiropractic services for Medicaid beneficiaries twenty-one years of age or older in the amount, scope, and duration that it did on December 31, 2003, under rules governing Medicaid coverage of chiropractic services adopted under section 5111.02 of the Revised Code, except that the Department of Job and Family Services may reduce the maximum number of

allowable visits to twelve visits per year."

In line 89628, after "5111.019," insert "5111.05, 5111.051,"

In line 94 of the title, after "5111.042," insert "5111.05,"

In line 186 of the title, after "5111.028," insert "5111.051,"

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

Senator Hottinger moved that the amendment be laid on the table.

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

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 18, nays 14, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Goodman
Grendell	Hottinger	Jacobson	Mumper
Niehaus	Padgett	Schuler	Spada
Wachtmann			Harris-18.

Those who voted in the negative were: Senators

Brady	Dann	Fedor	Fingerhut
Gardner	Hagan	Jordan	Mallory
Miller	Prentiss	Roberts	Schuring
Wilson			Zurz-14.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 66**, pass?"

Senator Wilson moved to amend as follows:

Between lines 77171 and 77172, insert:

"GRF 200-531 CAFS Replacement Funding \$49,300,000 \$49,300,000"

In lines 77181 and 77250, add \$49,300,000 to each fiscal year

Between lines 78074 and 78075, insert:

"**Section \_\_\_\_**. CAFS REPLACEMENT FUNDING

The foregoing appropriation item 200-531, CAFS Replacement Funding, shall be distributed in each fiscal year by the Department of Education to school districts that received federal Medicaid reimbursement under the Community Alternative Funding System (CAFS) in fiscal year 2005 to replace this funding. If the total amount of funding received by school districts under CAFS in fiscal year 2005 exceeds the appropriation in fiscal year 2006 or fiscal year 2007, the

Department shall proportionately reduce the replacement funding for each school district by a uniform percentage."

Between lines 81677 and 81678, insert:

**"Section \_\_\_\_.** PLAN FOR RESTORING HABILITATION CENTER SERVICES

As used in this section, "habilitation center services" has the same meaning as in former section 5111.041 of the Revised Code as that section existed on June 30, 2005.

The Director of Job and Family Services and the Director of Mental Retardation and Developmental Disabilities shall prepare a written report on how to restore habilitation center services as a covered service under the Medicaid Program. The Directors shall provide a copy of the report to the Governor, the Speaker and Minority Leader of the House of Representatives, and the President and Minority Leader of the Senate."

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

Senator Jacobson moved that the amendment be laid on the table.

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

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 20, nays 12, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Grendell	Hottinger	Jacobson
Jordan	Mumper	Niehaus	Schuler
Schuring	Spada	Wachtmann	Harris-20.

Those who voted in the negative were: Senators

Brady	Dann	Fedor	Fingerhut
Hagan	Mallory	Miller	Padgett
Prentiss	Roberts	Wilson	Zurz-12.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 66**, pass?"

Senator Hagan moved to amend as follows:

In line 389, after "4723.69," insert "4729.90,"

Between lines 43450 and 43451, insert:

**"Sec. 4729.90. (A)** As used in this section, "public employee benefit

plan" has the same meaning as in Chapter 3923. of the Revised Code.

(B) There is hereby established the drug importation program. Under the program, a public employee benefit plan that provides coverage for dangerous drugs may purchase drugs approved by the United States food and drug administration from a terminal distributor or a wholesale distributor of dangerous drugs located outside the United States that has been approved by the state board of pharmacy as a nondomestic distributor in accordance with rules adopted under this section.

(C) The board shall establish and maintain on an internet web site accessible to the public a registry listing each terminal or wholesale distributor of dangerous drugs approved by the board as a nondomestic distributor. The web site shall include the following information regarding each nondomestic distributor:

(1) The distributor's name, address, telephone number, fax number, and e-mail address;

(2) The name and, if the distributor is not the manufacturer, the manufacturer of each dangerous drug the distributor is authorized to sell under the drug importation program;

(3) The name and address of any agent of the distributor located in this or any other state of the United States.

(D) The board shall adopt rules in accordance with Chapter 119. of the Revised Code to govern the drug importation program. The rules shall include all of the following:

(1) Standards and procedures under which the board may approve a terminal or wholesale distributor of dangerous drugs as a nondomestic distributor;

(2) Standards and procedures governing a state employee benefit plan's purchase of dangerous drugs from a nondomestic distributor;

(3) Any categories of drugs or types of diseases for which a nondomestic distributor cannot receive approval from the board to sell drugs to a public employees benefit plan;

(4) Any other rules the board considers necessary for the implementation and administration of the drug importation program.

(E) On receipt of a request for approval as a nondomestic distributor, the board may conduct an inspection of a terminal or wholesale distributor of dangerous drugs. The board shall approve the distributor only if it meets the standards established pursuant to division (D)(1) of this section."

In line 183 of the title, after "4723.69," insert "4729.90,"

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

Senator Hottinger moved that the amendment be laid on the table.

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

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 21, nays 11, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Grendell	Hottinger	Jacobson
Jordan	Mumper	Niehaus	Padgett
Schuler	Schuring	Spada	Wachtmann
			Harris-21.

Those who voted in the negative were: Senators

Brady	Dann	Fedor	Fingerhut
Hagan	Mallory	Miller	Prentiss
Roberts	Wilson		Zurz-11.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 66**, pass?"

Senator Dann moved to amend as follows:

In line 293, after "3501.17," insert "3517.13, 3517.151, 3517.992,"

In line 307, after "4123.27," insert "4123.99,"

In line 384, after "3354.25," insert "3517.093,"

In line 387, after "4117.103," insert "4123.441,"

Between lines 29948 and 29949, insert:

**"Sec. 3517.093. (A) No investment manager or business entity shall make a contribution to a state elected officer or an individual who is a candidate for a state elective office, to the campaign committee of the officer or the individual, or to any state political party state candidate fund or county political party state candidate fund on behalf of, or for the benefit of, the officer or individual.**

**(B) No state elected officer and no individual who is a candidate for a state elective office shall accept a contribution from an investment manager or business entity.**

**(C) As used in this section:**

**(1) "State elected officer" and "state elective office" have the same meanings as in section 3517.092 of the Revised Code.**

**(2) "Investment manager" means any person with whom the**

administrator of workers' compensation contracts pursuant to section 4123.44 of the Revised Code to facilitate the investment of bureau of workers' compensation funds.

(3) "Business entity" means any person with whom an investment manager contracts for the investment of bureau of workers' compensation funds.

**Sec. 3517.13.** (A)(1) No campaign committee of a statewide candidate shall fail to file a complete and accurate statement required under division (A)(1) of section 3517.10 of the Revised Code.

(2) No campaign committee of a statewide candidate shall fail to file a complete and accurate monthly statement, and no campaign committee of a statewide candidate or a candidate for the office of chief justice or justice of the supreme court shall fail to file a complete and accurate two-business-day statement, as required under section 3517.10 of the Revised Code.

As used in this division, "statewide candidate" has the same meaning as in division (F)(2) of section 3517.10 of the Revised Code.

(B) No campaign committee shall fail to file a complete and accurate statement required under division (A)(1) of section 3517.10 of the Revised Code.

(C) No campaign committee shall fail to file a complete and accurate statement required under division (A)(2) of section 3517.10 of the Revised Code.

(D) No campaign committee shall fail to file a complete and accurate statement required under division (A)(3) or (4) of section 3517.10 of the Revised Code.

(E) No person other than a campaign committee shall knowingly fail to file a statement required under section 3517.10 or 3517.107 of the Revised Code.

(F) No person shall make cash contributions to any person totaling more than one hundred dollars in each primary, special, or general election.

(G)(1) No person shall knowingly conceal or misrepresent contributions given or received, expenditures made, or any other information required to be reported by a provision in sections 3517.08 to 3517.13 and 3517.17 of the Revised Code.

(2)(a) No person shall make a contribution to a campaign committee, political action committee, political contributing entity, legislative campaign fund, political party, or person making disbursements to pay the direct costs of producing or airing electioneering communications in the name of another person.

(b) A person does not make a contribution in the name of another when either of the following applies:

(i) An individual makes a contribution from a partnership or other unincorporated business account, if the contribution is reported by listing both the name of the partnership or other unincorporated business and the name of the

partner or owner making the contribution as required under division (I) of section 3517.10 of the Revised Code.

(ii) A person makes a contribution in that person's spouse's name or in both of their names.

(H) No person within this state, publishing a newspaper or other periodical, shall charge a campaign committee for political advertising a rate in excess of the rate such person would charge if the campaign committee were a general rate advertiser whose advertising was directed to promoting its business within the same area as that encompassed by the particular office that the candidate of the campaign committee is seeking. The rate shall take into account the amount of space used, as well as the type of advertising copy submitted by or on behalf of the campaign committee. All discount privileges otherwise offered by a newspaper or periodical to general rate advertisers shall be available upon equal terms to all campaign committees.

No person within this state, operating a radio or television station or network of stations in this state, shall charge a campaign committee for political broadcasts a rate that exceeds:

(1) During the forty-five days preceding the date of a primary election and during the sixty days preceding the date of a general or special election in which the candidate of the campaign committee is seeking office, the lowest unit charge of the station for the same class and amount of time for the same period;

(2) At any other time, the charges made for comparable use of that station by its other users.

(I) Subject to divisions (K), (L), (M), and (N) of this section, no agency or department of this state or any political subdivision shall award any contract, other than one let by competitive bidding or a contract incidental to such contract or which is by force account, for the purchase of goods costing more than five hundred dollars or services costing more than five hundred dollars to any individual, partnership, association, including, without limitation, a professional association organized under Chapter 1785. of the Revised Code, estate, or trust if the individual has made or the individual's spouse has made, or any partner, shareholder, administrator, executor, or trustee or the spouse of any of them has made, as an individual, within the two previous calendar years, one or more contributions totaling in excess of one thousand dollars to the holder of the public office having ultimate responsibility for the award of the contract or to the public officer's campaign committee.

(J) Subject to divisions (K), (L), (M), and (N) of this section, no agency or department of this state or any political subdivision shall award any contract, other than one let by competitive bidding or a contract incidental to such contract or which is by force account, for the purchase of goods costing more than five hundred dollars or services costing more than five hundred dollars to a corporation or business trust, except a professional association organized under Chapter 1785. of the Revised Code, if an owner of more than twenty per cent of

the corporation or business trust or the spouse of that person has made, as an individual, within the two previous calendar years, taking into consideration only owners for all of that period, one or more contributions totaling in excess of one thousand dollars to the holder of a public office having ultimate responsibility for the award of the contract or to the public officer's campaign committee.

(K) For purposes of divisions (I) and (J) of this section, if a public officer who is responsible for the award of a contract is appointed by the governor, whether or not the appointment is subject to the advice and consent of the senate, excluding members of boards, commissions, committees, authorities, councils, boards of trustees, task forces, and other such entities appointed by the governor, the office of the governor is considered to have ultimate responsibility for the award of the contract.

(L) For purposes of divisions (I) and (J) of this section, if a public officer who is responsible for the award of a contract is appointed by the elected chief executive officer of a municipal corporation, or appointed by the elected chief executive officer of a county operating under an alternative form of county government or county charter, excluding members of boards, commissions, committees, authorities, councils, boards of trustees, task forces, and other such entities appointed by the chief executive officer, the office of the chief executive officer is considered to have ultimate responsibility for the award of the contract.

(M)(1) Divisions (I) and (J) of this section do not apply to contracts awarded by the board of commissioners of the sinking fund, municipal legislative authorities, boards of education, boards of county commissioners, boards of township trustees, or other boards, commissions, committees, authorities, councils, boards of trustees, task forces, and other such entities created by law, by the supreme court or courts of appeals, by county courts consisting of more than one judge, courts of common pleas consisting of more than one judge, or municipal courts consisting of more than one judge, or by a division of any court if the division consists of more than one judge. This division shall apply to the specified entity only if the members of the entity act collectively in the award of a contract for goods or services.

(2) Divisions (I) and (J) of this section do not apply to actions of the controlling board.

(N)(1) Divisions (I) and (J) of this section apply to contributions made to the holder of a public office having ultimate responsibility for the award of a contract, or to the public officer's campaign committee, during the time the person holds the office and during any time such person was a candidate for the office. Those divisions do not apply to contributions made to, or to the campaign committee of, a candidate for or holder of the office other than the holder of the office at the time of the award of the contract.

(2) Divisions (I) and (J) of this section do not apply to contributions of a partner, shareholder, administrator, executor, trustee, or owner of more than twenty per cent of a corporation or business trust made before the person held



any of those positions or after the person ceased to hold any of those positions in the partnership, association, estate, trust, corporation, or business trust whose eligibility to be awarded a contract is being determined, nor to contributions of the person's spouse made before the person held any of those positions, after the person ceased to hold any of those positions, before the two were married, after the granting of a decree of divorce, dissolution of marriage, or annulment, or after the granting of an order in an action brought solely for legal separation. Those divisions do not apply to contributions of the spouse of an individual whose eligibility to be awarded a contract is being determined made before the two were married, after the granting of a decree of divorce, dissolution of marriage, or annulment, or after the granting of an order in an action brought solely for legal separation.

(O) No beneficiary of a campaign fund or other person shall convert for personal use, and no person shall knowingly give to a beneficiary of a campaign fund or any other person, for the beneficiary's or any other person's personal use, anything of value from the beneficiary's campaign fund, including, without limitation, payments to a beneficiary for services the beneficiary personally performs, except as reimbursement for any of the following:

(1) Legitimate and verifiable prior campaign expenses incurred by the beneficiary;

(2) Legitimate and verifiable ordinary and necessary prior expenses incurred by the beneficiary in connection with duties as the holder of a public office, including, without limitation, expenses incurred through participation in nonpartisan or bipartisan events if the participation of the holder of a public office would normally be expected;

(3) Legitimate and verifiable ordinary and necessary prior expenses incurred by the beneficiary while doing any of the following:

(a) Engaging in activities in support of or opposition to a candidate other than the beneficiary, political party, or ballot issue;

(b) Raising funds for a political party, political action committee, political contributing entity, legislative campaign fund, campaign committee, or other candidate;

(c) Participating in the activities of a political party, political action committee, political contributing entity, legislative campaign fund, or campaign committee;

(d) Attending a political party convention or other political meeting.

For purposes of this division, an expense is incurred whenever a beneficiary has either made payment or is obligated to make payment, as by the use of a credit card or other credit procedure or by the use of goods or services received on account.

(P) No beneficiary of a campaign fund shall knowingly accept, and no

person shall knowingly give to the beneficiary of a campaign fund, reimbursement for an expense under division (O) of this section to the extent that the expense previously was reimbursed or paid from another source of funds. If an expense is reimbursed under division (O) of this section and is later paid or reimbursed, wholly or in part, from another source of funds, the beneficiary shall repay the reimbursement received under division (O) of this section to the extent of the payment made or reimbursement received from the other source.

(Q) No candidate or public official or employee shall accept for personal or business use anything of value from a political party, political action committee, political contributing entity, legislative campaign fund, or campaign committee other than the candidate's or public official's or employee's own campaign committee, and no person shall knowingly give to a candidate or public official or employee anything of value from a political party, political action committee, political contributing entity, legislative campaign fund, or such a campaign committee, except for the following:

(1) Reimbursement for legitimate and verifiable ordinary and necessary prior expenses not otherwise prohibited by law incurred by the candidate or public official or employee while engaged in any legitimate activity of the political party, political action committee, political contributing entity, legislative campaign fund, or such campaign committee. Without limitation, reimbursable expenses under this division include those incurred while doing any of the following:

(a) Engaging in activities in support of or opposition to another candidate, political party, or ballot issue;

(b) Raising funds for a political party, legislative campaign fund, campaign committee, or another candidate;

(c) Attending a political party convention or other political meeting.

(2) Compensation not otherwise prohibited by law for actual and valuable personal services rendered under a written contract to the political party, political action committee, political contributing entity, legislative campaign fund, or such campaign committee for any legitimate activity of the political party, political action committee, political contributing entity, legislative campaign fund, or such campaign committee.

Reimbursable expenses under this division do not include, and it is a violation of this division for a candidate or public official or employee to accept, or for any person to knowingly give to a candidate or public official or employee from a political party, political action committee, political contributing entity, legislative campaign fund, or campaign committee other than the candidate's or public official's or employee's own campaign committee, anything of value for activities primarily related to the candidate's or public official's or employee's own campaign for election, except for contributions to the candidate's or public official's or employee's campaign committee.

For purposes of this division, an expense is incurred whenever a candidate or public official or employee has either made payment or is obligated to make payment, as by the use of a credit card or other credit procedure, or by the use of goods or services on account.

(R)(1) Division (O) or (P) of this section does not prohibit a campaign committee from making direct advance or post payment from contributions to vendors for goods and services for which reimbursement is permitted under division (O) of this section, except that no campaign committee shall pay its candidate or other beneficiary for services personally performed by the candidate or other beneficiary.

(2) If any expense that may be reimbursed under division (O), (P), or (Q) of this section is part of other expenses that may not be paid or reimbursed, the separation of the two types of expenses for the purpose of allocating for payment or reimbursement those expenses that may be paid or reimbursed may be by any reasonable accounting method, considering all of the surrounding circumstances.

(3) For purposes of divisions (O), (P), and (Q) of this section, mileage allowance at a rate not greater than that allowed by the internal revenue service at the time the travel occurs may be paid instead of reimbursement for actual travel expenses allowable.

(S)(1) As used in division (S) of this section:

(a) "State elective office" has the same meaning as in section 3517.092 of the Revised Code.

(b) "Federal office" means a federal office as defined in the Federal Election Campaign Act.

(c) "Federal campaign committee" means a principal campaign committee or authorized committee as defined in the Federal Election Campaign Act.

(2) No person who is a candidate for state elective office and who previously sought nomination or election to a federal office shall transfer any funds or assets from that person's federal campaign committee for nomination or election to the federal office to that person's campaign committee as a candidate for state elective office.

(3) No campaign committee of a person who is a candidate for state elective office and who previously sought nomination or election to a federal office shall accept any funds or assets from that person's federal campaign committee for that person's nomination or election to the federal office.

(T)(1) Except as otherwise provided in division (B)(6)(c) of section 3517.102 of the Revised Code, a state or county political party shall not disburse moneys from any account other than a state candidate fund to make contributions to any of the following:

(a) A state candidate fund;

(b) A legislative campaign fund;

(c) A campaign committee of a candidate for the office of governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, member of the state board of education, or member of the general assembly.

(2) No state candidate fund, legislative campaign fund, or campaign committee of a candidate for any office described in division (T)(1)(c) of this section shall knowingly accept a contribution in violation of division (T)(1) of this section.

(U) No person shall fail to file the statement required under section 3517.12 of the Revised Code.

(V) No campaign committee shall fail to file a statement required under division (K)(3) of section 3517.10 of the Revised Code.

(W)(1) No foreign national shall, directly or indirectly through any other person or entity, make a contribution, expenditure, or independent expenditure or promise, either expressly or implicitly, to make a contribution, expenditure, or independent expenditure in support of or opposition to a candidate for any elective office in this state, including an office of a political party.

(2) No candidate, campaign committee, political action committee, political contributing entity, legislative campaign fund, state candidate fund, political party, or separate segregated fund shall solicit or accept a contribution, expenditure, or independent expenditure from a foreign national. The secretary of state may direct any candidate, committee, entity, fund, or party that accepts a contribution, expenditure, or independent expenditure in violation of this division to return the contribution, expenditure, or independent expenditure or, if it is not possible to return the contribution, expenditure, or independent expenditure, then to return instead the value of it, to the contributor.

(3) As used in division (W) of this section, "foreign national" has the same meaning as in section 441e(b) of the Federal Election Campaign Act.

(X)(1) No state or county political party shall transfer any moneys from its restricted fund to any account of the political party into which contributions may be made or from which contributions or expenditures may be made.

(2)(a) No state or county political party shall deposit a contribution or contributions that it receives into its restricted fund.

(b) No state or county political party shall make a contribution or an expenditure from its restricted fund.

(3)(a) No corporation or labor organization shall make a gift or gifts from the corporation's or labor organization's money or property aggregating more than ten thousand dollars to any one state or county political party for the party's restricted fund in a calendar year.

(b) No state or county political party shall accept a gift or gifts for the party's restricted fund aggregating more than ten thousand dollars from any one corporation or labor organization in a calendar year.

(4) No state or county political party shall transfer any moneys in the party's restricted fund to any other state or county political party.

(5) No state or county political party shall knowingly fail to file a statement required under section 3517.1012 of the Revised Code.

(Y) The administrator of workers' compensation shall not award any contract to an investment manager or business entity who, within twenty-four months immediately preceding the awarding of the contract, made one or more contributions to the campaign committee of a state elected officer or to the campaign committee of any candidate for any state elective office.

As used in this division, "investment manager" and "business entity" have the same meanings as in section 3517.093 of the Revised Code, and "state elective office" and "state elected officer" have the same meanings as in section 3517.092 of the Revised Code.

**Sec. 3517.151.** (A) On and after January 1, 1996, complaints with respect to acts or failures to act under the sections listed in division (A) of section 3517.153 of the Revised Code shall be filed with the Ohio elections commission created under section 3517.152 of the Revised Code.

(B)(1) If a complaint filed with the Ohio elections commission created under section 3517.152 of the Revised Code alleges an act or failure to act that occurred before August 24, 1995, and the commission imposes a fine, sections 3517.99 and 3517.991 of the Revised Code, and not sections 3517.992 and 3517.993 of the Revised Code, shall apply.

(2) If a complaint filed with the Ohio elections commission created under section 3517.152 of the Revised Code alleges an act or failure to act that is a violation of section 3517.13 of the Revised Code, former divisions (A) to (R) of that section apply to the act or failure to act if it occurred before August 24, 1995, former divisions (A) to (U) of that section apply to the act or failure to act if it occurs on or after August 24, 1995, but before July 13, 1998, former divisions (A) to (V) of that section apply to the act or failure to act if it occurs on or after July 13, 1998, but before December 22, 1999, former divisions (A) to (W) of that section apply to the act or failure to act if it occurs on or after December 22, 1999, but before the ~~effective date of this amendment~~ March 31, 2005, ~~and former~~ divisions (A) to (X) of that section apply to the act or failure to act if it occurs on or after ~~the effective date of this amendment~~ March 31, 2005, ~~and divisions (A) to (Y) of that section apply to the act or failure to act if it occurs on or after the effective date of this amendment.~~

(C) The Ohio elections commission created under section 3517.14 of the Revised Code is abolished at the close of business on December 31, 1995.

**Sec. 3517.992.** This section establishes penalties only with respect to acts

or failures to act that occur on and after August 24, 1995.

(A)(1) A candidate whose campaign committee violates division (A), (B), (C), (D), or (V) of section 3517.13 of the Revised Code, or a treasurer of a campaign committee who violates any of those divisions, shall be fined not more than one hundred dollars for each day of violation.

(2) Whoever violates division (E) or (X)(5) of section 3517.13 of the Revised Code shall be fined not more than one hundred dollars for each day of violation.

(B) A political party that violates division (F)(1) of section 3517.101 of the Revised Code shall be fined not more than one hundred dollars for each day of violation.

(C) Whoever violates division (F)(2) of section 3517.101 or division (G) of section 3517.13 of the Revised Code shall be fined not more than ten thousand dollars or, if the offender is a person who was nominated or elected to public office, shall forfeit the nomination or the office to which the offender was elected, or both.

(D) Whoever violates division (F) of section 3517.13 of the Revised Code shall be fined not more than three times the amount contributed.

(E) Whoever violates division (H) of section 3517.13 of the Revised Code shall be fined not more than one hundred dollars.

(F) Whoever violates division (O), (P), or (Q) of section 3517.13 of the Revised Code is guilty of a misdemeanor of the first degree.

(G) A state or county committee of a political party that violates division (B)(1) of section 3517.18 of the Revised Code shall be fined not more than twice the amount of the improper expenditure.

(H) A state or county political party that violates division (G) of section 3517.101 of the Revised Code shall be fined not more than twice the amount of the improper expenditure or use.

(I)(1) Any individual who violates division (B)(1) of section 3517.102 of the Revised Code and knows that the contribution the individual makes violates that division shall be fined an amount equal to three times the amount contributed in excess of the amount permitted by that division.

(2) Any political action committee that violates division (B)(2) of section 3517.102 of the Revised Code shall be fined an amount equal to three times the amount contributed in excess of the amount permitted by that division.

(3) Any campaign committee that violates division (B)(3) or (5) of section 3517.102 of the Revised Code shall be fined an amount equal to three times the amount contributed in excess of the amount permitted by that division.

(4)(a) Any legislative campaign fund that violates division (B)(6) of section 3517.102 of the Revised Code shall be fined an amount equal to three

times the amount transferred or contributed in excess of the amount permitted by that division, as applicable.

(b) Any state political party, county political party, or state candidate fund of a state political party or county political party that violates division (B)(6) of section 3517.102 of the Revised Code shall be fined an amount equal to three times the amount transferred or contributed in excess of the amount permitted by that division, as applicable.

(c) Any political contributing entity that violates division (B)(7) of section 3517.102 of the Revised Code shall be fined an amount equal to three times the amount contributed in excess of the amount permitted by that division.

(5) Any political party that violates division (B)(4) of section 3517.102 of the Revised Code shall be fined an amount equal to three times the amount contributed in excess of the amount permitted by that division.

(6) Notwithstanding divisions (I)(1), (2), (3), (4), and (5) of this section, no violation of division (B) of section 3517.102 of the Revised Code occurs, and the secretary of state shall not refer parties to the Ohio elections commission, if the amount transferred or contributed in excess of the amount permitted by that division meets either of the following conditions:

(a) It is completely refunded within five business days after it is accepted.

(b) It is completely refunded on or before the tenth business day after notification to the recipient of the excess transfer or contribution by the board of elections or the secretary of state that a transfer or contribution in excess of the permitted amount has been received.

(J)(1) Any campaign committee that violates division (C)(1), (2), (3), or (6) of section 3517.102 of the Revised Code shall be fined an amount equal to three times the amount accepted in excess of the amount permitted by that division.

(2)(a) Any county political party that violates division (C)(4)(a)(ii) or (iii) of section 3517.102 of the Revised Code shall be fined an amount equal to three times the amount accepted.

(b) Any county political party that violates division (C)(4)(a)(i) of section 3517.102 of the Revised Code shall be fined an amount from its state candidate fund equal to three times the amount accepted in excess of the amount permitted by that division.

(c) Any state political party that violates division (C)(4)(b) of section 3517.102 of the Revised Code shall be fined an amount from its state candidate fund equal to three times the amount accepted in excess of the amount permitted by that division.

(3) Any legislative campaign fund that violates division (C)(5) of section 3517.102 of the Revised Code shall be fined an amount equal to three times the amount accepted in excess of the amount permitted by that division.

(4) Any political action committee or political contributing entity that violates division (C)(7) of section 3517.102 of the Revised Code shall be fined an amount equal to three times the amount accepted in excess of the amount permitted by that division.

(5) Notwithstanding divisions (J)(1), (2), (3), and (4) of this section, no violation of division (C) of section 3517.102 of the Revised Code occurs, and the secretary of state shall not refer parties to the Ohio elections commission, if the amount transferred or contributed in excess of the amount permitted to be accepted by that division meets either of the following conditions:

(a) It is completely refunded within five business days after its acceptance.

(b) It is completely refunded on or before the tenth business day after notification to the recipient of the excess transfer or contribution by the board of elections or the secretary of state that a transfer or contribution in excess of the permitted amount has been received.

(K)(1) Any legislative campaign fund that violates division (F)(1) of section 3517.102 of the Revised Code shall be fined twenty-five dollars for each day of violation.

(2) Any legislative campaign fund that violates division (F)(2) of section 3517.102 of the Revised Code shall give to the treasurer of state for deposit into the state treasury to the credit of the Ohio elections commission fund all excess contributions not disposed of as required by division (E) of section 3517.102 of the Revised Code.

(L) Whoever violates section 3517.105 of the Revised Code shall be fined one thousand dollars.

(M)(1) Whoever solicits a contribution in violation of section 3517.092 or violates division (B) of section 3517.09 of the Revised Code is guilty of a misdemeanor of the first degree.

(2) Whoever knowingly accepts a contribution in violation of division (B) or (C) of section 3517.092 of the Revised Code shall be fined an amount equal to three times the amount accepted in violation of either of those divisions and shall return to the contributor any amount so accepted. Whoever unknowingly accepts a contribution in violation of division (B) or (C) of section 3517.092 of the Revised Code shall return to the contributor any amount so accepted.

(N) Whoever violates division (S) of section 3517.13 of the Revised Code shall be fined an amount equal to three times the amount of funds transferred or three times the value of the assets transferred in violation of that division.

(O) Any campaign committee that accepts a contribution or contributions in violation of section 3517.108 of the Revised Code, uses a contribution in



violation of that section, or fails to dispose of excess contributions in violation of that section shall be fined an amount equal to three times the amount accepted, used, or kept in violation of that section.

(P) Any political party, state candidate fund, legislative candidate campaign fund, or campaign committee that violates division (T) of section 3517.13 of the Revised Code shall be fined an amount equal to three times the amount contributed or accepted in violation of that section.

(Q) A treasurer of a committee or another person who violates division (U) of section 3517.13 of the Revised Code shall be fined not more than two hundred fifty dollars.

(R) Whoever violates division (I) or (J) of section 3517.13 of the Revised Code shall be fined not more than one thousand dollars. Whenever a person is found guilty of violating division (I) or (J) of section 3517.13 of the Revised Code, the contract awarded in violation of either of those divisions shall be rescinded if its terms have not yet been performed.

(S) A candidate whose campaign committee violates or a treasurer of a campaign committee who violates section 3517.081 of the Revised Code, and a candidate whose campaign committee violates or a treasurer of a campaign committee or another person who violates division (C) of section 3517.10 of the Revised Code, shall be fined not more than five hundred dollars.

(T) A candidate whose campaign committee violates or a treasurer of a committee who violates division (B) of section 3517.09 of the Revised Code, or a candidate whose campaign committee violates or a treasurer of a campaign committee or another person who violates division (C) of section 3517.09 of the Revised Code shall be fined not more than one thousand dollars.

(U) Whoever violates section 3517.20 of the Revised Code shall be fined not more than five hundred dollars.

(V) Whoever violates section 3517.21 or 3517.22 of the Revised Code shall be imprisoned for not more than six months or fined not more than five thousand dollars, or both.

(W) A campaign committee that is required to file a declaration of no limits under division (D)(2) of section 3517.103 of the Revised Code that, before filing that declaration, accepts a contribution or contributions that exceed the limitations prescribed in section 3517.102 of the Revised Code, shall return that contribution or those contributions to the contributor.

(X) Any campaign committee that fails to file the declaration of filing-day finances required by division (F) of section 3517.109 or the declaration of primary-day finances or declaration of year-end finances required by division (E) of section 3517.1010 of the Revised Code shall be fined twenty-five dollars for each day of violation.

(Y) Any campaign committee that fails to dispose of excess funds or

excess aggregate contributions under division (B) of section 3517.109 of the Revised Code in the manner required by division (C) of that section or under division (B) of section 3517.1010 of the Revised Code in the manner required by division (C) of that section shall give to the treasurer of state for deposit into the Ohio elections commission fund created under division (I) of section 3517.152 of the Revised Code all funds not disposed of pursuant to those divisions.

(Z) Any individual, campaign committee, political action committee, political contributing entity, legislative campaign fund, political party, or other entity that violates any provision of sections 3517.09 to 3517.12 of the Revised Code for which no penalty is provided for under any other division of this section shall be fined not more than one thousand dollars.

(AA)(1) Whoever knowingly violates division (W)(1) of section 3517.13 of the Revised Code shall be fined an amount equal to three times the amount contributed, expended, or promised in violation of that division or ten thousand dollars, whichever amount is greater.

(2) Whoever knowingly violates division (W)(2) of section 3517.13 of the Revised Code shall be fined an amount equal to three times the amount solicited or accepted in violation of that division or ten thousand dollars, whichever amount is greater.

(BB) Whoever knowingly violates division (C) or (D) of section 3517.1011 of the Revised Code shall be fined not more than ten thousand dollars plus not more than one thousand dollars for each day of violation.

(CC)(1) Subject to division (CC)(2) of this section, whoever violates division (H) of section 3517.1011 of the Revised Code shall be fined an amount up to three times the amount disbursed for the direct costs of airing the communication made in violation of that division.

(2) Whoever has been ordered by the Ohio elections commission or by a court of competent jurisdiction to cease making communications in violation of division (H) of section 3517.1011 of the Revised Code who again violates that division shall be fined an amount equal to three times the amount disbursed for the direct costs of airing the communication made in violation of that division.

(DD)(1) Any corporation or labor organization that violates division (X)(3)(a) of section 3517.13 of the Revised Code shall be fined an amount equal to three times the amount given in excess of the amount permitted by that division.

(2) Any state or county political party that violates division (X)(3)(b) of section 3517.13 of the Revised Code shall be fined an amount equal to three times the amount accepted in excess of the amount permitted by that division.

(EE) Whoever violates division (A) of section 3517.093 of the Revised Code is guilty of a felony in the fifth degree."

Between lines 40083 and 40084, insert:

**"Sec. 4123.441. No state elected officer or individual who is a candidate for state elective office shall solicit an investment manager or business entity for contributions for a committee proposing or opposing a ballot question or issue to be submitted to an elector or on behalf of any charity."**

As used in this section, "state elected officer" and "state elective office" have the same meanings as in section 3517.093 of the Revised Code, and "business entity" and "investment manager" have the same meanings as in section 3517.093 of the Revised Code.

**Sec. 4123.99.** (A) Whoever violates section 4123.27 or 4123.28 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(B) Whoever violates section 4123.50 of the Revised Code is guilty of a minor misdemeanor. Whoever purposely violates such section is guilty of a misdemeanor of the second degree.

(C) Whoever violates section 4123.81 of the Revised Code is guilty of a minor misdemeanor.

(D) Whoever violates section 4123.88 of the Revised Code is guilty of a misdemeanor of the second degree.

(E) Whoever violates section 4123.417 of the Revised Code is guilty of a misdemeanor of the second degree, and the persons who shall have paid a fee, compensation, or gratuity as prohibited by section 4123.417 of the Revised Code may recover by civil action three times the amount thereof, together with a reasonable attorney's fee, from the person to whom the sum was paid or given.

(F) Whoever violates section 4123.441 of the Revised Code is guilty of a felony in the fifth degree."

In line 74233, after "3501.17," insert "3517.13, 3517.151, 3517.992,"

In line 74248, after "4123.27," insert "4123.99,"

In line 57 of the title, after "3501.17," insert "3517.13, 3517.151, 3517.992,"

In line 76 of the title, after "4123.27," insert "4123.99,"

In line 178 of the title, after "3354.25," insert "3517.093,"

In line 181 of the title, before "4501.07," insert "4115.36, 4117.103, 4123.441,"; delete "4115.36, 4117.103,"

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

Senator Hottinger moved that the amendment be laid on the table.

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

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 20, nays 12, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Hottinger	Jacobson	Jordan
Mumper	Niehaus	Padgett	Schuler
Schuring	Spada	Wachtmann	Harris-20.

Those who voted in the negative were: Senators

Brady	Dann	Fedor	Fingerhut
Grendell	Hagan	Mallory	Miller
Prentiss	Roberts	Wilson	Zurz-12.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 66**, pass?"

Senator Fedor moved to amend as follows:

In line 77146, delete "\$23,423,057 \$23,923,057" and insert "\$25,269,858 \$25,669,858"

In lines 77181 and 77250, add \$1,846,801 to fiscal year 2006 and \$1,746,801 to fiscal year 2007

In line 77404, delete "\$9,515,817" and insert "\$10,442,358"

In line 77417, delete "\$350,000" and insert "\$670,000"

In line 77421, delete "\$100,000" and insert "\$144,000"; after "in" insert "each"; delete "2007"

In line 77426, delete "\$885,740" and insert "\$1,056,000"

In line 77440, delete "\$63,000" and insert "\$70,000"

In line 77443, delete "\$4,371,000" and insert "\$4,650,000"

In line 303, after "3748.13," insert "3770.03,"

Between lines 38271 and 38272, insert:

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

- (1) The type of lottery to be conducted;
- (2) The prices of tickets in the lottery;
- (3) The number, nature, and value of prize awards, the manner and

frequency of prize drawings, and the manner in which prizes shall be awarded to holders of winning tickets.

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

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

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

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

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

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

(C) The commission may promulgate rules, in addition to those described in divisions (A) and (B) of this section, that establish standards governing the display of advertising and celebrity images on lottery tickets and on other items

that are used in the conduct of, or to promote, the statewide lottery and statewide joint lottery games. Any revenue derived from the sale of advertising displayed on lottery tickets and on those other items shall be considered, for purposes of section 3770.06 of the Revised Code, to be related proceeds in connection with the statewide lottery or gross proceeds from statewide joint lottery games, as applicable.

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

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

In line 74244, after "3748.13," insert "3770.03,"

In line 77154, delete "\$10,822,753 \$10,894,181" and insert "\$13,822,753 \$13,894,181"

In lines 77181 and 77250, add \$3,000,000 to each fiscal year

Between lines 77691 and 77692, insert:

"Of the foregoing appropriation item 200-427, Academic Standards, \$3,000,000 in each fiscal year shall be used for the Ohio Science Institute (OSCI)."

In line 71 of the title, after "3748.13," insert "3770.03,"

In line 20966, strike through everything after "(2)"

Strike through lines 20967 through 20970

In line 20971, strike through "(b)"

In line 20972, strike through "(b)(i)" and insert "(a)"; strike through "(ii)" and insert "(b)"

In line 20973, strike through "(i)" and insert "(a)"

In line 20988, strike through "(ii)" and insert "(b)"

In line 20993, strike through "(b)(i)" and insert "(a)"

Between lines 23805 and 23806, insert:

"Any district that receives funds under division (C) of this section shall give first priority for the expenditure of those funds for invention services to students enrolled in any of the district's high schools that are under an academic watch or are in a state of academic emergency under section 3302.03 of the Revised Code to help those students prepare for the tests prescribed under division (B) of section 3301.0710 of the Revised Code. The requirement of this paragraph prevails over any conflicting stipulation of an order issued by the superintendent of public instruction under section 3317.017 of the Revised Code."

Delete lines 19900 through 19911

In line 19912, delete "(6)" and insert "(5)"

In line 19928, delete "(7)" and insert "(6)"

In line 19931, delete "(7)" and insert "(6)"

In line 19941, delete "(8)" and insert "(7)"

In line 20305, delete "(7)" and insert "(6)"

In line 280, after "3314.13," insert "3314.17,"

In line 380, after "3314.18," insert "3314.19,"

In line 19885, strike through "2005" and insert "2007"

Delete lines 19888 through 19911

In line 19912, delete "(6)" and insert "(4)"

In lines 19928 and 19931, delete "(7)" and insert "(5)"

In line 19941, delete "(8)" and insert "(6)"

In line 20305, delete "(7)" and insert "(5)"

Between lines 21366 and 21367, insert:

**"Sec. 3314.17.** (A) Each community school established under this chapter shall participate in the statewide education management information system established under section 3301.0714 of the Revised Code. All provisions of that section and the rules adopted under that section apply to each community school as if it were a school district, except as modified for community schools under division (B) of this section.

(B) The rules adopted by the state board of education under section 3301.0714 of the Revised Code may distinguish methods and timelines for community schools to annually report data, which methods and timelines differ from those prescribed for school districts. Any methods and timelines prescribed for community schools shall be appropriate to the academic schedule and financing of community schools. The guidelines, however, shall not modify the actual data required to be reported under that section.

~~(C) Each fiscal officer appointed under section 3314.011 of the Revised Code is responsible for annually reporting the community school's data under section 3301.0714 of the Revised Code. If the superintendent of public instruction determines that a community school fiscal officer has willfully failed to report data or has willfully reported erroneous, inaccurate, or incomplete data in any year, or has negligently reported erroneous, inaccurate, or incomplete data in the current and any previous year, the superintendent may impose a civil penalty of one hundred dollars on the fiscal officer after providing the officer with notice and an opportunity for a hearing in accordance with Chapter 119. of the Revised Code. The superintendent's~~  
Any time the department of education determines that a community school has taken any of the actions described under division (C)(1), (2), or (3) of this section, it shall make a report of the actions of the school, send a copy of the report to the sponsor of the school, and maintain a copy of the report in its files:

(1) The community school fails to meet any deadline established pursuant to this section for the reporting of any data to the education management information system;

(2) The community school fails to meet any deadline established by the state board of education for the correction of any data reported to the education management information system;

(3) The community school reports data to the education management information system in a condition, as determined by the department, that indicates that the school did not make a good faith effort in reporting the data to the system.

Any report made under this division shall include recommendations for corrective action by the school.

Upon making a report for the first time in a fiscal year, the department shall withhold ten per cent of the total amount due during that fiscal year under sections 3314.08 and 3314.13 of the Revised Code to the community school to which the report applies. Upon making a second report in a fiscal year, the department shall withhold an additional twenty per cent of such total amount due during that fiscal year to the school to which the report applies. The department shall not release such funds unless it determines that the school has taken corrective action. However, no such release of funds shall occur if the school fails to take corrective action within forty-five days of the date upon which the report was made by the department.

~~(D) The authority to impose civil penalties~~withhold funds~~under this division (C) of this section~~ does not preclude the state board of education from suspending or revoking the license of a community school employee under division (N) of section 3301.0714 of the Revised Code.

~~(D)~~(E) No community school shall acquire, change, or update its student administration software package to manage and report data required to be reported to the department unless it converts to a student software package that is



certified by the department."

Between lines 21379 and 21380, insert:

"Sec. 3314.19. The department of education annually shall examine the data reported by each community school under sections 3301.0714 and 3314.17 of the Revised Code about scores attained on the state proficiency and achievement tests, prescribed under section 3301.0710 of the Revised Code, by each student enrolled in the school at the end of the school year. If the department determines that any of that data is incomplete or inaccurate, the department shall notify the school of the incompleteness or inaccuracy and shall provide technical assistance to the school so that the school may revise its reports to completely and accurately reflect student test scores in sufficient time to be included in the department's report card for the school issued under section 3314.012 of the Revised Code."

In line 74221, after "3314.13," insert "3314.17,"

Between lines 79415 and 79416, insert:

"**Section** \_\_. The Joint Study Committee on Ohio's Community Schools is hereby created. The committee shall consist of the following members:

(A) The Director of the Legislative Office of Education Oversight, who shall be an ex officio, nonvoting member and shall serve as the chair of the committee;

(B) Two members of the Senate to be appointed by the President of the Senate, one of whom is a member of the majority party and one of whom is a member of the minority party;

(C) Two members of the House of Representatives to be appointed by the Speaker of the House of Representatives, one of whom is a member of the majority party and one of whom is a member of the minority party;

(D) The Superintendent of Public Instruction or a designee of the Superintendent;

(E) Four members appointed by the Governor, as follows:

(1) One member shall be employed or associated with a community school established under Chapter 3314. of the Revised Code.

(2) One member shall be employed or associated with a school district or educational service center.

(3) One member shall be the parent of a child attending a school district.

(4) One member shall be the parent of a child attending a community school.

The members of the committee shall be appointed not later than ninety days after the effective date of this section. The committee shall convene its first meeting not later than forty-five days after all appointments are made. Members

shall serve without compensation. Vacancies on the committee shall be filled in the same manner as original appointments.

The committee shall examine all aspects of the community school laws contained in Chapter 3314. of the Revised Code, review research studies concerning community schools, review current operations and procedures in community schools, compare test scores and other pertinent performance data between school districts and community schools, and examine any other information pertaining to community schools that it determines appropriate. Not later than two years after its members are appointed, the committee shall issue a report of recommendations for legislation to improve Ohio's community schools. The report shall be submitted to the Speaker of the House of Representatives, the President of the Senate, and the minority party leaders of the House of Representatives and the Senate.

The committee shall cease to exist after it issues the report."

In line 40 of the title, after "3314.13," insert "3314.17,"

In line 171 of the title, after "3314.18," insert "3314.19,"

In line 19938, after "school" insert "or proposed to be located in a school district to which the prohibition in division (A)(8) of this section applies"

In line 19941, after "(8)" insert "No entity described in divisions (C)(1)(b) to (f) of section 3314.02 of the Revised Code shall enter into a contract with a start-up school if the school district in which the school is proposed to be located has made adequate yearly progress, as defined in section 3302.01 of the Revised Code, for the three immediately preceding school years, except as follows:

(a) Any entity described in divisions (C)(1)(b) to (f) of section 3314.02 of the Revised Code may renew a contract that the entity entered into with a start-up school located in the district prior to the date on which the district became subject to division (A)(8) of this section.

(b) Any entity described in divisions (C)(1)(b) to (e) of section 3314.02 of the Revised Code may assume sponsorship of an existing community school located in the district that was formerly sponsored by another entity and may enter into a contract with that community school in accordance with section 3314.03 of the Revised Code.

(c) Any entity described in division (C)(1)(f) of section 3314.02 of the Revised Code may assume sponsorship of an existing community school in accordance with division (A)(7) of this section and may enter into a contract with that community school in accordance with section 3314.03 of the Revised Code.

If a school district subject to division (A)(8) of this section fails to make adequate yearly progress for two consecutive school years, the prohibition in that division shall cease to apply to the district and any entity described in divisions

(C)(1)(b) to (f) of section 3314.02 of the Revised Code may enter into a contract with a start-up school proposed to be located in the district. The prohibition shall be reinstated if the district makes adequate yearly progress for three consecutive school years.

(9)"

In line 19896, delete everything after the underlined period

Delete lines 19897 through 19899

In line 19907, delete everything after the underlined period

Delete lines 19908 through 19911

In line 380, after "3314.084," insert "3314.085,"

Between lines 21325 and 21326, insert:

"Sec. 3314.085. Notwithstanding any provision to the contrary in section 3314.08 of the Revised Code, no internet- or computer-based community school shall receive a payment under that section that is greater than two thousand dollars per pupil.

The difference between the amount subtracted from a school district's account under section 3314.08 of the Revised Code and the amount paid to a community school pursuant to this section shall be placed in the general revenue fund.

In the event that during a fiscal year a student enrolled in an internet- or computer-based community school withdraws or is removed from that school and subsequently in the same fiscal year enrolls in a school of the school district to which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code, the department shall credit to that school district's account the amount subtracted from the school district's account prorated on a full-time annual equivalency basis."

In line 89611, after "3314.084," insert "3314.085,"

In line 171 of the title, after "3314.084," insert "3314.085,"

In line 278, after "3313.489," insert "3313.672,"

Between lines 19357 and 19358, insert:

**"Sec. 3313.672.** (A)(1) At the time of initial entry to a public or nonpublic school, a pupil shall present to the person in charge of admission any records given the pupil by the public or nonpublic elementary or secondary school the pupil most recently attended; a certified copy of an order or decree, or modification of such an order or decree allocating parental rights and responsibilities for the care of a child and designating a residential parent and legal custodian of the child, as provided in division (B) of this section, if that type of order or decree has been issued; a copy of a power of attorney or caretaker authorization affidavit, if either has been executed with respect to the

child pursuant to sections 3109.51 to 3109.80 of the Revised Code; and a certification of birth issued pursuant to Chapter 3705. of the Revised Code, a comparable certificate or certification issued pursuant to the statutes of another state, territory, possession, or nation, or a document in lieu of a certificate or certification as described in divisions (A)(1)(a) to (e) of this section. Any of the following shall be accepted in lieu of a certificate or certification of birth by the person in charge of admission:

(a) A passport or attested transcript of a passport filed with a registrar of passports at a point of entry of the United States showing the date and place of birth of the child;

(b) An attested transcript of the certificate of birth;

(c) An attested transcript of the certificate of baptism or other religious record showing the date and place of birth of the child;

(d) An attested transcript of a hospital record showing the date and place of birth of the child;

(e) A birth affidavit.

(2) If a pupil requesting admission to a school of the school district in which the pupil is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code has been discharged or released from the custody of the department of youth services under section 5139.51 of the Revised Code just prior to requesting admission to the school, no school official shall admit that pupil until the records described in divisions (D)(4)(a) to (d) of section 2152.18 of the Revised Code have been received by the superintendent of the school district.

(3) Except as otherwise provided in division (A)(2) of this section, within twenty-four hours of the entry into the school of a pupil described in division (A)(1) of this section, a school official shall request the pupil's official records from the public or nonpublic elementary or secondary school the pupil most recently attended. ¶The school the pupil most recently attended shall forward the records to the school that made the request within twenty-four hours of receiving the request.

¶ If the public or nonpublic school the pupil claims to have most recently attended indicates that it has no record of the pupil's attendance or the records are not received within fourteen days of the date of request, or if the pupil does not present a certification of birth described in division (A)(1) of this section, a comparable certificate or certification from another state, territory, possession, or nation, or another document specified in divisions (A)(1)(a) to (d) of this section, the principal or chief administrative officer of the school shall notify the law enforcement agency having jurisdiction in the area where the pupil resides of this fact and of the possibility that the pupil may be a missing child, as defined in section 2901.30 of the Revised Code.

(B)(1) Whenever an order or decree allocating parental rights and

responsibilities for the care of a child and designating a residential parent and legal custodian of the child, including a temporary order, is issued resulting from an action of divorce, alimony, annulment, or dissolution of marriage, and the order or decree pertains to a child who is a pupil in a public or nonpublic school, the residential parent of the child shall notify the school of those allocations and designations by providing the person in charge of admission at the pupil's school with a certified copy of the order or decree that made the allocation and designation. Whenever there is a modification of any order or decree allocating parental rights and responsibilities for the care of a child and designating a residential parent and legal custodian of the child that has been submitted to a school, the residential parent shall provide the person in charge of admission at the pupil's school with a certified copy of the order or decree that makes the modification.

(2) Whenever a power of attorney is executed under sections 3109.51 to 3109.62 of the Revised Code that pertains to a child who is a pupil in a public or nonpublic school, the attorney in fact shall notify the school of the power of attorney by providing the person in charge of admission with a copy of the power of attorney. Whenever a caretaker authorization affidavit is executed under sections 3109.64 to 3109.73 of the Revised Code that pertains to a child who is in a public or nonpublic school, the grandparent who executed the affidavit shall notify the school of the affidavit by providing the person in charge of admission with a copy of the affidavit.

(C) If, at the time of a pupil's initial entry to a public or nonpublic school, the pupil is under the care of a shelter for victims of domestic violence, as defined in section 3113.33 of the Revised Code, the pupil or the pupil's parent shall notify the school of that fact. Upon being so informed, the school shall inform the elementary or secondary school from which it requests the pupil's records of that fact."

In line 74218, after "3313.489," insert "3313.672,"

In line 36 of the title, after "3313.489," insert "3313.672,"

In line 278, after "3313.489," insert "3313.672,"

Between lines 19357 and 19358, insert:

**"Sec. 3313.672.** (A)(1) At the time of initial entry to a public or nonpublic school, a pupil shall present to the person in charge of admission any records given the pupil by the public or nonpublic elementary or secondary school the pupil most recently attended; the pupil's address and proof of residency at that address; a certified copy of an order or decree, or modification of such an order or decree allocating parental rights and responsibilities for the care of a child and designating a residential parent and legal custodian of the child, as provided in division (B) of this section, if that type of order or decree has been issued; a copy of a power of attorney or caretaker authorization affidavit, if either has been executed with respect to the child pursuant to sections 3109.51 to 3109.80 of the Revised Code; and a certification of birth

issued pursuant to Chapter 3705. of the Revised Code, a comparable certificate or certification issued pursuant to the statutes of another state, territory, possession, or nation, or a document in lieu of a certificate or certification as described in divisions (A)(1)(a) to (e) of this section. Any of the following shall be accepted in lieu of a certificate or certification of birth by the person in charge of admission:

(a) A passport or attested transcript of a passport filed with a registrar of passports at a point of entry of the United States showing the date and place of birth of the child;

(b) An attested transcript of the certificate of birth;

(c) An attested transcript of the certificate of baptism or other religious record showing the date and place of birth of the child;

(d) An attested transcript of a hospital record showing the date and place of birth of the child;

(e) A birth affidavit.

(2) If a pupil requesting admission to a school of the school district in which the pupil is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code has been discharged or released from the custody of the department of youth services under section 5139.51 of the Revised Code just prior to requesting admission to the school, no school official shall admit that pupil until the records described in divisions (D)(4)(a) to (d) of section 2152.18 of the Revised Code have been received by the superintendent of the school district.

(3) Except as otherwise provided in division (A)(2) of this section, within twenty-four hours of the entry into the school of a pupil described in division (A)(1) of this section, a school official shall request the pupil's official records from the public or nonpublic elementary or secondary school the pupil most recently attended. If the public or nonpublic school the pupil claims to have most recently attended indicates that it has no record of the pupil's attendance or the records are not received within fourteen days of the date of request, or if the pupil does not present a certification of birth described in division (A)(1) of this section, a comparable certificate or certification from another state, territory, possession, or nation, or another document specified in divisions (A)(1)(a) to ~~(d)~~(e) of this section, the principal or chief administrative officer of the school shall notify the law enforcement agency having jurisdiction in the area where the pupil resides of this fact and of the possibility that the pupil may be a missing child, as defined in section 2901.30 of the Revised Code.

(B)(1) Whenever an order or decree allocating parental rights and responsibilities for the care of a child and designating a residential parent and legal custodian of the child, including a temporary order, is issued resulting from an action of divorce, alimony, annulment, or dissolution of marriage, and the order or decree pertains to a child who is a pupil in a public or nonpublic school, the residential parent of the child shall notify the school of those allocations and

designations by providing the person in charge of admission at the pupil's school with a certified copy of the order or decree that made the allocation and designation. Whenever there is a modification of any order or decree allocating parental rights and responsibilities for the care of a child and designating a residential parent and legal custodian of the child that has been submitted to a school, the residential parent shall provide the person in charge of admission at the pupil's school with a certified copy of the order or decree that makes the modification.

(2) Whenever a power of attorney is executed under sections 3109.51 to 3109.62 of the Revised Code that pertains to a child who is a pupil in a public or nonpublic school, the attorney in fact shall notify the school of the power of attorney by providing the person in charge of admission with a copy of the power of attorney. Whenever a caretaker authorization affidavit is executed under sections 3109.64 to 3109.73 of the Revised Code that pertains to a child who is in a public or nonpublic school, the grandparent who executed the affidavit shall notify the school of the affidavit by providing the person in charge of admission with a copy of the affidavit.

(C) If, at the time of a pupil's initial entry to a public or nonpublic school, the pupil is under the care of a shelter for victims of domestic violence, as defined in section 3113.33 of the Revised Code, the pupil or the pupil's parent shall notify the school of that fact. Upon being so informed, the school shall inform the elementary or secondary school from which it requests the pupil's records of that fact.

(D) The state board of education shall adopt rules prescribing the appropriate documentation necessary to establish proof of residency for the purposes of division (A)(1) of this section."

In line 74218, after "3313.489," insert "3313.672,"

In line 36 of the title, after "3313.489," insert "3313.672,"

In line 380, after "3314.18," insert "3314.19,"

Between lines 21379 and 21380, insert:

"**Sec. 3314.19.** The department of education annually shall examine the data reported by each community school under sections 3301.0714 and 3314.17 of the Revised Code about scores attained on the state proficiency and achievement tests, prescribed under section 3301.0710 of the Revised Code, by each student enrolled in the school at the end of the school year. If the department determines that any of that data is incomplete or inaccurate, the department shall notify the school of the incompleteness or inaccuracy and shall provide technical assistance to the school so that the school may revise its reports to completely and accurately reflect student test scores in sufficient time to be included in the department's report card for the school issued under section 3314.012 of the Revised Code."

In line 171 of the title, after "3314.18," insert "3314.19,"

In line 380, after "3314.084," insert "3314.101,"

Between lines 21325 and 21326, insert:

**"Sec. 3314.101. Not later than the fifteenth day of October of each year, the fiscal officer of each community school shall file with the superintendent of public instruction the school's teacher salary schedule in effect on that date."**

In line 171 of the title, after "3314.084," insert "3314.101,"

In line 279, after "3314.01," insert "3314.012,"

Between lines 19872 and 19873, insert:

**"Sec. 3314.012.** (A) Within ninety days of September 28, 1999, the superintendent of public instruction shall appoint representatives of the department of education, including employees who work with the education management information system and employees of the office of community schools established by section 3314.11 of the Revised Code, to a committee to develop report card models for community schools. The director of the legislative office of education oversight shall also appoint representatives to the committee. The committee shall design model report cards appropriate for the various types of community schools approved to operate in the state. Sufficient models shall be developed to reflect the variety of grade levels served and the missions of the state's community schools. All models shall include both financial and academic data. The initial models shall be developed by March 31, 2000.

(B) The department of education shall issue an annual report card for each community school. The report card shall report the academic and financial performance of the school utilizing one of the models developed under division (A) of this section. The report card shall include all information applicable to school buildings under division (A) of section 3302.03 of the Revised Code. The report card shall include the number of enrolled students who have withdrawn, voluntarily or involuntarily, from the school during the reporting period.

(C) Upon receipt of a copy of a contract between a sponsor and a community school entered into under this chapter, the department of education shall notify the community school of the specific model report card that will be used for that school.

(D) Report cards shall be distributed to the parents of all students in the community school, to the members of the board of education of the school district in which the community school is located, and to any person who requests one from the department.

(E) No report card shall be issued for any community school under this section until the school has been open for instruction for two full school years."

In line 74219, after "3314.01," insert "3314.012,"

In line 37 of the title, after "3314.01," insert "3314.012,"



In line 380, after "3314.084," insert "3314.102,"

In line 20352, after "teachers" strike through the balance of the line

Strike through lines 20353 through 20355

In line 20356, strike everything before "of" and insert "in compliance with section 3314.102"

Between lines 21325 and 21326, insert:

"Sec. 3314.102. On and after the effective date of this section, each community school established under this chapter shall do both of the following in the same manner as required of a school district:

(A) Comply with the provisions of section 3319.074 of the Revised Code;

(B) Employ as classroom teachers only persons who are licensed under sections 3319.22 to 3319.31 of the Revised Code in a manner that is in compliance with any rules of the state board of education that either implement those sections or otherwise require teachers to teach in the subject areas or grade levels for which they are licensed.

A community school may engage persons issued permits under section 3319.301, 3319.302, or 3319.304 of the Revised Code in the same manner as may school districts."

In line 171 of the title, after "3314.084," insert "3314.102,"

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

Senator Hottinger moved that the amendment be laid on the table.

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

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 21, nays 11, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Grendell	Hottinger	Jacobson
Jordan	Mumper	Niehaus	Padgett
Schuler	Schuring	Spada	Wachtmann
			Harris-21.

Those who voted in the negative were: Senators

Brady	Dann	Fedor	Fingerhut
Hagan	Mallory	Miller	Prentiss
Roberts	Wilson		Zurz-11.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 66**, pass?"

Senator Fingerhut moved to amend as follows:

In line 8315, after "tissue" insert "unless the research activity conforms to guidelines set by the national academy of sciences"

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

Senator Hottinger moved that the amendment be laid on the table.

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

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 21, nays 11, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Carey	Cates
Clancy	Coughlin	Gardner	Goodman
Grendell	Hottinger	Jacobson	Jordan
Mumper	Niehaus	Padgett	Schuler
Schuring	Spada	Wachtmann	Wilson
			Harris-21.

Those who voted in the negative were: Senators

Armbruster	Brady	Dann	Fedor
Fingerhut	Hagan	Mallory	Miller
Prentiss	Roberts		Zurz-11.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 66**, pass?"

Senator Fingerhut moved to amend as follows:

In line 8315, after "tissue" insert "unless the stem cell research is authorized under H.R. 810 of the 109th Congress"

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

Senator Hottinger moved that the amendment be laid on the table.

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

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 20, nays 12, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Carey	Cates
Clancy	Coughlin	Gardner	Grendell
Hottinger	Jacobson	Jordan	Mumper
Niehaus	Padgett	Schuler	Schuring
Spada	Wachtmann	Wilson	Harris-20.

Those who voted in the negative were: Senators

Armbruster	Brady	Dann	Fedor
Fingerhut	Goodman	Hagan	Mallory
Miller	Prentiss	Roberts	Zurz-12.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 66**, pass?"

Senator Prentiss moved to amend as follows:

In line 254, after "122.011," insert "122.16,"

In line 259, delete "140.08,"

In line 264, after "742.59," insert "901.13,"

In line 334, delete "5703.052,"

In line 335, delete "5703.053,"; delete "5703.50, 5703.70,"

In line 336, after "5705.391," insert "5709.65,"

In line 342, after "5733.01," insert, "5733.04, 5733.042, 5733.05, 5733.052, 5733.053, 5733.055, 5733.056, 5733.059, 5733.06,"; after "5733.066," insert "5733.09, 5733.11, 5733.12,"

In line 343, after "5733.352," insert "5733.39,"

In line 349, after "5747.08," insert "5747.21, 5747.211,"; after "5747.212," insert "5747.31,"

In line 368, delete the first "and"; after "5123.048" insert ", and 5733.061"

In line 394, delete "5111.242,"

In line 403, after "5729.032," insert "5733.023, 5733.044,"

In line 404, delete all after "5747.056,"

Delete lines 405 through 408

In line 409, delete "5751.98, 5751.99,"

Between lines 3476 through 3477, insert:

**"Sec. 122.16.** (A) As used in this section:

(1) "Distressed area" means either a municipal corporation that has a population of at least fifty thousand or a county, that meets two of the following criteria:

(a) Its average rate of unemployment, during the most recent five-year period for which data are available, is equal to at least one hundred twenty-five per cent of the average rate of unemployment for the United States for the same period.

(b) It has a per capita income equal to or below eighty per cent of the median county per capita income of the United States as determined by the most recently available figures from the United States census bureau.

(c)(i) In the case of a municipal corporation, at least twenty per cent of the residents have a total income for the most recent census year that is below the official poverty line.

(ii) In the case of a county, in intercensal years, the county has a ratio of transfer payment income to total county income equal to or greater than twenty-five per cent.

(2) "Eligible area" means a distressed area, a labor surplus area, an inner city area, or a situational distress area.

(3) "Eligible costs associated with a voluntary action" means costs incurred during the qualifying period in performing a remedy or remedial activities, as defined in section 3746.01 of the Revised Code, and any costs incurred during the qualifying period in performing both a phase I and phase II property assessment, as defined in the rules adopted under section 3746.04 of the Revised Code, provided that the performance of the phase I and phase II property assessment resulted in the implementation of the remedy or remedial activities.

(4) "Inner city area" means, in a municipal corporation that has a population of at least one hundred thousand and does not meet the criteria of a labor surplus area or a distressed area, targeted investment areas established by the municipal corporation within its boundaries that are comprised of the most recent census block tracts that individually have at least twenty per cent of their population at or below the state poverty level or other census block tracts contiguous to such census block tracts.

(5) "Labor surplus area" means an area designated as a labor surplus area by the United States department of labor.

(6) "Official poverty line" has the same meaning as in division (A) of section 3923.51 of the Revised Code.

(7) "Partner" includes a member of a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state if the limited liability company is not treated as a corporation for purposes of Chapter 5733. of the Revised Code and is not classified as an association taxable

as a corporation for federal income tax purposes.

(8) "Partnership" includes a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state if the limited liability company is not treated as a corporation for purposes of Chapter 5733. of the Revised Code and is not classified as an association taxable as a corporation for federal income tax purposes.

(9) "Qualifying period" means the period that begins July 1, 1996, and ends June 30, 1999.

(10) "S corporation" means a corporation that has made an election under subchapter S of chapter one of subtitle A of the Internal Revenue Code for its taxable year under the Internal Revenue Code;

(11) "Situational distress area" means a county or a municipal corporation that has experienced or is experiencing a closing or downsizing of a major employer that will adversely affect the economy of the county or municipal corporation. In order for a county or municipal corporation to be designated as a situational distress area, the governing body of the county or municipal corporation shall submit a petition to the director of development in the form prescribed by the director. A county or municipal corporation may be designated as a situational distress area for a period not exceeding thirty-six months.

The petition shall include written documentation that demonstrates all of the following:

- (a) The number of jobs lost by the closing or downsizing;
- (b) The impact that the job loss has on the unemployment rate of the county or municipal corporation as measured by the director of job and family services;
- (c) The annual payroll associated with the job loss;
- (d) The amount of state and local taxes associated with the job loss;
- (e) The impact that the closing or downsizing has on the suppliers located in the county or municipal corporation.

(12) "Voluntary action" has the same meaning as in section 3746.01 of the Revised Code.

(13) "Taxpayer" means a corporation subject to the tax imposed by section 5733.06 of the Revised Code or any person subject to the tax imposed by section 5747.02 of the Revised Code.

(14) "Governing body" means the board of county commissioners of a county, the board of township trustees of a township, or the legislative authority of a municipal corporation.

(15) "Eligible site" means property for which a covenant not to sue has

been issued under section 3746.12 of the Revised Code.

(B)(1) A taxpayer, partnership, or S corporation that has been issued, under section 3746.12 of the Revised Code, a covenant not to sue for a site by the director of environmental protection during the qualifying period may apply to the director of development, in the manner prescribed by the director, to enter into an agreement under which the applicant agrees to economically redevelop the site in a manner that will create employment opportunities and a credit will be granted to the applicant against the tax imposed by section 5733.06 or 5747.02 of the Revised Code. The application shall state the eligible costs associated with a voluntary action incurred by the applicant. The application shall be accompanied by proof, in a form prescribed by the director of development, that the covenant not to sue has been issued.

The applicant shall request the certified professional that submitted the no further action letter for the eligible site under section 3746.11 of the Revised Code to submit an affidavit to the director of development verifying the eligible costs associated with the voluntary action at that site.

The director shall review the applications in the order they are received. If the director determines that the applicant meets the requirements of this section, the director may enter into an agreement granting a credit against the tax imposed by section 5733.06 or 5747.02 of the Revised Code. In making the determination, the director may consider the extent to which political subdivisions and other units of government will cooperate with the applicant to redevelop the eligible site. The agreement shall state the amount of the tax credit and the reporting requirements described in division (F) of this section.

(2) The maximum annual amount of credits the director of development may grant under such agreements shall be as follows:

1996	\$5,000,000
1997	\$10,000,000
1998	\$10,000,000
1999	\$5,000,000

For any year in which the director of development does not grant tax credits under this section equal to the maximum annual amount, the amount not granted for that year shall be added to the maximum annual amount that may be granted for the following year. However, the director shall not grant any tax credits under this section after June 30, 1999.

(C)(1) If the covenant not to sue was issued in connection with a site that is not located in an eligible area, the credit amount is equal to the lesser of five hundred thousand dollars or ten per cent of the eligible costs associated with a voluntary action incurred by the taxpayer, partnership, or S corporation.

(2) If a covenant not to sue was issued in connection with a site that is located in an eligible area, the credit amount is equal to the lesser of seven hundred fifty thousand dollars or fifteen per cent of the eligible costs associated with a voluntary action incurred by the taxpayer, partnership, or S corporation.

(3) A taxpayer, partnership, or S corporation that has been issued covenants not to sue under section 3746.12 of the Revised Code for more than one site may apply to the director of development to enter into more than one agreement granting a credit against the tax imposed by section 5733.06 or 5747.02 of the Revised Code.

(4) For each year for which a taxpayer, partnership, or S corporation has been granted a credit under an agreement entered into under this section, the director of development shall issue a certificate to the taxpayer, partnership, or S corporation indicating the amount of the credit the taxpayer, the partners of the partnership, or the shareholders of the S corporation may claim for that year, not including any amount that may be carried forward from previous years under former section 5733.34 or 5747.32 of the Revised Code.

(D)(1) Each agreement entered into under this section shall incorporate a commitment by the taxpayer, partnership, or S corporation not to permit the use of an eligible site to cause the relocation of employment positions to that site from elsewhere in this state, except as otherwise provided in division (D)(2) of this section. The commitment shall be binding on the taxpayer, partnership, or S corporation for the lesser of five years from the date the agreement is entered into or the number of years the taxpayer, partnership, or S corporation is entitled to claim the tax credit under the agreement.

(2) An eligible site may be the site of employment positions relocated from elsewhere in this state if the director of development determines both of the following:

(a) That the site from which the employment positions would be relocated is inadequate to meet market and industry conditions, expansion plans, consolidation plans, or other business considerations affecting the relocating employer;

(b) That the governing body of the county, township, or municipal corporation from which the employment positions would be relocated has been notified of the possible relocation.

For purposes of this section, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position, but the transfer of an individual employee from one political subdivision to another political subdivision shall not be considered a relocation of an employment position as long as the individual's employment position in the first political subdivision is refilled.

(E) A taxpayer, partnership, or S corporation that has entered into an agreement granting a credit against the tax imposed by section 5733.06 or 5747.02 of the Revised Code that subsequently recovers in a lawsuit or settlement of a lawsuit at least seventy-five per cent of the eligible costs associated with a voluntary action shall not claim any credit amount remaining, including any amounts carried forward from prior years, beginning with the

taxable year in which the judgment in the lawsuit is entered or the settlement is finally agreed to.

Any amount of credit that a taxpayer, partnership, or S corporation may not claim by reason of this division shall not be considered to have been granted for the purpose of determining the total amount of credits that may be issued under division (B)(2) of this section.

(F) Each year for which a taxpayer, partnership, or S corporation claims a credit under former section 5733.34 or 5747.32 of the Revised Code, the taxpayer, partnership, or S corporation shall report the following to the director of development:

(1) The status of all cost recovery litigation described in division (E) of this section to which it was a party during the previous year;

(2) Confirmation that the covenant not to sue has not been revoked or has not been voided;

(3) Confirmation that the taxpayer, partnership, or S corporation has not permitted the eligible site to be used in such a manner as to cause the relocation of employment positions from elsewhere in this state in violation of the commitment required under division (D) of this section;

(4) Any other information the director of development requires to perform the director's duties under this section.

(G) The director of development shall annually certify, by the first day of January of each year during the qualifying period, the eligible areas for the calendar year that includes that first day of January.

(H) The director of development, in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section, including rules prescribing forms required for administering this section."

Delete lines 3477 through 4187 and insert:

"**Sec. 122.17.** (A) As used in this section:

(1) "Full-time employee" means an individual who is employed for consideration for at least thirty-five hours a week, or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment.

(2) "New employee" means one of the following:

(a) A full-time employee first employed by a taxpayer in the project that is the subject of the agreement after the taxpayer enters into a tax credit agreement with the tax credit authority under this section;

(b) A full-time employee first employed by a taxpayer in the project that is the subject of the tax credit after the tax credit authority approves a project for a tax credit under this section in a public meeting, as long as the taxpayer enters



into the tax credit agreement prepared by the department of development after such meeting within sixty days after receiving the agreement from the department. If the taxpayer fails to enter into the agreement within sixty days, "new employee" has the same meaning as under division (A)(2)(a) of this section.

Under division (A)(2)(a) or (b) of this section, if the tax credit authority determines it appropriate, "new employee" also may include an employee re-hired or called back from lay-off to work in a new facility or on a new product or service established or produced by the taxpayer after entering into the agreement under this section or after the tax credit authority approves the tax credit in a public meeting. Except as otherwise provided in this paragraph, "new employee" does not include any employee of the taxpayer who was previously employed in this state by a related member of the taxpayer and whose employment was shifted to the taxpayer after the taxpayer entered into the tax credit agreement or after the tax credit authority approved the credit in a public meeting, or any employee of the taxpayer for which the taxpayer has been granted a certificate under division (B) of section 5709.66 of the Revised Code. However, if the taxpayer is engaged in the enrichment and commercialization of uranium or uranium products or is engaged in research and development activities related thereto and if the tax credit authority determines it appropriate, "new employee" may include an employee of the taxpayer who was previously employed in this state by a related member of the taxpayer and whose employment was shifted to the taxpayer after the taxpayer entered into the tax credit agreement or after the tax credit authority approved the credit in a public meeting. "New employee" does not include an employee of the taxpayer who is employed in an employment position that was relocated to a project from other operations of the taxpayer in this state or from operations of a related member of the taxpayer in this state. In addition, "new employee" does not include a child, grandchild, parent, or spouse, other than a spouse who is legally separated from the individual, of any individual who is an employee of the taxpayer and who has a direct or indirect ownership interest of at least five per cent in the profits, capital, or value of the taxpayer. Such ownership interest shall be determined in accordance with section 1563 of the Internal Revenue Code and regulations prescribed thereunder.

(3) "New income tax revenue" means the total amount withheld under section 5747.06 of the Revised Code by the taxpayer during the taxable year from the compensation of new employees for the tax levied under Chapter 5747. of the Revised Code.

(4) "Related member" has the same meaning as under ~~division (A)(6) of~~ section 5733.042 of the Revised Code without regard to division (B) of that section.

(B) The tax credit authority may make grants under this section to foster job creation in this state. Such a grant shall take the form of a refundable credit allowed against the tax imposed by section 5733.06 or 5747.02 of the Revised

Code. The credit shall be claimed for the taxable years specified in the taxpayer's agreement with the tax credit authority under division (D) of this section. The credit shall be claimed ~~after the allowance of all other credits provided by Chapter 5733, or 5747, in the order required under section 5733.98 or 5747.98~~ of the Revised Code. The amount of the credit equals the new income tax revenue for the taxable year multiplied by the percentage specified in the agreement with the tax credit authority.

(C) A taxpayer or potential taxpayer who proposes a project to create new jobs in this state may apply to the tax credit authority to enter into an agreement for a tax credit under this section. The director of development shall prescribe the form of the application. After receipt of an application, the authority may enter into an agreement with the taxpayer for a credit under this section if it determines all of the following:

(1) The taxpayer's project will create new jobs in this state;

(2) The taxpayer's project is economically sound and will benefit the people of this state by increasing opportunities for employment and strengthening the economy of this state;

(3) Receiving the tax credit is a major factor in the taxpayer's decision to go forward with the project.

~~(D) An~~ No agreement may be entered into under this section, providing for a credit against the tax imposed under section 5733.06 of the Revised Code, on or after the effective date of the amendment of this section by Am. Sub. H.B. 66 of the 126th general assembly.

An agreement under this section shall include all of the following:

(1) A detailed description of the project that is the subject of the agreement;

(2) The term of the tax credit, which shall not exceed fifteen years, and the first taxable year for which the credit may be claimed;

(3) A requirement that the taxpayer shall maintain operations at the project location for at least twice the number of years as the term of the tax credit;

(4) The percentage, as determined by the tax credit authority, of new income tax revenue that will be allowed as the amount of the credit for each taxable year;

(5) A specific method for determining how many new employees are employed during a taxable year;

(6) A requirement that the taxpayer annually shall report to the director of development the number of new employees, the new income tax revenue withheld in connection with the new employees, and any other information the director needs to perform the director's duties under this section;

(7) A requirement that the director of development annually shall verify the amounts reported under division (D)(6) of this section, and after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified;

(8)(a) A provision requiring that the taxpayer, except as otherwise provided in division (D)(8)(b) of this section, shall not relocate employment positions from elsewhere in this state to the project site that is the subject of the agreement for the lesser of five years from the date the agreement is entered into or the number of years the taxpayer is entitled to claim the tax credit.

(b) The taxpayer may relocate employment positions from elsewhere in this state to the project site that is the subject of the agreement if the director of development determines both of the following:

(i) That the site from which the employment positions would be relocated is inadequate to meet market and industry conditions, expansion plans, consolidation plans, or other business considerations affecting the taxpayer;

(ii) That the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated has been notified of the relocation.

For purposes of this section, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position, but the transfer of an individual employee from one political subdivision to another political subdivision shall not be considered a relocation of an employment position as long as the individual's employment position in the first political subdivision is refilled.

(E) If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax credit agreement, the tax credit authority may amend the agreement to reduce the percentage or term of the tax credit. The reduction of the percentage or term shall take effect in the taxable year immediately following the taxable year in which the authority amends the agreement. If the taxpayer relocates employment positions in violation of the provision required under division (D)(8)(a) of this section, the taxpayer shall not claim the tax credit under former section 5733.0610 of the Revised Code for any tax years following the calendar year in which the relocation occurs, or shall not claim the tax credit under former section 5747.058 of the Revised Code for the taxable year in which the relocation occurs and any subsequent taxable years.

(F) Projects that consist solely of point-of-final-purchase retail facilities are not eligible for a tax credit under this section. If a project consists of both point-of-final-purchase retail facilities and nonretail facilities, only the portion of the project consisting of the nonretail facilities is eligible for a tax credit and only the new income tax revenue from new employees of the nonretail facilities shall be considered when computing the amount of the tax credit. If a warehouse facility is part of a point-of-final-purchase retail facility and supplies only that

facility, the warehouse facility is not eligible for a tax credit. Catalog distribution centers are not considered point-of-final-purchase retail facilities for the purposes of this division, and are eligible for tax credits under this section.

(G) Financial statements and other information submitted to the department of development or the tax credit authority by an applicant or recipient of a tax credit under this section, and any information taken for any purpose from such statements or information, are not public records subject to section 149.43 of the Revised Code. However, the chairperson of the authority may make use of the statements and other information for purposes of issuing public reports or in connection with court proceedings concerning tax credit agreements under this section. Upon the request of the tax commissioner, the chairperson of the authority shall provide to the commissioner any statement or information submitted by an applicant or recipient of a tax credit in connection with the credit. The commissioner shall preserve the confidentiality of the statement or information.

(H) A taxpayer claiming a credit under this section shall submit to the tax commissioner a copy of the director of development's certificate of verification under division (D)(7) of this section for the taxable year. However, failure to submit a copy of the certificate does not invalidate a claim for a credit.

(I) The director of development, after consultation with the tax commissioner and in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section. The rules may provide for recipients of tax credits under this section to be charged fees to cover administrative costs of the tax credit program. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons of the standing committees on economic development in the senate and the house of representatives.

(J) For the purposes of this section, a taxpayer may include a partnership, a corporation that has made an election under subchapter S of chapter one of subtitle A of the Internal Revenue Code, or any other business entity through which income flows as a distributive share to its owners. A credit received under this section by a partnership, S-corporation, or other such business entity shall be apportioned among the persons to whom the income or profit of the partnership, S-corporation, or other entity is distributed, in the same proportions as those in which the income or profit is distributed.

(K) If the director of development determines that a taxpayer who has received a credit under this section is not complying with the requirement under division (D)(3) of this section, the director shall notify the tax credit authority of the noncompliance. After receiving such a notice, and after giving the taxpayer an opportunity to explain the noncompliance, the tax credit authority may require the taxpayer to refund to this state a portion of the credit in accordance with the following:

(1) If the taxpayer maintained operations at the project location for at least one and one-half times the number of years of the term of the tax credit, an amount not exceeding twenty-five per cent of the sum of any previously allowed credits under this section;

(2) If the taxpayer maintained operations at the project location for at least the number of years of the term of the tax credit, an amount not exceeding fifty per cent of the sum of any previously allowed credits under this section;

(3) If the taxpayer maintained operations at the project location for less than the number of years of the term of the tax credit, an amount not exceeding one hundred per cent of the sum of any previously allowed credits under this section.

In determining the portion of the tax credit to be refunded to this state, the tax credit authority shall consider the effect of market conditions on the taxpayer's project and whether the taxpayer continues to maintain other operations in this state. After making the determination, the authority shall certify the amount to be refunded to the tax commissioner. The commissioner shall make an assessment for that amount against the taxpayer under Chapter 5733. or 5747. of the Revised Code. The time limitations on assessments under ~~Chapter 5733. or 5747. of the Revised Code~~ those chapters do not apply to an assessment under this division, but the commissioner shall make the assessment within one year after the date the authority certifies to the commissioner the amount to be refunded.

(L) On or before the thirty-first day of March each year, the director of development shall submit a report to the governor, the president of the senate, and the speaker of the house of representatives on the tax credit program under this section. The report shall include information on the number of agreements that were entered into under this section during the preceding calendar year, a description of the project that is the subject of each such agreement, and an update on the status of projects under agreements entered into before the preceding calendar year.

~~During the fifth year of the tax credit program, the director of development in conjunction with the director of budget and management shall conduct an evaluation of it. The evaluation shall include assessments of the effectiveness of the program in creating new jobs in this state and of the revenue impact of the program, and may include a review of the practices and experiences of other states with similar programs. The director of development shall submit a report on the evaluation to the governor, the president of the senate, and the speaker of the house of representatives on or before January 1, 1998.~~

(M) There is hereby created the tax credit authority, which consists of the director of development and four other members appointed as follows: the governor, the president of the senate, and the speaker of the house of representatives each shall appoint one member who shall be a specialist in

economic development; the governor also shall appoint a member who is a specialist in taxation. Of the initial appointees, the members appointed by the governor shall serve a term of two years; the members appointed by the president of the senate and the speaker of the house of representatives shall serve a term of four years. Thereafter, terms of office shall be for four years. Initial appointments to the authority shall be made within thirty days after January 13, 1993. Each member shall serve on the authority until the end of the term for which the member was appointed. Vacancies shall be filled in the same manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. Members may be reappointed to the authority. Members of the authority shall receive their necessary and actual expenses while engaged in the business of the authority. The director of development shall serve as chairperson of the authority, and the members annually shall elect a vice-chairperson from among themselves. Three members of the authority constitute a quorum to transact and vote on the business of the authority. The majority vote of the membership of the authority is necessary to approve any such business, including the election of the vice-chairperson.

The director of development may appoint a professional employee of the department of development to serve as the director's substitute at a meeting of the authority. The director shall make the appointment in writing. In the absence of the director from a meeting of the authority, the appointed substitute shall serve as chairperson. In the absence of both the director and the director's substitute from a meeting, the vice-chairperson shall serve as chairperson.

**Sec. 122.171.** (A) As used in this section:

(1) "Capital investment project" means a plan of investment at a project site for the acquisition, construction, renovation, or repair of buildings, machinery, or equipment, or for capitalized costs of basic research and new product development determined in accordance with generally accepted accounting principles, but does not include any of the following:

(a) Payments made for the acquisition of personal property through operating leases;

(b) Project costs paid before January 1, 2002, ~~or after December 31, 2006;~~

(c) Payments made to a related member as defined in section 5733.042 of the Revised Code.

(2) "Eligible business" means a business with Ohio operations satisfying all of the following:

(a) Employed an average of at least one thousand employees in full-time employment positions at a project site during each of the twelve months preceding the application for a tax credit under this section; and

(b) On or after January 1, 2002, has made payments for the capital investment project of either of the following:

(i) At least two hundred million dollars in the aggregate at the project site during a period of three consecutive calendar years including the calendar year that includes a day of the taxpayer's taxable year with respect to which the credit is granted;

(ii) If the average wage of all full-time employment positions at the project site is greater than four hundred per cent of the federal minimum wage, at least one hundred million dollars in the aggregate at the project site during a period of three consecutive calendar years including the calendar year that includes a day of the taxpayer's taxable year with respect to which the credit is granted.

(c) Is engaged at the project site primarily as a manufacturer or is providing significant corporate administrative functions;

(d) Has had a capital investment project reviewed and approved by the tax credit authority as provided in divisions (C), (D), and (E) of this section.

(3) "Full-time employment position" means a position of employment for consideration for at least thirty-five hours a week that has been filled for at least one hundred eighty days immediately preceding the filing of an application under this section and for at least one hundred eighty days during each taxable year with respect to which the credit is granted.

(4) "Manufacturer" has the same meaning as in section 5739.011 of the Revised Code.

(5) "Project site" means an integrated complex of facilities in this state, as specified by the tax credit authority under this section, within a fifteen-mile radius where a taxpayer is primarily operating as an eligible business.

(6) "Applicable corporation" means a corporation satisfying all of the following:

(a)(i) For the entire taxable year immediately preceding the tax year, the corporation develops software applications primarily to provide telecommunication billing and information services through outsourcing or licensing to domestic or international customers.

(ii) Sales and licensing of software generated at least six hundred million dollars in revenue during the taxable year immediately preceding the tax year the corporation is first entitled to claim the credit provided under division (B) of this section.

(b) For the entire taxable year immediately preceding the tax year, the corporation or one or more of its related members provides customer or employee care and technical support for clients through one or more contact centers within this state, and the corporation and its related members together have a daily average, based on a three\_hundred\_sixty-five\_day year, of at least

five hundred thousand successful customer contacts through one or more of their contact centers, wherever located.

(c) The corporation is eligible for the credit under division (B) of this section for the tax year.

(7) "Related member" has the same meaning as in section 5733.042 of the Revised Code as that section existed on the effective date of its amendment by Am. Sub. H.B. 215 of the 122nd general assembly, September 29, 1997.

(8) "Successful customer contact" means a contact with an end user via telephone, including interactive voice recognition or similar means, where the contact culminates in a conversation or connection other than a busy signal or equipment busy.

(9) "Telecommunications" means all forms of telecommunications service as defined in section 5739.01 of the Revised Code, and includes services in wireless, wireline, cable, broadband, internet protocol, and satellite.

(10)(a) "Applicable difference" means the difference between the tax for the tax year under Chapter 5733. of the Revised Code applying the law in effect for ~~that~~ tax year 2005, and the tax for that tax year if section 5733.042 of the Revised Code applied as that section existed on the effective date of its amendment by Am. Sub. H.B. 215 of the 122nd general assembly, September 29, 1997, subject to division (A)(10)(b) of this section.

(b) If the tax rate set forth in division ~~(B)~~(A) of section 5733.06 of the Revised Code for ~~the~~ tax year before tax year 2006 is less than eight and one-half per cent, the tax calculated under division (A)(10)(a) of this section shall be computed by substituting a tax rate of eight and one-half per cent for the rate set forth in division (B) of section 5733.06 of the Revised Code for the tax year.

(c) If the resulting difference is negative, the applicable tax difference for the tax year shall be zero.

(B) The tax credit authority created under section 122.17 of the Revised Code may grant tax credits under this section for the purpose of fostering job retention in this state. Upon application by an eligible business and upon consideration of the recommendation of the director of budget and management, tax commissioner, and director of development under division (C) of this section, the tax credit authority may grant to an eligible business a nonrefundable credit against the tax imposed by section 5733.06 or 5747.02 of the Revised Code for a period up to fifteen taxable years. The credit shall be in an amount not exceeding seventy-five per cent of the Ohio income tax withheld from the employees of the eligible business occupying full-time employment positions at the project site during the calendar year that includes the last day of such business' taxable year with respect to which the credit is granted. The amount of the credit shall not be based on the Ohio income tax withheld from full-time employees for a calendar year prior to the calendar year in which the minimum investment requirement referred to in division (A)(2)(b) of this section is



completed. The credit shall be claimed only for the taxable years specified in the eligible business' agreement with the tax credit authority under division (E) of this section, but in no event shall the credit be claimed for a taxable year terminating before the date specified in the agreement.

The credit computed under this division is in addition to any credit allowed under division (M) of this section which the tax credit authority may also include in the agreement.

Any unused portion of a tax credit may be carried forward for not more than three additional years after the year for which the credit is granted.

(C) A taxpayer that proposes a capital investment project to retain jobs in this state may apply to the tax credit authority to enter into an agreement for a tax credit under this section. The director of development shall prescribe the form of the application. After receipt of an application, the authority shall forward copies of the application to the director of budget and management, the tax commissioner, and the director of development, each of whom shall review the application to determine the economic impact the proposed project would have on the state and the affected political subdivisions and shall submit a summary of their determinations and recommendations to the authority. The authority shall make no agreements under this section on or after the effective date of the amendment of this section by Am. Sub. H.B. 66 of the 126th general assembly granting a credit against the tax imposed by section 5733.06 of the Revised Code. The authority shall make no agreements under this section granting a credit against the tax imposed by section 5747.02 of the Revised Code after June 30, 2007.

(D) Upon review of the determinations and recommendations described in division (C) of this section, the tax credit authority may enter into an agreement with the taxpayer for a credit under this section if the authority determines all of the following:

(1) The taxpayer's capital investment project will result in the retention of full-time employment positions in this state.

(2) The taxpayer is economically sound and has the ability to complete the proposed capital investment project.

(3) The taxpayer intends to and has the ability to maintain operations at the project site for at least twice the term of the credit.

(4) Receiving the credit is a major factor in the taxpayer's decision to begin, continue with, or complete the project.

(5) The political subdivisions in which the project is located have agreed to provide substantial financial support to the project.

(E) An agreement under this section shall include all of the following:

(1) A detailed description of the project that is the subject of the agreement, including the amount of the investment, the period over which the

investment has been or is being made, and the number of full-time employment positions at the project site.

(2) The method of calculating the number of full-time employment positions as specified in division (A)(3) of this section.

(3) The term and percentage of the tax credit, and the first year for which the credit may be claimed.

(4) A requirement that the taxpayer maintain operations at the project site for at least twice the number of years as the term of the credit.

(5) A requirement that the taxpayer retain a specified number of full-time employment positions at the project site and within this state for the term of the credit, including a requirement that the taxpayer continue to employ at least one thousand employees in full-time employment positions at the project site during the entire term of any agreement, subject to division (E)(7) of this section.

(6) A requirement that the taxpayer annually report to the director of development the number of full-time employment positions subject to the credit, the amount of tax withheld from employees in those positions, the amount of the payments made for the capital investment project, and any other information the director needs to perform the director's duties under this section.

(7) A requirement that the director of development annually review the annual reports of the taxpayer to verify the information reported under division (E)(6) of this section and compliance with the agreement. Upon verification, the director shall issue a certificate to the taxpayer stating that the information has been verified and identifying the amount of the credit for the taxable year. Unless otherwise specified by the tax credit authority in a resolution and included as part of the agreement, the director shall not issue a certificate for any year in which the total number of filled full-time employment positions for each day of the calendar year divided by three hundred sixty-five is less than ninety per cent of the full-time employment positions specified in division (E)(5) of this section. In determining the number of full-time employment positions, no position shall be counted that is filled by an employee who is included in the calculation of a tax credit under section 122.17 of the Revised Code.

(8)(a) A provision requiring that the taxpayer, except as otherwise provided in division (E)(8)(b) of this section, shall not relocate employment positions from elsewhere in this state to the project site that is the subject of the agreement for the lesser of five years from the date the agreement is entered into or the number of years the taxpayer is entitled to claim the credit.

(b) The taxpayer may relocate employment positions from elsewhere in this state to the project site that is the subject of the agreement if the director of development determines both of the following:

(i) That the site from which the employment positions would be relocated is inadequate to meet market and industry conditions, expansion plans, consolidation plans, or other business considerations affecting the taxpayer;

(ii) That the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated has been notified of the relocation.

For purposes of this section, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position unless the movement is confined to the project site. The transfer of an individual employee from one political subdivision to another political subdivision shall not be considered a relocation of an employment position as long as the individual's employment position in the first political subdivision is refilled.

(9) A waiver by the taxpayer of any limitations periods relating to assessments or adjustments resulting from the taxpayer's failure to comply with the agreement.

(F) If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax credit agreement, the tax credit authority may amend the agreement to reduce the percentage or term of the credit. The reduction of the percentage or term shall take effect in the taxable year immediately following the taxable year in which the authority amends the agreement. If the taxpayer relocates employment positions in violation of the provision required under division (D)(8)(a) of this section, the taxpayer shall not claim the tax credit under former section 5733.0610 of the Revised Code for any tax years following the calendar year in which the relocation occurs, or shall not claim the tax credit under former section 5747.058 of the Revised Code for the taxable year in which the relocation occurs and any subsequent taxable years.

(G) Financial statements and other information submitted to the department of development or the tax credit authority by an applicant for or recipient of a tax credit under this section, and any information taken for any purpose from such statements or information, are not public records subject to section 149.43 of the Revised Code. However, the chairperson of the authority may make use of the statements and other information for purposes of issuing public reports or in connection with court proceedings concerning tax credit agreements under this section. Upon the request of the tax commissioner, the chairperson of the authority shall provide to the commissioner any statement or other information submitted by an applicant for or recipient of a tax credit in connection with the credit. The commissioner shall preserve the confidentiality of the statement or other information.

(H) A taxpayer claiming a tax credit under this section shall submit to the tax commissioner a copy of the director of development's certificate of verification under division (E)(7) of this section for the taxable year. However, failure to submit a copy of the certificate does not invalidate a claim for a credit.

(I) For the purposes of this section, a taxpayer may include a partnership, a corporation that has made an election under subchapter S of chapter one of subtitle A of the Internal Revenue Code, or any other business entity through

which income flows as a distributive share to its owners. A tax credit received under this section by a partnership, S-corporation, or other such business entity shall be apportioned among the persons to whom the income or profit of the partnership, S-corporation, or other entity is distributed, in the same proportions as those in which the income or profit is distributed.

(J) If the director of development determines that a taxpayer that received a tax credit under this section is not complying with the requirement under division (E)(4) of this section, the director shall notify the tax credit authority of the noncompliance. After receiving such a notice, and after giving the taxpayer an opportunity to explain the noncompliance, the authority may terminate the agreement and require the taxpayer to refund to the state all or a portion of the credit claimed in previous years, as follows:

(1) If the taxpayer maintained operations at the project site for less than the term of the credit, the amount required to be refunded shall not exceed the amount of any tax credits previously allowed and received under this section.

(2) If the taxpayer maintained operations at the project site longer than the term of the credit but less than one and one-half times the term of the credit, the amount required to be refunded shall not exceed fifty per cent of the sum of any tax credits previously allowed and received under this section.

(3) If the taxpayer maintained operations at the project site for at least one and one-half times the term of the credit but less than twice the term of the credit, the amount required to be refunded shall not exceed twenty-five per cent of the sum of any tax credits previously allowed and received under this section.

In determining the portion of the credit to be refunded to this state, the authority shall consider the effect of market conditions on the taxpayer's project and whether the taxpayer continues to maintain other operations in this state. After making the determination, the authority shall certify the amount to be refunded to the tax commissioner. The commissioner shall make an assessment for that amount against the taxpayer under Chapter 5733. or 5747. of the Revised Code. The time limitations on assessments under Chapter 5733. or 5747. of the Revised Code do not apply to an assessment under this division, but the commissioner shall make the assessment within one year after the date the authority certifies to the commissioner the amount to be refunded.

If the director of development determines that a taxpayer that received a tax credit under this section has reduced the number of employees agreed to under division (E)(5) of this section by more than ten per cent, the director shall notify the tax credit authority of the noncompliance. After receiving such notice, and after providing the taxpayer an opportunity to explain the noncompliance, the authority may amend the agreement to reduce the percentage or term of the tax credit. The reduction in the percentage or term shall take effect in the taxable year in which the authority amends the agreement.

(K) The director of development, after consultation with the tax commissioner and in accordance with Chapter 119. of the Revised Code, shall

adopt rules necessary to implement this section. The rules may provide for recipients of tax credits under this section to be charged fees to cover administrative costs of the tax credit program. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons of the standing committees on economic development in the senate and the house of representatives.

(L) On or before the thirty-first day of March of each year, the director of development shall submit a report to the governor, the president of the senate, and the speaker of the house of representatives on the tax credit program under this section. The report shall include information on the number of agreements that were entered into under this section during the preceding calendar year, a description of the project that is the subject of each such agreement, and an update on the status of projects under agreements entered into before the preceding calendar year.

(M)(1) A nonrefundable credit shall be allowed to an applicable corporation and its related members in an amount equal to the applicable difference. The credit is in addition to the credit granted to the corporation or related members under division (B) of this section. The credit is subject to divisions (B) to (E) and division (J) of this section.

(2) A person qualifying as an applicable corporation under this section for a tax year does not necessarily qualify as an applicable corporation for any other tax year. No person is entitled to the credit allowed under division (M) of this section for the tax year immediately following the taxable year during which the person fails to meet the requirements in divisions (A)(6)(a)(i) and (A)(6)(b) of this section. No person is entitled to the credit allowed under division (M) of this section for any tax year for which the person is not eligible for the credit provided under division (B) of this section."

Delete lines 6999 through 7037

Between lines 10202 and 10203, insert:

"**Sec. 901.13.** (A) As used in this section:

(1) "Ethanol" ~~has the same meaning as in section 5733.46 of the Revised Code~~means fermentation ethyl alcohol derived from agricultural products, including potatoes, cereal, grain, cheese whey, and sugar beets; forest products; or other renewable resources, including residue and waste generated from the production, processing, and marketing of agricultural products, forest products, and other renewable resources that meet all of the specifications in the American society for testing and materials (ASTM) specification D 4806-88 and is denatured as specified in Parts 20 and 21 of Title 27 of the Code of Federal Regulations.

(2) "Facility" means an ethanol production plant that will be located in this state.

(B) There is hereby created the ethanol incentive board. The board shall consist of the following five members: the director of agriculture, who shall serve as chairperson of the board, the director of development, the executive director of the Ohio air quality development authority, one member appointed by the speaker of the house of representatives, and one member appointed by the president of the senate. Initial appointments to the board shall be made within thirty days of ~~the effective date of this section~~ March 21, 2002. Vacancies shall be filled in the same manner provided for original appointments. Members of the board shall serve without compensation. The board shall meet and conduct its business as directed by the chairperson. The board shall cease to exist January 1, 2014.

(C) The board's sole duty is to review any application that is submitted to it under this section. The board shall approve an application only if it determines, by the affirmative vote of all members of the board, that the applicant's business plan for a facility meets the requirements established by division (D) of this section.

(D) The owner of a facility may apply to the board, on an application provided by the director of agriculture, for approval of the facility's business plan under this section. Within sixty days of receipt of an application, the board shall determine whether the applicant's business plan meets the following requirements:

- (1) The business plan is for the construction and operation of a facility.
- (2) The business plan contains detailed information regarding:
  - (a) The availability and price of corn in the area where the facility will be located;
  - (b) The availability and cost of energy needed for operation of the facility;
  - (c) The availability of water and waste disposal systems in the area where the facility will be located;
  - (d) The availability of labor and a qualified site manager for the facility.
- (3) The business plan analyzes any proposed marketing agreements for the products produced by the facility.
- (4) The facility to be constructed and operated under the business plan is majority-owned by Ohio farmers or will be prior to the first day the facility commences production.
- (5) The business plan meets any other requirements established by the board under rules adopted in accordance with division (G) of this section.

The board shall issue a certificate of approval for each application approved under this section, and any taxpayer that invests money in the facility for which a business plan has been approved may claim a tax credit for such

investment under ~~former~~section 5733.46 or 5747.75 of the Revised Code.

(E) Any business plan submitted to the board under this section is not a public record subject to section 149.43 of the Revised Code.

(F) The board shall notify the tax commissioner of any certificate of approval issued under this section, within ten days of its issuance.

(G) The director of agriculture, in consultation with the director of development and in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section, including rules prescribing procedures and forms for administering this section.

(H) The ethanol incentive board created by this section is not an agency for purposes of ~~section~~sections 101.82 to 101.87 of the Revised Code."

In line 49997, delete "taxes imposed"

In line 49998, delete "under Chapter 5751. of the Revised Code."

Delete lines 58630 through 58690

Delete lines 58773 through 58837

Between lines 59307 and 59308, insert:

"**Sec. 5709.65.** (A) An enterprise issued a certificate under section 5709.64 of the Revised Code shall be entitled to the following tax incentives:

(1) ~~With the exception of improvements to land or tangible personal property constituting or used in the retail portion, if any, of a facility~~For agreements entered into under section 5709.62, 5709.63, or 5709.632 of the Revised Code before the effective date of the amendment of this section by Am. Sub. H.B. 66 of the 126th general assembly, any improvement to land or tangible personal property at a facility for which a certificate is issued, and that is first used in business at the facility as the result of a project, shall not be considered an asset of a ~~corporate~~an enterprise in determining the value of its issued and outstanding stock under division (A) of section 5733.05 of the Revised Code at the end of the taxable year that includes the certificate's date of issuance. Division (A)(1) of this section does not apply to improvements or tangible personal property constituting or used in the retail portion, if any, of the facility.

(2) ~~With the exception of the original cost of improvements to land or tangible personal property constituting or used in the retail portion, if any, of a facility~~For agreements entered into under section 5709.62, 5709.63, or 5709.632 of the Revised Code before the effective date of the amendment of this section by Am. Sub. H.B. 66 of the 126th general assembly, the original cost of any improvement to land or tangible personal property at the facility for which the certificate is issued, first used in business at the facility as a result of a project, shall be excluded from the numerator upon computation of the property factor of a ~~corporate~~an enterprise under division (B)(2)(a) of section 5733.05 of the Revised Code, or of a ~~noncorporate~~enterprise under division (A) of section

5747.21 of the Revised Code, for the taxable year that includes the certificate's date of issuance. Division (A)(2) of this section does not apply to improvements or tangible personal property constituting or used in the retail portion, if any, of the facility.

As used in divisions (A)(1) and (2) of this section, the "retail portion" of a facility is that part of a facility used primarily for making retail sales as defined in division (O) of section 5739.01 of the Revised Code.

(3) Compensation paid to new employees described under divisions (A)(2)(a) to (e) of section 5709.64 of the Revised Code at the facility for which the certificate is issued, who are hired as a result of a project, shall be excluded from the numerator upon computation of the payroll factor of ~~a corporate~~ an enterprise under division (B)(2)(b) of section 5733.05 of the Revised Code, or ~~of a noncorporate enterprise~~ under division (B) of section 5747.21 of the Revised Code, for the taxable year that includes the certificate's date of issuance.

(4) An enterprise that reimburses its new employees described under divisions (A)(2)(a) to (e) of section 5709.64 of the Revised Code for all or part of the cost of day-care services necessary to enable them to be employed at a facility for which a certificate is issued shall be entitled to a credit equal to the amounts so reimbursed, up to a maximum of three hundred dollars for each child or dependent receiving the services, for the taxable year in which reimbursement is made, against the tax imposed by section 5733.06 of the Revised Code ~~on a corporate enterprise~~, or by section 5747.02 of the Revised Code on the owners of ~~a noncorporate enterprise~~ pass-through entity or sole proprietorship, for the taxable year that includes the certificate's date of issuance. Only reimbursements of amounts paid by new employees to day-care centers licensed by the department of job and family services for day-care services provided during the first twenty-four months of employment as a new employee may be applied toward the credit provided under this division. Any enterprise claiming this credit shall maintain records verifying that the credit is claimed only for reimbursement of amounts expended by new employees for such services.

(5) For each new employee described in divisions (A)(2)(a) to (e) of section 5709.64 of the Revised Code who completes a training program and is subsequently employed by an enterprise for at least ninety days, if the enterprise pays or reimburses all or part of the cost of the employee's participation in the training program, it may claim a credit equal to the amount paid or reimbursed or one thousand dollars, whichever is less, in the taxable year in which the employee completes the ninety days of subsequent employment, against the tax imposed ~~on a corporate enterprise~~ by section 5733.06 of the Revised Code, or on the owners of ~~a noncorporate enterprise~~ pass-through entity or sole proprietorship by section 5747.02 of the Revised Code. Only one credit shall be allowed with respect to any individual. Attendance at a qualified training program under this section does not bar an otherwise eligible individual from receipt of benefits under Chapter 4141. of the Revised Code.

(B) None of the items set forth in divisions (A)(2) and (3) of this section



shall be considered in making any allocation or apportionment under division (B)(2)(d) of section 5733.05 or division (D) of section 5747.21 of the Revised Code.

(C) All credits provided under this section to a ~~noncorporate enterprise~~ pass-through entity shall be divided pro rata among the owners of the enterprise subject to the tax imposed by section 5747.02 of the Revised Code, based upon their proportionate ownership interests in the enterprise. The enterprise shall file with the tax commissioner, on a form prescribed by the commissioner, a statement showing the total available credit and the portion thereof attributed to each owner. The statement shall identify each owner by name and social security number and shall be filed with the tax commissioner by the date prescribed by the commissioner, which shall be no earlier than the fifteenth day of the month following the close of the enterprise's taxable year for which the credit is claimed.

(D) All state income tax or corporation franchise tax credits provided under this section shall be claimed in the order required under section 5733.98 or 5747.98 of the Revised Code. The credits, to the extent they exceed the taxpayer's tax liability for the taxable year after allowance for any other credits that precede the credits under this section in that order, shall be carried forward to the next succeeding taxable year or years until fully utilized."

In line 59620, delete everything after "(I)"

Delete line 59621

In line 59622, delete "section 5751.01 of the Revised Code."

Delete lines 62467 through 62546

Between lines 62546 and 62547, insert:

**"Sec. 5733.023. (A) Each corporation satisfying the description in division (A)(1) or (2) of this section and that is required to file a report under section 5733.02 of the Revised Code shall file with the tax commissioner an additional report, in the form and manner prescribed by the tax commissioner:**

**(1) The stock of the corporation is publicly traded;**

**(2) The stock of the corporation is not publicly traded but the number of full-time employees of the corporation on the first day of January of the current tax year exceeds twenty-five or the numerator of the sales factor as computed under division (B)(2)(c) of section 5733.05 of the Revised Code as reported for the current tax year exceeds one million dollars.**

**The additional report shall be filed between the first day of March and the last day of April of each tax year in and for which the annual report required under section 5733.02 of the Revised Code is required to be filed. If an extension of the time for filing the report is granted under section 5733.13 of the Revised Code, the time for filing the additional report under this section shall be extended for the same period.**

(B) The additional report shall contain the following information:

(1) The name of the corporation and the street address of its principal office, and the name and street address of the corporation's statutory agent in this state designated under section 1703.041 of the Revised Code;

(2) The corporation's total gross profit for the taxable year ending in the preceding calendar year;

(3) The corporation's tax liability under this chapter for the current tax year and the amount of that liability the corporation actually paid;

(4) The amount of deductions or other offsets that reduce income subject to taxation under this chapter by more than five per cent;

(5) The amount of credits or credit carryforwards that reduce the amount of tax liability under this chapter for the current tax year by more than five per cent, and the amount of any credits or credit carryforwards not applied to the current tax year but that may be carried forward and applied to a succeeding tax year that reduce the tax liability under this chapter by more than five per cent of the current tax year's tax liability;

(6) The corporation's federal taxable income and its net income as computed under this chapter for the taxable year ending in the preceding calendar year;

(7) The percentage of such net income or such value apportioned or allocated to this state under divisions (B)(1) and (2) of section 5733.05 of the Revised Code for the taxable year ending in the preceding calendar year;

(8) The amount of income reported to shareholders for the taxable year ending in the preceding calendar year;

(9) An explanation of the difference between the corporation's federal taxable income as indicated under division (B)(6) of this section and the income reported to shareholders as indicated under division (B)(8) of this section;

(10) The value of the corporation's issued and outstanding shares of stock as determined under division (C) of section 5733.05 of the Revised Code for the taxable year ending in the preceding calendar year;

(11) The monthly average value of tangible personal property owned by the corporation and used in business or in rendering public utility service in this state in the preceding calendar year and the amount of taxes actually paid by the corporation with respect to that property.

(C) If any of the information required to be included in the report under division (B) of this section changes because the corporation filed an amended report or because of an audit adjustment or a payment made pursuant to an extended due date, the corporation shall file an amended report under this section not later than thirty days after the change is made.

(D) Not later than the first day of June, the tax commissioner shall certify

to the secretary of state a list of the corporations required to file an additional report under this section.

(E) Not later than the first day of June, the tax commissioner shall publish on the department of taxation's web site all the reports received under this section, and shall make copies of those reports available for inspection and copying by the public at the offices of the tax commissioner during normal business hours. The tax commissioner also shall list on the web site, and make available for inspection and copying by the public during normal business hours, a list of all corporations required to file an additional report under this section but failing to do so.

(F)(1) The tax commissioner may impose a penalty of not more than one thousand dollars if a corporation fails to timely file the additional report required under division (A) of this section or fails to include any item of information required to be contained in the report under division (B) or (C) of this section.

(2) The tax commissioner may impose a penalty of not more than ten thousand dollars if a corporation falsifies any item of information required to be contained in the report under division (B) or (C) of this section.

(3) Penalties imposed under division (F)(1) or (2) of this section are in addition to any other penalties imposed under this chapter, and may be collected by assessment as provided in this chapter. All money collected as penalties imposed under division (F)(1) or (2) of this section shall be considered as revenue arising from the taxes imposed under this chapter.

**Sec. 5733.04.** As used in this chapter:

(A) "Issued and outstanding shares of stock" applies to nonprofit corporations, as provided in section 5733.01 of the Revised Code, and includes, but is not limited to, membership certificates and other instruments evidencing ownership of an interest in such nonprofit corporations, and with respect to a financial institution that does not have capital stock, "issued and outstanding shares of stock" includes, but is not limited to, ownership interests of depositors in the capital employed in such an institution.

(B) "Taxpayer" means a corporation subject to the tax imposed by section 5733.06 of the Revised Code.

(C) "Resident" means a corporation organized under the laws of this state.

(D) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(E) "Taxable year" means the period prescribed by division (A) of section 5733.031 of the Revised Code upon the net income of which the value of the taxpayer's issued and outstanding shares of stock is determined under division (B) of section 5733.05 of the Revised Code or the period prescribed by division (A) of section 5733.031 of the Revised Code that immediately precedes the date

as of which the total value of the corporation is determined under division (A) or (C) of section 5733.05 of the Revised Code.

(F) "Tax year" means the calendar year in and for which the tax imposed by section 5733.06 of the Revised Code is required to be paid.

(G) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(H) "Federal income tax" means the income tax imposed by the Internal Revenue Code.

(I) Except as provided in section 5733.058 of the Revised Code, "net income" means the taxpayer's taxable income before operating loss deduction and special deductions, as required to be reported for the taxpayer's taxable year under the Internal Revenue Code, subject to the following adjustments:

(1)(a) Deduct any net operating loss incurred in any taxable years ending in 1971 or thereafter; but ending before January 1, 2005, exclusive of any net operating loss incurred in taxable years ending prior to January 1, 1971. This deduction shall not be allowed in any tax year commencing before December 31, 1973, but shall be carried over and allowed in tax years commencing after December 31, 1973, until fully utilized in the next succeeding taxable year or years in which the taxpayer has net income, but in no case for more than the designated carryover period as described in division (I)(1)(b) of this section and in no case shall the deduction be carried over to or allowed in a tax year commencing on or after January 1, 2006. The amount of such net operating loss, as determined under the allocation and apportionment provisions of section 5733.051 and division (B) of section 5733.05 of the Revised Code for the year in which the net operating loss occurs, shall be deducted from net income, as determined under the allocation and apportionment provisions of section 5733.051 and division (B) of section 5733.05 of the Revised Code, to the extent necessary to reduce net income to zero with the remaining unused portion of the deduction, if any, carried forward to the remaining years of the designated carryover period as described in division (I)(1)(b) of this section, or until fully utilized, whichever occurs first. If any portion of a deduction remains unused after tax year 2005, the taxpayer may claim a credit to the extent allowed under section 5733.061 of the Revised Code.

(b) For losses incurred in taxable years ending on or before December 31, 1981, the designated carryover period shall be the five consecutive taxable years after the taxable year in which the net operating loss occurred. For losses incurred in taxable years ending on or after January 1, 1982, and beginning before August 6, 1997, the designated carryover period shall be the fifteen consecutive taxable years after the taxable year in which the net operating loss occurs, provided that no deduction shall be carried forward to and allowed for a tax year commencing on or after January 1, 2006. For losses incurred in taxable years beginning on or after August 6, 1997, the designated carryover period shall be the ~~twentyeight~~ twentyeight consecutive taxable years after the taxable year in which the

net operating loss occurs.

(c) The tax commissioner may require a taxpayer to furnish any information necessary to support a claim for deduction under division (I)(1)(a) of this section and no deduction shall be allowed unless the information is furnished.

(2) Deduct any amount included in net income by application of section 78 or 951 of the Internal Revenue Code, amounts received for royalties, technical or other services derived from sources outside the United States, and dividends received from a subsidiary, associate, or affiliated corporation that neither transacts any substantial portion of its business nor regularly maintains any substantial portion of its assets within the United States. For purposes of determining net foreign source income deductible under division (I)(2) of this section, the amount of gross income from all such sources other than dividend income and income derived by application of section 78 or 951 of the Internal Revenue Code shall be reduced by:

(a) The amount of any reimbursed expenses for personal services performed by employees of the taxpayer for the subsidiary, associate, or affiliated corporation;

(b) Ten per cent of the amount of royalty income and technical assistance fees;

(c) Fifteen per cent of the amount of all other income.

The amounts described in divisions (I)(2)(a) to (c) of this section are deemed to be the expenses attributable to the production of deductible foreign source income unless the taxpayer shows, by clear and convincing evidence, less actual expenses, or the tax commissioner shows, by clear and convincing evidence, more actual expenses.

(3) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of a capital asset, or an asset described in section 1231 of the Internal Revenue Code, to the extent that such loss or gain occurred prior to the first taxable year on which the tax provided for in section 5733.06 of the Revised Code is computed on the corporation's net income. For purposes of division (I)(3) of this section, the amount of the prior loss or gain shall be measured by the difference between the original cost or other basis of the asset and the fair market value as of the beginning of the first taxable year on which the tax provided for in section 5733.06 of the Revised Code is computed on the corporation's net income. At the option of the taxpayer, the amount of the prior loss or gain may be a percentage of the gain or loss, which percentage shall be determined by multiplying the gain or loss by a fraction, the numerator of which is the number of months from the acquisition of the asset to the beginning of the first taxable year on which the fee provided in section 5733.06 of the Revised Code is computed on the corporation's net income, and the denominator of which is the number of months from the acquisition of the asset to the sale, exchange, or other disposition of the asset. The adjustments described in this division do

not apply to any gain or loss where the gain or loss is recognized by a qualifying taxpayer, as defined in section 5733.0510 of the Revised Code, with respect to a qualifying taxable event, as defined in that section.

(4) Deduct the dividend received deduction provided by section 243 of the Internal Revenue Code.

(5) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent included in federal taxable income. As used in divisions (I)(5) and (6) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

(6) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of public obligations to the extent included in federal taxable income.

(7) To the extent not otherwise allowed, deduct any dividends or distributions received by a taxpayer from a public utility, excluding an electric company and a combined company, and, for tax years 2005 and thereafter, a telephone company, if the taxpayer owns at least eighty per cent of the issued and outstanding common stock of the public utility. As used in division (I)(7) of this section, "public utility" means a public utility as defined in Chapter 5727. of the Revised Code, whether or not the public utility is doing business in the state.

(8) To the extent not otherwise allowed, deduct any dividends received by a taxpayer from an insurance company, if the taxpayer owns at least eighty per cent of the issued and outstanding common stock of the insurance company. As used in division (I)(8) of this section, "insurance company" means an insurance company that is taxable under Chapter 5725. or 5729. of the Revised Code.

(9) Deduct expenditures for modifying existing buildings or structures to meet American national standards institute standard A-117.1-1961 (R-1971), as amended; provided, that no deduction shall be allowed to the extent that such deduction is not permitted under federal law or under rules of the tax commissioner. Those deductions as are allowed may be taken over a period of five years. The tax commissioner shall adopt rules under Chapter 119. of the Revised Code establishing reasonable limitations on the extent that expenditures for modifying existing buildings or structures are attributable to the purpose of making the buildings or structures accessible to and usable by physically handicapped persons.

(10) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income before operating loss deduction and special deductions for the taxable year, had the targeted jobs credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

(11) Deduct net interest income on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent the laws of the United States prohibit inclusion of the net interest for purposes of determining the value of the taxpayer's issued and outstanding shares of stock under division (B) of section 5733.05 of the Revised Code. As used in division (I)(11) of this section, "net interest" means interest net of any expenses taken on the federal income tax return that would not have been allowed under section 265 of the Internal Revenue Code if the interest were exempt from federal income tax.

(12)(a) Except as set forth in division (I)(12)(d) of this section, to the extent not included in computing the taxpayer's federal taxable income before operating loss deduction and special deductions, add gains and deduct losses from direct or indirect sales, exchanges, or other dispositions, made by a related entity who is not a taxpayer, of the taxpayer's indirect, beneficial, or constructive investment in the stock or debt of another entity, unless the gain or loss has been included in computing the ~~federal taxable net income before operating loss deduction and special deductions~~ of another taxpayer with a more closely related investment in the stock or debt of the other entity. The amount of gain added or loss deducted shall not exceed the product obtained by multiplying such gain or loss by the taxpayer's proportionate share, directly, indirectly, beneficially, or constructively, of the outstanding stock of the related entity immediately prior to the direct or indirect sale, exchange, or other disposition.

(b) ~~Except as set forth in division (I)(12)(e) of this section, to~~ To the extent not included in computing the taxpayer's federal taxable income before operating loss deduction and special deductions, add gains and deduct losses from direct or indirect sales, exchanges, or other dispositions made by a related entity who is not a taxpayer, of intangible property other than stock, securities, and debt, if such property was owned, or used in whole or in part, at any time prior to or at the time of the sale, exchange, or disposition by either the taxpayer or by a related entity that was a taxpayer at any time during the related entity's ownership or use of such property, unless the gain or loss has been included in computing the ~~federal taxable net income before operating loss deduction and special deductions~~ of another taxpayer with a more closely related ownership or use of such intangible property. The amount of gain added or loss deducted shall not exceed the product obtained by multiplying such gain or loss by the taxpayer's proportionate share, directly, indirectly, beneficially, or constructively, of the outstanding stock of the related entity immediately prior to the direct or indirect sale, exchange, or other disposition.

(c) As used in division (I)(12) of this section, "related entity" means those entities described in divisions (I)(12)(c)(i) to (iii) of this section:

(i) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own, directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the

taxpayer's outstanding stock;

(ii) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, and corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(iii) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (I)(12)(c)(iv) of this section, if the taxpayer owns, directly, indirectly, beneficially, or constructively, at least fifty per cent of the value of the corporation's outstanding stock.

(iv) The attribution rules of section 318 of the Internal Revenue Code apply for purposes of determining whether the ownership requirements in divisions (I)(12)(c)(i) to (iii) of this section have been met.

(d) For purposes of the adjustments required by division (I)(12)(a) of this section, the term "investment in the stock or debt of another entity" means only those investments where the taxpayer and the taxpayer's related entities directly, indirectly, beneficially, or constructively own, in the aggregate, at any time during the twenty-four month period commencing one year prior to the direct or indirect sale, exchange, or other disposition of such investment at least fifty per cent or more of the value of either the outstanding stock or such debt of such other entity.

~~(e) For purposes of the adjustments required by division (I)(12)(b) of this section, the term "related entity" excludes all of the following:~~

~~(i) Foreign corporations as defined in section 7701 of the Internal Revenue Code;~~

~~(ii) Foreign partnerships as defined in section 7701 of the Internal Revenue Code;~~

~~(iii) Corporations, partnerships, estates, and trusts created or organized in or under the laws of the Commonwealth of Puerto Rico or any possession of the United States;~~

~~(iv) Foreign estates and foreign trusts as defined in section 7701 of the Internal Revenue Code.~~

~~The exclusions described in divisions (I)(12)(e)(i) to (iv) of this section do not apply if the corporation, partnership, estate, or trust is described in any one of divisions (C)(1) to (5) of section 5733.042 of the Revised Code.~~

~~(f) Nothing in division (I)(12) of this section shall require or permit a taxpayer to add any gains or deduct any losses described in divisions (I)(12)~~(e)~~(i) and (ii) of this section:~~

~~(i) Gains or losses recognized for federal income tax purposes by an individual, estate, or trust without regard to the attribution rules described in~~



division (I)(12)(c) of this section;

(ii) A related entity's gains or losses described in division (I)(12)(b) of this section if the taxpayer's ownership of or use of such intangible property was limited to a period not exceeding nine months and was attributable to a transaction or a series of transactions executed in accordance with the election or elections made by the taxpayer or a related entity pursuant to section 338 of the Internal Revenue Code.

(13) Any adjustment required by section 5733.042 of the Revised Code.

(14) Add any amount claimed as a credit under section 5733.0611 of the Revised Code to the extent that such amount satisfies either of the following:

(a) It was deducted or excluded from the computation of the corporation's taxable income before operating loss deduction and special deductions as required to be reported for the corporation's taxable year under the Internal Revenue Code;

(b) It resulted in a reduction of the corporation's taxable income before operating loss deduction and special deductions as required to be reported for any of the corporation's taxable years under the Internal Revenue Code.

(15) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (I)(15) of this section.

(16) Any adjustment required by section 5733.0510 or 5733.0511 of the Revised Code.

(17)(a)(i) Add five-sixths of the amount of depreciation expense allowed under subsection (k) of section 168 of the Internal Revenue Code, including a person's proportionate or distributive share of the amount of depreciation expense allowed by that subsection to any pass-through entity in which the person has direct or indirect ownership.

(ii) Add five-sixths of the amount of qualifying section 179 depreciation expense, including a person's proportionate or distributive share of the amount of qualifying section 179 depreciation expense allowed to any pass-through entity in which the person has a direct or indirect ownership. For the purposes of this division, "qualifying section 179 depreciation expense" means the difference between (I) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code, and (II) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code as that section existed on December 31, 2002.

The tax commissioner, under procedures established by the commissioner, may waive the add-backs related to a pass-through entity if the person owns, directly or indirectly, less than five per cent of the pass-through entity.

(b) Nothing in division (I)(17) of this section shall be construed to adjust or modify the adjusted basis of any asset.

(c) To the extent the add-back is attributable to property generating income or loss allocable under section 5733.051 of the Revised Code, the add-back shall be allocated to the same location as the income or loss generated by that property. Otherwise, the add-back shall be apportioned, subject to division (B)(2)(d) of section 5733.05 of the Revised Code.

(18)(a) If a person is required to make the add-back under division (I)(17)(a) of this section for a tax year, the person shall deduct one-fifth of the amount added back for each of the succeeding five tax years.

(b) If the amount deducted under division (I)(18)(a) of this section is attributable to an add-back allocated under division (I)(17)(c) of this section, the amount deducted shall be allocated to the same location. Otherwise, the amount shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to division (B)(2)(d) of section 5733.05 of the Revised Code.

(19) For taxable years ending on or after the effective date of the amendment of this section by Am. Sub. H.B. 66 of the 126th general assembly, add, to the extent deducted in computing federal taxable income, taxes on or measured by income that are paid to any jurisdiction other than this state and its political subdivisions.

(J) Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

(K) "Financial institution" has the meaning given by section 5725.01 of the Revised Code but does not include a production credit association as described in 85 Stat. 597, 12 U.S.C.A. 2091.

(L)(1) A "qualifying holding company" is any corporation satisfying all of the following requirements:

(a) Subject to divisions (L)(2) and (3) of this section, the net book value of the corporation's intangible assets is greater than or equal to ninety per cent of the net book value of all of its assets and at least fifty per cent of the net book value of all of its assets represents direct or indirect investments in the equity of, loans and advances to, and accounts receivable due from related members;

(b) At least ninety per cent of the corporation's gross income for the

taxable year is attributable to the following:

(i) The maintenance, management, ownership, acquisition, use, and disposition of its intangible property, its aircraft the use of which is not subject to regulation under 14 C.F.R. part 121 or part 135, and any real property described in division (L)(2)(c) of this section;

(ii) The collection and distribution of income from such property.

(c) The corporation is not a financial institution on the last day of the taxable year ending prior to the first day of the tax year;

(d) The corporation's related members make a good faith and reasonable effort to make timely and fully the adjustments required by division ~~(C)(2)(D)~~ of section 5733.05 of the Revised Code and to pay timely and fully all uncontested taxes, interest, penalties, and other fees and charges imposed under this chapter;

(e) Subject to division (L)(4) of this section, the corporation elects to be treated as a qualifying holding company for the tax year.

A corporation otherwise satisfying divisions (L)(1)(a) to (e) of this section that does not elect to be a qualifying holding company is not a qualifying holding company for the purposes of this chapter.

(2)(a)(i) For purposes of making the ninety per cent computation under division (L)(1)(a) of this section, the net book value of the corporation's assets shall not include the net book value of aircraft or real property described in division (L)(1)(b)(i) of this section.

(ii) For purposes of making the fifty per cent computation under division (L)(1)(a) of this section, the net book value of assets shall include the net book value of aircraft or real property described in division (L)(1)(b)(i) of this section.

(b)(i) As used in division (L) of this section, "intangible asset" includes, but is not limited to, the corporation's direct interest in each pass-through entity only if at all times during the corporation's taxable year ending prior to the first day of the tax year the corporation's and the corporation's related members' combined direct and indirect interests in the capital or profits of such pass-through entity do not exceed fifty per cent. If the corporation's interest in the pass-through entity is an intangible asset for that taxable year, then the distributive share of any income from the pass-through entity shall be income from an intangible asset for that taxable year.

(ii) If a corporation's and the corporation's related members' combined direct and indirect interests in the capital or profits of a pass-through entity exceed fifty per cent at any time during the corporation's taxable year ending prior to the first day of the tax year, "intangible asset" does not include the corporation's direct interest in the pass-through entity, and the corporation shall include in its assets its proportionate share of the assets of any such pass-through entity and shall include in its gross income its distributive share of the gross income of such pass-through entity in the same form as was earned by the

pass-through entity.

(iii) A pass-through entity's direct or indirect proportionate share of any other pass-through entity's assets shall be included for the purpose of computing the corporation's proportionate share of the pass-through entity's assets under division (L)(2)(b)(ii) of this section, and such pass-through entity's distributive share of any other pass-through entity's gross income shall be included for purposes of computing the corporation's distributive share of the pass-through entity's gross income under division (L)(2)(b)(ii) of this section.

(c) For the purposes of divisions (L)(1)(b)(i), (1)(b)(ii), (2)(a)(i), and (2)(a)(ii) of this section, real property is described in division (L)(2)(c) of this section only if all of the following conditions are present at all times during the taxable year ending prior to the first day of the tax year:

(i) The real property serves as the headquarters of the corporation's trade or business, or is the place from which the corporation's trade or business is principally managed or directed;

(ii) Not more than ten per cent of the value of the real property and not more than ten per cent of the square footage of the building or buildings that are part of the real property is used, made available, or occupied for the purpose of providing, acquiring, transferring, selling, or disposing of tangible property or services in the normal course of business to persons other than related members, the corporation's employees and their families, and such related members' employees and their families.

(d) As used in division (L) of this section, "related member" has the same meaning as in ~~division (A)(6)~~ of section 5733.042 of the Revised Code without regard to division (B) of that section.

(3) The percentages described in division (L)(1)(a) of this section shall be equal to the quarterly average of those percentages as calculated during the corporation's taxable year ending prior to the first day of the tax year.

(4) With respect to the election described in division (L)(1)(e) of this section:

(a) The election need not accompany a timely filed report;

(b) The election need not accompany the report; rather, the election may accompany a subsequently filed but timely application for refund and timely amended report, or a subsequently filed but timely petition for reassessment;

(c) The election is not irrevocable;

(d) The election applies only to the tax year specified by the corporation;

(e) The corporation's related members comply with division (L)(1)(d) of this section.

Nothing in division (L)(4) of this section shall be construed to extend any statute of limitations set forth in this chapter.

(M) "Qualifying controlled group" means two or more corporations that satisfy the ownership and control requirements of division (A) of section 5733.052 of the Revised Code.

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

(O) "Pass-through entity" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year under that code, or a partnership, limited liability company, or any other person, other than an individual, trust, or estate, if the partnership, limited liability company, or other person is not classified for federal income tax purposes as an association taxed as a corporation.

(P) "Electric company," "combined company," and "telephone company" have the same meanings as in section 5727.01 of the Revised Code.

(Q) "Business income" means income arising from transactions, activities, and sources in the regular course of a trade or business and includes income from real property, tangible personal property, and intangible personal property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a trade or business operation. "Business income" includes income, including gain or loss, from a partial or complete liquidation of a business, including, but not limited to, gain or loss from the sale or other disposition of goodwill, and includes any other income that is apportionable to the extent allowed under the constitution of the United States.

(R) "Nonbusiness income" means all income other than business income.

(S) "Unitary group" means a group of corporations satisfying the ownership or control requirements of division (A) of section 5733.052 of the Revised Code and that, by a preponderance of the evidence as determined by a court of competent jurisdiction or the tax commissioner, are economically interdependent with one another as evidenced by centralized management, functional integration, and economies of scale, as described in divisions (S)(1), (2), and (3) of this section:

(1) "Centralization of management" exists if directors, officers, or other management employees jointly participate in the management decisions that affect the respective business activities and that may also operate to the benefit of the entire economic enterprise. Centralization of management can exist whether the centralization is effected from a parent entity to a subsidiary entity, from a subsidiary entity to a parent entity, from one subsidiary entity to another, from one division within a single business entity to another division within a business entity, or from any combination of the foregoing. Centralization of management may exist even when day-to-day management responsibility and accountability has been decentralized, so long as the management has an ongoing operational role with respect to the business activities. An operational

role can be effected through mandates, consensus-building, or an overall operational strategy of the business, or any other mechanism that establishes joint management.

(2) "Functional integration" refers to transfers between, or pooling among, business activities that significantly affect the operation of the business activities. "Functional integration" includes, but is not limited to, transfers or pooling with respect to the unitary business's products or services, technical information, marketing information, distribution systems, purchasing, and intangibles such as patents, trademarks, service marks, copyrights, trade secrets, know-how, formulas, and processes. There is no specific type of functional integration that must be present.

(3) "Economies of scale" refers to a relation among and between business activities resulting in a significant decrease in the average per unit cost of operational or administrative functions due to the increase in operational size. Economies of scale may exist from the inherent cost savings that arise from the presence of functional integration or centralization of management.

**Sec. 5733.042.** (A) As used in this section:

(1) "Affiliated group" has the same meaning as in section 1504 of the Internal Revenue Code.

(2) "Asset value" means the adjusted basis of assets as determined in accordance with Subchapter O of the Internal Revenue Code and the Treasury Regulations thereunder.

~~(3) "Intangible expenses and costs" include expenses, losses, and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition of, the direct or indirect use of, the direct or indirect maintenance or management of, the direct or indirect ownership of, the direct or indirect sale of, the direct or indirect exchange of, or any other direct or indirect disposition of intangible property to the extent such amounts are allowed as deductions or costs in determining taxable income before operating loss deduction and special deductions for the taxable year under the Internal Revenue Code. Such expenses and costs include, but are not limited to, losses related to or incurred in connection directly or indirectly with factoring transactions, losses related to or incurred in connection directly or indirectly with discounting transactions, royalty, patent, technical, and copyright fees, licensing fees, and other similar expenses and costs.~~

~~(4) "Interest expenses and costs" include but are not limited to amounts directly or indirectly allowed as deductions under section 163 of the Internal Revenue Code for purposes of determining taxable income under the Internal Revenue Code.~~

~~(5) "Member" has the same meaning as in U.S. Treasury Regulation section 1.1502-1.~~

(6) "Related member" means a person that, with respect to the taxpayer

during all or any portion of the taxable year, is a "related entity" as defined in division (I)(12)(c) of section 5733.04 of the Revised Code, is a component member as defined in section 1563(b) of the Internal Revenue Code, or is a person to or from ~~whom~~which there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, "twenty per cent" shall be substituted for "5 per cent" wherever "5 per cent" appears in section 1563(e) of the Internal Revenue Code.

(B) This section applies to all corporations for tax years 1999 and thereafter. For tax years prior to 1999, this section applies only to a corporation that has, or is a member of an affiliated group that has, or is a member of an affiliated group with another member that has, one or more of the following:

- (1) Gross sales, including sales to other members of the affiliated group, during the taxable year of at least fifty million dollars;
- (2) Total assets whose asset value at any time during the taxable year is at least twenty-five million dollars;
- (3) Taxable income before operating loss deduction and special deductions during the taxable year of at least five hundred thousand dollars.

(C) Except as otherwise provided in this section and section 5733.044 of the Revised Code:

(1) For purposes of computing its net income under division (I) of section 5733.04 of the Revised Code, the corporation shall add ~~interest expenses and costs and intangible~~all expenses ~~and~~, costs, ~~and losses~~ directly or indirectly paid, accrued, ~~or incurred to, or recognized~~ in connection directly or indirectly with one or more direct or indirect transactions with; one or more ~~of the following~~ related members:

(1) ~~Any related member whose activities, in any one state, are primarily limited to the maintenance and management of intangible investments or of the intangible investments of corporations, business trusts, or other entities registered as investment companies under the "Investment Company Act of 1940," 15 U.S.C. 80a-1 et seq., as amended, and the collection and distribution of the income from such investments or from tangible property physically located outside such state. For purposes of division (C)(1) of this section, "intangible investments" includes, without limitation, investments in stocks, bonds, notes, and other debt obligations, including debt obligations of related members, interests in partnerships, patents, patent applications, trademarks, trade names, and similar types of intangible assets.~~

(2) ~~Any related member that is a personal holding company as defined in section 542 of the Internal Revenue Code without regard to the stock ownership requirements set forth in section 542(a)(2) of the Internal Revenue Code;~~

(3) ~~Any related member that is not a corporation and is directly, indirectly, constructively, or beneficially owned in whole or in part by a personal~~

holding company as defined in section 542 of the Internal Revenue Code without regard to the stock ownership requirements set forth in section 542(a)(2) of the Internal Revenue Code;

(4) Any related member that is a foreign personal holding company as defined in section 552 of the Internal Revenue Code;

(5) Any related member that is not a corporation and is directly, indirectly, constructively, or beneficially owned in whole or in part by a foreign personal holding company as defined in section 552 of the Internal Revenue Code;

(6) Any related member if that related member or another related member directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with, another related member any interest expenses and costs or intangible expenses and costs in an amount less than, equal to, or greater than such amounts received from the corporation. Division (C)(6) of this section applies only if, within a one hundred twenty month period commencing three years prior to the beginning of the tax year, a related member directly or indirectly paid, accrued, or incurred such amounts or losses with respect to one or more direct or indirect transactions with an entity described in divisions (C)(1) to (5) of this section. A rebuttable presumption exists that a related member did so pay, accrue, or incur such amounts or losses with respect to one or more direct or indirect transactions with an entity described in divisions (C)(1) to (5) of this section. A corporation can rebut this presumption only with a preponderance of the evidence to the contrary.

(7) Any related member that, with respect to indebtedness directly or indirectly owed by the corporation to the related member, directly or indirectly charged or imposed on the corporation an excess interest rate. If the related member has charged or imposed on the corporation an excess interest rate, the adjustment required by division (C)(7) of this section with respect to such interest expenses and costs directly or indirectly paid, accrued, or incurred to the related member in connection with such indebtedness does not include so much of such interest expenses and costs that the corporation would have directly or indirectly paid, accrued, or incurred if the related member had charged or imposed the highest possible interest rate that would not have been an excess interest rate. For purposes of division (C)(7) of this section, an excess interest rate is an annual rate that exceeds by more than three per cent the greater of the rate per annum prescribed by section 5703.47 of the Revised Code in effect at the time of the origination of the indebtedness, or the rate per annum prescribed by section 5703.47 of the Revised Code in effect at the time the corporation paid, accrued, or incurred the interest expense or cost to the related member.

~~(D)(1) In (2) All inter-related member profit in cost of goods sold shall be eliminated.~~

(3) All inter-related member profit and gain in all assets, and the



concomitant effect on expense and subsequently recognized gains and losses, shall be eliminated.

In making the adjustment required by division (C) of this section, the corporation shall make the ~~adjustment~~ adjustments required by section 5733.057 of the Revised Code. ~~The~~

(D)(1) The adjustments required by division (C) of this section are not required if either of the following applies:

(a) ~~The corporation establishes by clear and convincing evidence that the adjustments are unreasonable.~~

(b) ~~The~~ the corporation and the tax commissioner agree in writing to the application or use of alternative adjustments and computations to more properly reflect the base required to be determined in accordance with division (B) of section 5733.05 of the Revised Code. Nothing in this division ~~(D)(1)(b) of this section~~ shall be construed to limit or negate the tax commissioner's authority to otherwise enter into agreements and compromises otherwise allowed by law.

(2) The adjustments required by ~~divisions~~ division (C)(1) to (5) of this section do not apply to such portion of ~~interest~~ expenses and costs ~~and intangible expenses and costs~~ that the corporation can establish by the preponderance of the evidence meets ~~both~~ all of the following:

(a) The related member during the same taxable year directly or indirectly paid, accrued, or incurred such portion to a person ~~who~~ that is not a related member ~~of the corporation~~;

(b) During the six-year period commencing three years prior to the first day of the corporation's taxable year, such person or any related member of such person did not directly or indirectly pay, accrue, or incur such portion or any part of such portion to the corporation or to any related member of the corporation;

(c) ~~The transaction giving rise to the interest expenses and costs or the intangible expenses and costs~~ between the corporation and the related member did not have as a principal purpose the avoidance of any portion of the tax due under this chapter.

(3) ~~The adjustments required by division (C)(6) of this section do not apply to such portion of interest expenses and costs and intangible expenses and costs that the corporation can establish by the preponderance of the evidence meets both of the following:~~

(a) ~~The entity described in any of divisions (C)(1) to (6) of this section to whom the related member directly or indirectly paid, accrued, or incurred such portion, in turn during the same taxable year directly or indirectly paid, accrued or incurred such portion to a person who is not a related member, and~~

(b) ~~The transaction or transactions giving rise to the interest expenses and costs or the intangible expenses and costs between the corporation, the related member, and the entity described in any of divisions (C)(1) to (5) did not have as~~

~~a principal purpose the avoidance of any portion of the tax due under this chapter.~~

~~(4)(a) The adjustments required by division (C) of this section do not apply except to the extent that the increased tax, if any, attributable to such adjustments would have been avoided if both the following persons were to compute the tax due under this chapter based upon a combination of income: the corporation and, the related member had been eligible to make and had timely made the election to combine in accordance with division (B) of section 5733.052 of the Revised Code or related members to which the corporation directly or indirectly paid, accrued, or incurred the expenses, costs, or losses described in division (C) of this section, and any other related member or related members directly or indirectly receiving or accruing income from those related members to which the corporation directly or indirectly paid, accrued, or incurred such expenses, costs, or losses described in division (C) of this section.~~

~~(b) In the case of a combination of income for purposes of division (D)(3) of this section, the net income of the taxpayer shall be measured by the combined net income of the corporation and all related members described in division (D)(3)(a) of this section. For purposes of such measurement, each corporation's net income shall be determined in the same manner as if the related member or related members were taxpayers under this chapter. In computing combined net income, intercorporate transactions, including dividends or distributions, between corporations included in the combination shall be eliminated. If the computation of net income on a combination of income involves the use of any of the formulas set forth in this chapter, the factors used in the formulas shall be the combined totals of the factors for each corporation included in the combination after the elimination of any intercorporate transactions. The exemptions and deductions permitted under this chapter shall be taken in the same manner as if each corporation filed a separate report, but in ascertaining if any amount constitutes business income, all members of the combined group shall be considered to be one entity.~~

~~(4) For purposes of division (D)(3) of this section, each corporation's net income allocated or apportioned to this state shall be computed as follows:~~

~~(a) To compute each taxpayer's net nonbusiness income allocated to this state for purposes of division (B) of section 5733.05 of the Revised Code, each corporation's net nonbusiness income for sources allocated under section 5733.051 of the Revised Code shall be separately calculated, eliminating intercorporate transactions, and allocated to this state as provided by section 5733.051 of the Revised Code.~~

~~(b) To compute each corporation's net business income apportioned to this state for purposes of division (B) of section 5733.05 of the Revised Code, the combined net income, other than net income from nonbusiness income sources allocated under section 5733.051 of the Revised Code, shall be apportioned to this state and then prorated to each corporation on the basis of each corporation's proportionate part of the factors used to apportion the total of~~

such net business income to this state.

(E) Except as otherwise provided in division (F) of this section, if, on the day that is one year after the day the corporation files its report, the corporation has not made the adjustment required by this section or has not fully paid the tax and interest, if any, imposed by this chapter and attributable to such adjustment, the corporation is subject to a penalty equal to twice the interest charged under division (A) of section 5733.26 of the Revised Code for the delinquent payment of such tax and interest. For the purpose of the computation of the penalty imposed by this division, such penalty shall be deemed to be part of the tax due on the dates prescribed by this chapter without regard to the one-year period set forth in this division. The penalty imposed by this division is not in lieu of but is in addition to all other penalties, other similar charges, and interest imposed by this chapter. The tax commissioner may waive, abate, modify, or refund, with interest, all or any portion of the penalty imposed by this division only if the corporation establishes beyond a reasonable doubt that both the failure to fully comply with this section and the failure to fully pay such tax and interest within one year after the date the corporation files its report were not in any part attributable to the avoidance of any portion of the tax imposed by section 5733.06 of the Revised Code.

(F)(1) For purposes of this division, "~~tax differential~~difference" means the difference between (a) the tax ~~that is~~ imposed by section 5733.06 of the Revised Code ~~and that is~~ attributable to the ~~adjustment~~adjustments required by this section, and (b) the amount paid that is so attributable, prior to the day that is one year after the day the corporation files its report.

(2) The penalty imposed by division (E) of this section does not apply if the tax ~~differential~~difference meets both of the following requirements:

(a) ~~The tax differential~~It is less than ten per cent of the tax imposed by section 5733.06 of the Revised Code; and

(b) ~~The difference~~It is less than fifty thousand dollars.

(3) Nothing in division (F) of this section shall be construed to waive, abate, or modify any other penalties, other similar charges, or interest imposed by other sections of this chapter.

(G) Nothing in this section shall require a corporation to add to its net income more than once any ~~amount of interest expenses and costs or intangible expenses and costs that the corporation pays, accrues, or incurs to a related member described in~~. No adjustments under division (C) of this section shall be made to the extent the effect of such adjustments occurs as a result of a combined return required under section 5733.052 of the Revised Code, that includes the corporation and the corporation's related member or related members with respect to which such adjustments would be made without regard to this division.

**Sec. 5733.044.** (A) Section 5733.042 of the Revised Code does not apply

to a corporation for a tax year for payments of expenses or costs to which all of the following apply:

(1) The corporation establishes by clear and convincing evidence that the corporation directly remitted such payments to a related member that, for the six-year period beginning three years prior to the remittance, was not subject to federal income tax with respect to the payments and was not required to file a federal income tax return with the internal revenue service for purposes of reporting the payments. For purposes of division (A)(1) of this section, payments shall be treated as directly remitted to the related member even if those payments are processed or paid through another related member that does not charge a fee in connection therewith.

(2) The corporation establishes by clear and convincing evidence that during the six-year period beginning three years prior to the remittance to the related member described in division (A)(1) of this section, the related member did not directly or indirectly remit any portion of the payments referred to in division (A)(1) of this section, or any like, similar, or other amount, to any other related member that, during any portion of that six-year period, was subject to federal income tax and was required to file a federal income tax return with the internal revenue service.

(3) The corporation establishes by clear and convincing evidence that the corporation is allowed a deduction for federal income tax purposes with respect to the remittance made to the related member described in division (A)(1) of this section for the corporation's taxable year pursuant to an advanced pricing agreement between the corporation and the internal revenue service, or that the corporation has satisfied the documentation requirements of sections 482 and 6662(e) of the Internal Revenue Code, or that the corporation has complied with section 482 of the Internal Revenue Code.

(4) The corporation refutes by clear and convincing evidence any reasonable conclusion of the tax commissioner that the transaction giving rise to the remittance to the related member described in division (A)(1) of this section had as a principal purpose the avoidance of any portion of the tax due under this chapter.

For purposes of division (A) of this section, "federal income tax" and "federal income tax return" do not include withholding taxes and returns filed for purposes of reporting withholding taxes, providing information other than reporting income tax liability, or claiming the benefits of a tax treaty between the United States and another government.

(B) Notwithstanding section 5703.56 of the Revised Code to the contrary, a corporation claiming that division (A) of this section applies must refute by clear and convincing evidence any reasonable conclusion of the tax commissioner that any of the doctrines set forth in that section should apply to deny to the corporation the application of division (A) of this section.

(C) Where the corporation and other related members make payments to

another related member described in division (A)(1) of this section, and to the extent such payments are processed or paid through another related member in the manner described in division (A)(1) of this section, this section shall apply only with respect to the corporation's pro-rata share of the total payments made by all such related members to the related member described in division (A)(1) of this section during the taxable year, unless the corporation establishes by clear and convincing evidence the actual amount of the corporation's payments that are made to the related member described in division (A)(1) of this section. Nothing in division (C) of this section shall allow a corporation to apply division (A) of this section to any amount greater than the actual payments made by the corporation to a related member described in division (A)(1) of this section during the taxable year.

(D) Any adjustments made by the internal revenue service to any related member of the corporation with respect to an advanced pricing agreement or with respect to section 482 of the Internal Revenue Code shall be presumed to be adjustments properly attributed to the corporation, unless the corporation establishes by clear and convincing evidence that the adjustment should be attributed, in whole or in part, to another person.

(E)(1) If any corporation claims the benefit provided by division (A) of this section and is not entitled to such benefit, any adjustment otherwise required by section 5733.042 of the Revised Code shall be further increased by an amount equal to two times such adjustment.

(2) Division (E)(1) of this section does not apply to adjustments made in connection with an advanced pricing agreement.

**Sec. 5733.05.** As used in this section, "qualified research" means laboratory research, experimental research, and other similar types of research; research in developing or improving a product; or research in developing or improving the means of producing a product. It does not include market research, consumer surveys, efficiency surveys, management studies, ordinary testing or inspection of materials or products for quality control, historical research, or literary research. "Product" as used in this paragraph does not include services or intangible property.

The annual report determines the value of the issued and outstanding shares of stock of the taxpayer, which under division (A) or divisions (B) and (C) of this section is the base or measure of the franchise tax liability. Such determination shall be made as of the date shown by the report to have been the beginning of the corporation's annual accounting period that includes the first day of January of the tax year. For the purposes of this chapter, the value of the issued and outstanding shares of stock of any corporation that is a financial institution shall be deemed to be the value as calculated in accordance with division (A) of this section. For the purposes of this chapter, the value of the issued and outstanding shares of stock of any corporation that is not a financial institution shall be deemed to be the values as calculated in accordance with divisions (B) and (C) of this section. Except as otherwise required by this section

or section 5733.056 of the Revised Code, the value of a taxpayer's issued and outstanding shares of stock under division (A) or (C) of this section does not include any amount that is treated as a liability under generally accepted accounting principles.

(A) The total value, as shown by the books of the financial institution, of its capital, surplus, whether earned or unearned, undivided profits, and reserves shall be determined as prescribed by section 5733.056 of the Revised Code for tax years 1998 and thereafter.

(B) The sum of the corporation's net income during the corporation's taxable year, allocated or apportioned to this state as prescribed in divisions (B)(1) and (2) of this section, and subject to sections 5733.052, 5733.053, 5733.057, 5733.058, 5733.059, and 5733.0510 of the Revised Code:

(1) The net nonbusiness income allocated or apportioned to this state as provided by section 5733.051 of the Revised Code.

(2) The amount of Ohio apportioned net business income, which shall be calculated by multiplying the corporation's net business income by a fraction. The numerator of the fraction is the sum of the following products: the property factor multiplied by twenty, the payroll factor multiplied by twenty, and the sales factor multiplied by sixty. The denominator of the fraction is one hundred, provided that the denominator shall be reduced by twenty if the property factor has a denominator of zero, by twenty if the payroll factor has a denominator of zero, and by sixty if the sales factor has a denominator of zero.

The property, payroll, and sales factors shall be determined as follows, but the numerator and the denominator of the factors shall not include the portion of any property, payroll, and sales otherwise includible in the factors to the extent that the portion relates to, or is used in connection with, the production of nonbusiness income allocated under section 5733.051 of the Revised Code:

(a) The property factor is a fraction computed as follows:

The numerator of the fraction is the average value of the corporation's real and tangible personal property owned or rented, and used in the trade or business in this state during the taxable year, and the denominator of the fraction is the average value of all the corporation's real and tangible personal property owned or rented, and used in the trade or business everywhere during such year. Real and tangible personal property used in the trade or business includes, but is not limited to, real and tangible personal property that the corporation rents, subrents, leases, or subleases to others if the income or loss from such rentals, subrentals, leases, or subleases is business income. There shall be excluded from the numerator and denominator of the fraction the original cost of all of the following property within Ohio: property with respect to which a "pollution control facility" certificate has been issued pursuant to section 5709.21 of the Revised Code; property with respect to which an "industrial water pollution control certificate" has been issued pursuant to that section or former section 6111.31 of the Revised Code; and property used exclusively during the taxable

year for qualified research.

(i) Property owned by the corporation is valued at its original cost. Property rented by the corporation is valued at eight times the net annual rental rate. If real property is used by the taxpayer in its trade or business and is owned directly or indirectly by a related member exempted from the tax imposed under section 5733.06 pursuant to section 5733.09 of the Revised Code, or is used by the taxpayer in its trade or business and is rented by such a related member from a person that is not a related member of the taxpayer or of the taxpayer's related member, the real property shall be valued at the greater of the following: the average value of the property, eight times the net annual rent rate paid by the taxpayer to the related member, or eight times the net annual rental rate paid by the related member to the person. "Net annual rental rate" means the annual rental rate paid by the corporation less any annual rental rate received by the corporation from subrentals.

(ii) The average value of property shall be determined by averaging the values at the beginning and the end of the taxable year, but the tax commissioner may require the averaging of monthly values during the taxable year, if reasonably required to reflect properly the average value of the corporation's property.

(b) The payroll factor is a fraction computed as follows:

The numerator of the fraction is the total amount paid in this state during the taxable year by the corporation for compensation, and the denominator of the fraction is the total compensation paid everywhere by the corporation during such year. There shall be excluded from the numerator and the denominator of the payroll factor the total compensation paid in this state to employees who are primarily engaged in qualified research.

(i) Compensation means any form of remuneration paid to an employee for personal services.

(ii) Compensation is paid in this state if: (I) the recipient's service is performed entirely within this state, (II) the recipient's service is performed both within and without this state, but the service performed without this state is incidental to the recipient's service within this state, (III) some of the service is performed within this state and either the base of operations, or if there is no base of operations, the place from which the service is directed or controlled is within this state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the recipient's residence is in this state.

(iii) Compensation is paid in this state to any employee of a common or contract motor carrier corporation, who performs the employee's regularly assigned duties on a motor vehicle in more than one state, in the same ratio by which the mileage traveled by such employee within the state bears to the total mileage traveled by such employee everywhere during the taxable year.

(c) The sales factor is a fraction computed as follows:

Except as provided in this section, the numerator of the fraction is the total sales in this state by the corporation during the taxable year or part thereof, and the denominator of the fraction is the total sales by the corporation everywhere during such year or part thereof. In computing the numerator and denominator of the fraction, the following shall be eliminated from the fraction: receipts and any related gains or losses from the sale or other disposal of excluded assets; dividends or distributions; and interest or other similar amounts received for the use of, or for the forbearance of the use of, money. Also, in computing the numerator and denominator of the sales factor, in the case of a corporation owning at least eighty per cent of the issued and outstanding common stock of one or more insurance companies or public utilities, except an electric company and a combined company, and, for tax years 2005 and thereafter, a telephone company, or owning at least twenty-five per cent of the issued and outstanding common stock of one or more financial institutions, receipts received by the corporation from such utilities, insurance companies, and financial institutions shall be eliminated. As used in this division, "excluded assets" means property that is either: intangible property, other than trademarks, trade names, patents, copyrights, and similar intellectual property; or tangible personal property or real property where that property is a capital asset or an asset described in section 1231 of the Internal Revenue Code, without regard to the holding period specified therein.

(i) For the purpose of this section and section 5733.03 of the Revised Code, receipts not eliminated or excluded from the fraction shall be situated as follows:

Receipts from rents and royalties from real property located in this state shall be situated to this state.

Receipts from rents and royalties of tangible personal property, to the extent the tangible personal property is used in this state, shall be situated to this state.

Receipts from the sale of electricity and of electric transmission and distribution services shall be situated to this state in the manner provided under section 5733.059 of the Revised Code.

Receipts from the sale of real property located in this state shall be situated to this state.

Receipts from the sale of tangible personal property shall be situated to this state if such property is received in this state by ~~the~~ purchaser other than the United States government, or if such property is shipped from a location in this state and either the purchaser is the United States government or the seller is not subject to a tax on or measured by net income in the state where the property is received. In the case of delivery of tangible personal property by common carrier or by other means of transportation, the place at which such property is ultimately received after all transportation has been completed shall be



considered as the place at which such property is received by the purchaser. Direct delivery in this state, other than for purposes of transportation, to a person or firm designated by a purchaser constitutes delivery to the purchaser in this state, and direct delivery outside this state to a person or firm designated by a purchaser does not constitute delivery to the purchaser in this state, regardless of where title passes or other conditions of sale.

(ii) Receipts from all other sales not eliminated or excluded from the fraction shall be situated to this state as follows:

Receipts from the sale, exchange, disposition, or other grant of the right to use trademarks, trade names, patents, copyrights, and similar intellectual property shall be situated to this state to the extent that the receipts are based on the amount of use of that property in this state. If the receipts are not based on the amount of use of that property, but rather on the right to use the property and the payor has the right to use the property in this state, then the receipts from the sale, exchange, disposition, or other grant of the right to use such property shall be situated to this state to the extent the receipts are based on the right to use the property in this state.

Receipts from the sale of services, and receipts from any other sales not eliminated or excluded from the sales factor and not otherwise situated under division (B)(2)(c) of this section, shall be situated to this state in the proportion ~~to that~~ (I) the purchaser's benefit, with respect to the sale, in this state or in any other state where the benefit is received and where the seller is not subject to a tax on or measured by net income, bears to (II) the purchaser's benefit, with respect to the sale, everywhere. The physical location where the purchaser ultimately uses or receives the benefit of what was purchased shall be paramount in determining ~~the that~~ that proportion ~~of the benefit in this state to the benefit everywhere.~~

(iii) Income from receipts eliminated or excluded from the sales factor under division (B)(2)(c) of this section shall not be presumed to be nonbusiness income.

(d) If the allocation and apportionment provisions of division (B) of this section do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may request, which request must be in writing and must accompany the report, a timely filed petition for reassessment, or a timely filed amended report, or the tax commissioner may require, in respect to all or any part of the taxpayer's allocated or apportioned base, if reasonable, any one or more of the following:

(i) Separate accounting;

(ii) The exclusion of any one or more of the factors;

(iii) The inclusion of one or more additional factors that will fairly represent the taxpayer's allocated or apportioned base in this state.

An alternative method will be effective only with approval by the tax

commissioner.

Nothing in this section shall be construed to extend any statute of limitations set forth in this chapter.

(e) The tax commissioner may adopt rules providing for alternative allocation and apportionment methods, and alternative calculations of a corporation's base, that apply to corporations engaged in telecommunications.

(C)(1) The total value, as shown on the books of each corporation that is not a ~~qualified~~ qualifying holding company, of the net book value of the corporation's assets less the net carrying value of its liabilities, and excluding from the corporation's assets land devoted exclusively to agricultural use as of the first Monday of June in the corporation's taxable year as determined by the county auditor of the county in which the land is located pursuant to section 5713.31 of the Revised Code, and making any adjustment required by division (D) of this section. For the purposes of determining that total value, any reserves shown on the corporation's books shall be considered liabilities or contra assets, as the case may be, except for any reserves that are deemed appropriations of retained earnings under generally accepted accounting principles.

(2) The base upon which the tax is ~~levied~~ computed under division ~~(C)~~ (B) or (D) of section 5733.06 of the Revised Code shall be computed by multiplying the amount determined under division (C)(1) of this section by the fraction determined under divisions (B)(2)(a) to (c) of this section and, if applicable, divisions (B)(2)(d)(ii) and (iii) of this section, and without regard to section 5733.052 of the Revised Code, but substituting "net worth" for "net income" wherever "net income" appears in division (B)(2)(c) in this section. For purposes of division (C)(2) of this section, the numerator and denominator of each of the fractions shall include the portion of any real and tangible personal property, payroll, and sales, respectively, relating to, or used in connection with the production of, net nonbusiness income allocated under section 5733.051 of the Revised Code. Nothing in this division shall allow any amount to be included in the numerator or denominator more than once.

(D)(1) If, on the last day of the taxpayer's taxable year preceding the tax year, the taxpayer is a related member to a corporation that elects to be a qualifying holding company for the tax year beginning after the last day of the taxpayer's taxable year, or if, on the last day of the taxpayer's taxable year preceding the tax year, a corporation that elects to be a qualifying holding company for the tax year beginning after the last day of the taxpayer's taxable year is a related member to the taxpayer, then the taxpayer's total value for the purposes of division (C) of this section shall be adjusted by the qualifying amount. Except as otherwise provided under division (D)(2) of this section, "qualifying amount" means the amount that, when added to the taxpayer's total value, and when subtracted from the net carrying value of the taxpayer's liabilities computed without regard to division (C)(2) of this section, or when subtracted from the taxpayer's total value and when added to the net carrying value of the taxpayer's liabilities computed without regard to division (D) of this

section, results in the taxpayer's debt-to-equity ratio equaling the debt-to-equity ratio of the qualifying controlled group on the last day of the taxable year ending prior to the first day of the tax year computed on a consolidated basis in accordance with general accepted accounting principles. For the purposes of division (D)(1) of this section, the corporation's total value, after the adjustment required by that division, shall not exceed the net book value of the corporation's assets.

(2)(a) The amount added to the taxpayer's total value and subtracted from the net carrying value of the taxpayer's liabilities shall not exceed the amount of the net carrying value of the taxpayer's liabilities owed to the taxpayer's related members.

(b) A liability owed to the taxpayer's related members includes, but is not limited to, any amount that the corporation owes to a person that is not a related member if the corporation's related member or related members in whole or in part guarantee any portion or all of that amount, or pledge, hypothecate, mortgage, or carry out any similar transactions to secure any portion or all of that amount.

(3) The base upon which the tax is ~~levied~~computed under division ~~(C)~~(B) or (D) of section 5733.06 of the Revised Code shall be computed by multiplying the amount determined under divisions (C) and (D) of this section but without regard to section 5733.052 of the Revised Code.

(4) For purposes of division (D) of this section, "related member" has the same meaning as in section 5733.042 of the Revised Code.

**Sec. 5733.052.** (A) ~~At the discretion of the tax commissioner, any~~Any taxpayer that, ~~for more than one-half of its taxable year,~~ owns or controls either directly or indirectly more than fifty per cent of the capital stock with voting rights of one or more other corporations, or has more than fifty per cent of its capital stock with voting rights owned or controlled either directly or indirectly by another corporation, or by related interests that own or control either directly or indirectly more than fifty per cent of the capital stock with voting rights of one or more other corporations, ~~may be required or permitted,~~ for purposes of computing the value of its issued and outstanding shares of stock under division (B) of section 5733.05 of the Revised Code, ~~to~~shall combine its net income with the net income of ~~any~~all such other corporations that are members of the same unitary group and that are described in any of divisions (A)(1) to (4) of this section:

(1) The corporation is not a financial institution, insurance company, or public utility, and the corporation's property, payroll, and sales factors in the United States, each bearing an equal weight, averages twenty per cent or more or, if those factors when equally weighted do not average twenty per cent, the corporation does not derive eighty per cent or more of its gross income from the active conduct of a trade or business outside the United States;

(2) The corporation is a domestic international sales corporation as

defined in section 992 of the Internal Revenue Code, a foreign sales corporation as described in sections 921 to 927 of the Internal Revenue Code, or an export trade corporation described in sections 970 to 972 of the Internal Revenue Code;

(3) Any other corporation not described in division (A)(1) or (2) of this section, but such a corporation shall be included in the combined report only to the extent of its income derived from or attributable to sources within the United States and its factors assignable to a location within the United States. Income of that corporation derived from or attributable to sources within the United States as determined by federal income tax laws shall be limited to and determined from the books of account maintained by the corporation with respect to its activities conducted within the United States.

(4) A corporation that is a "controlled foreign corporation" as defined in section 957 of the Internal Revenue Code if all or part of the income of the corporation is Subpart F income. For the purposes of division (A)(4) of this section, "Subpart F income" means income defined in section 952 of the Internal Revenue Code. The income and apportionment factors of any such corporation shall be determined by multiplying the income and apportionment factors of that corporation without application of division (A)(4) of this section by a fraction. The numerator of the fraction is the Subpart F income of the corporation for the taxable year, and the denominator of the fraction is the "earnings and profits" of that corporation for the taxable year, as determined in section 964 of the Internal Revenue Code. The fraction shall not exceed one.

(B) A combination of net income may also be made at the election of any two or more taxpayers each having income, other than dividend or distribution income, from sources within Ohio, provided the ownership or control requirements contained in ~~the~~ division (A) of this section are satisfied and such combination is elected in a timely report which sets forth such information as the commissioner requires. This election, once made by two or more such taxpayers, may not be changed by such taxpayers with respect to amended reports or reports for future years without the written consent of the commissioner. As used in this section, "income from sources within Ohio" means income that would be allocated or apportioned to Ohio if the taxpayer computed its franchise tax without regard to this section.

(C) No combination of net income under division (A) of this section shall be required unless the commissioner determines that, in order to properly reflect income, such a combination is necessary because of intercorporate transactions and the tax liability imposed by section 5733.06 of the Revised Code.

(D) In case of a combination of income, the net income of each taxpayer shall be measured by the combined net income of all the corporations included in the combination. For purposes of such measurement, each corporation's net income shall be determined in the same manner as if the corporation were a taxpayer under this chapter. In computing combined net income, intercorporate transactions, including dividends or distributions, between corporations included in the combination shall be eliminated. If the computation of net income on a

combination of income involves the use of any of the formulas set forth in this chapter, the factors used in the formulas shall be the combined totals of the factors for each corporation included in the combination after the elimination of any intercorporate transactions. The exemptions and deductions permitted under this chapter shall be taken in the same manner as if each corporation filed a separate report.

(E) For purposes of division (B) of section 5733.05 of the Revised Code, each taxpayer's net income allocated or apportioned to this state shall be computed as follows: to compute the taxpayer's net income allocated to this state for purposes of division (B)(1) of section 5733.05 of the Revised Code, the taxpayer's net income for sources allocated under section 5733.051 of the Revised Code shall be separately determined, eliminating intercorporate transactions, and allocated to this state as provided by section 5733.051 of the Revised Code. To compute the taxpayer's net income apportioned to this state for purposes of division (B)(2) of section 5733.05 of the Revised Code, the combined net income, other than net income from sources allocated under section 5733.051 of the Revised Code, shall be apportioned to Ohio and then prorated to the taxpayer on the basis of its proportionate part of the factors used to apportion the total of such net income to Ohio.

(F) The tax commissioner shall adopt rules necessary to ensure that the tax liability or net income of any corporation having income derived from or attributable to sources within this state and required to submit a report under division (A) of this section is properly reported, determined, computed, assessed, collected, or adjusted, both during and after the taxable year on the basis of which the report is filed.

**Sec. 5733.053.** (A) As used in this section:

(1) "Transfer" means a transaction or series of related transactions in which a corporation directly or indirectly transfers or distributes substantially all of its assets or equity to another corporation, if the transfer or distribution qualifies for nonrecognition of gain or loss under the Internal Revenue Code.

(2) "Transferor" means a corporation that has made a transfer.

(3) "Transferee" means a corporation that received substantially all of the assets or equity of a transferor in a transfer.

(B) Except as provided in division (F) of this section, for purposes of valuing its issued and outstanding shares of stock under division (B) of section 5733.05 of the Revised Code, a transferee shall add to its net income allocated or apportioned to this state its transferor's net income allocated or apportioned to this state. The transferee shall add such income in computing its tax for the same tax year or years that such income would have been reported by the transferor if the transfer had not been made. The transferee shall add such income only to the extent the income is not required to be reported by the transferor for the purposes of the tax ~~imposed by divisions (A) and (B)~~ computed under division (A) or (C) of section 5733.06 of the Revised Code.

(C) The following shall be determined in the same manner as if the transfer had not been made:

(1) The transferor's net income allocated or apportioned to this state for the tax year under divisions (B)(1) and (2) of section 5733.05 of the Revised Code;

(2) The transferor's requirements for the combination of net income under section 5733.052 of the Revised Code;

(3) Any other determination regarding the transferor that is necessary to avoid an absurd or unreasonable result in the application of this chapter.

(D) A transferee shall be allowed the following credits and shall make the following adjustments in the same manner that they would have been available to the transferor:

(1) The credits enumerated in section 5733.98 of the Revised Code;

(2) The deduction under division (I)(1) of section 5733.04 of the Revised Code for net operating losses incurred by its transferor, subject to the limitations set forth in that division and in sections 381 and 382 of the Internal Revenue Code concerning net operating loss carryovers;

(3) Any other deduction from or addition to net income under this chapter involving the transferor, the disallowance of which would be absurd or unreasonable. Such adjustments to net income and allowance of credits shall be subject to the limitations set forth in sections 381 and 382 of the Internal Revenue Code and regulations prescribed thereunder.

(E) If a transferee subject to this section subsequently becomes a transferor, any net income that the transferee would have been required to add under division (B) of this section shall be included in its income as a transferor and any credits or adjustments to which the transferee would have been entitled under division (D) of this section shall be available to it as a transferor.

(F) The amendments made to this section by Am. Sub. S.B. 287 of the 123rd general assembly do not apply to any transfer for which negotiations began prior to January 1, 2001, and that was commenced in and completed during calendar year 2001, unless the transferee makes an election prior to December 31, 2001, to apply those amendments.

**Sec. 5733.055.** (A) As used in this section:

(1) "Ceiling amount" means the excess of the amount described in division (A)(1)(a) of this section over the amount described in division (A)(1)(b) of this section:

(a) The amount of income allocated and apportioned to this state in accordance with this chapter but without regard to and without application of the adjustments required by this section;

(b) The amount of income allocated and apportioned to this state in

accordance with this chapter but without regard to and without application of the adjustments required by both this section and division (I)(13) of section 5733.04 of the Revised Code.

(2) "Income adjustment amount" means the sum of the amounts described in divisions (A)(2)(a) and (b) of this section:

(a) The related member's net interest income actually allocated and apportioned to other states that impose a tax on or measured by income, in accordance with the other states' allocation and apportionment rules;

(b) The related member's net intangible income actually allocated and apportioned to other states that impose a tax on or measured by income, in accordance with the other states' allocation and apportionment rules.

For purposes of division (A)(2) of this section, "other states" does not include those states under whose laws the taxpayer files or could have elected to file with the related member, or the related member files or could have elected to file with another related member, a combined income tax report or return, a consolidated income tax report or return, or any other report or return where such report or return is due because of the imposition of a tax measured on or by income and such report or return results in the elimination of the tax effects from transactions directly or indirectly between either the taxpayer and the related member or between the related member and another corporation if such other corporation, during a one-hundred-twenty-month period commencing three years prior to the beginning of the tax year, directly or indirectly paid, accrued, or incurred intangible expenses and costs or interest expenses and costs to an entity described in ~~divisions (C)(1) to (5)~~ division (C)(1) to (5) of section 5733.042 of the Revised Code.

(3) "Intangible expenses and costs" has the same meaning as in ~~division (A)(3)~~ of section 5733.042 of the Revised Code.

(4) "Interest expenses and costs" has the same meaning as in ~~division (A)(4)~~ of section 5733.042 of the Revised Code.

(5) "Intangible income and revenue" are those amounts earned or received by a related member from a taxpayer for the taxpayer's use of intangible property. Such amounts include, but are not limited to, royalty, patent, technical, and copyright fees, licensing fees, and other similar income and revenue.

(6) "Interest income and revenue" are those amounts earned or received by a related member from a taxpayer to the extent such amounts are allowed as deductions under section 163 of the Internal Revenue Code for purposes of determining the taxpayer's taxable income under the Internal Revenue Code.

(7) "Net intangible income" means intangible income and revenue reduced by intangible expenses and costs paid or accrued directly or indirectly to a related member described in ~~any of divisions (C)(1) to (7)~~ division (C)(1) to (7) of section ~~5747.042~~ 5733.042 of the Revised Code.

(8) "Net interest income" means interest income and revenue reduced by interest expenses and costs paid or accrued directly or indirectly to a related member described in ~~any of divisions~~ division (C)(1) to (7) of section ~~5747.042~~ 5733.042 of the Revised Code.

(B) Except as set forth in division (C) of this section, a deduction from the corporation's net income allocated and apportioned to this state shall be allowed in an amount equal to the income adjustment amount described in division (A)(2) of this section. However, in no case shall the deduction be greater than the ceiling amount described in division (A)(1) of this section.

(C) The deduction provided by division (B) of this section is available to the taxpayer only if the taxpayer establishes with clear and convincing evidence that the intangible expenses and costs and the interest expenses and costs paid, accrued, or incurred by the corporation to a related member did not have as a principal purpose the avoidance of any portion of the tax imposed by section 5733.06 of the Revised Code.

**Sec. 5733.056.** (A) As used in this section:

(1) "Billing address" means the address where any notice, statement, or bill relating to a customer's account is mailed, as indicated in the books and records of the taxpayer on the first day of the taxable year or on such later date in the taxable year when the customer relationship began.

(2) "Borrower or credit card holder located in this state" means:

(a) A borrower, other than a credit card holder, that is engaged in a trade or business and maintains its commercial domicile in this state; or

(b) A borrower that is not engaged in a trade or business, or a credit card holder, whose billing address is in this state.

(3) "Branch" means a "domestic branch" as defined in section 3 of the "Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 1813(o), as amended.

(4) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services that are included in such employee's gross income under the Internal Revenue Code. In the case of employees not subject to the Internal Revenue Code, such as those employed in foreign countries, the determination of whether such payments would constitute gross income to such employees under the Internal Revenue Code shall be made as though such employees were subject to the Internal Revenue Code.

(5) "Credit card" means a credit, travel, or entertainment card.

(6) "Credit card issuer's reimbursement fee" means the fee a taxpayer receives from a merchant's bank because one of the persons to whom the taxpayer has issued a credit card has charged merchandise or services to the credit card.

(7) "Deposits" has the meaning given in section 3 of the "Federal Deposit



Insurance Act," 64 Stat. 873, 12 U.S.C. 1813(1), as amended.

(8) "Employee" means, with respect to a particular taxpayer, any individual who under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee of that taxpayer.

(9) "Gross rents" means the actual sum of money or other consideration payable for the use or possession of property. "Gross rents" includes:

(a) Any amount payable for the use or possession of real property or tangible personal property whether designated as a fixed sum of money or as a percentage of receipts, profits, or otherwise;

(b) Any amount payable as additional rent or in lieu of rent, such as interest, taxes, insurance, repairs, or any other amount required to be paid by the terms of a lease or other arrangement; and

(c) A proportionate part of the cost of any improvement to real property made by or on behalf of the taxpayer which reverts to the owner or lessor upon termination of a lease or other arrangement. The amount to be included in gross rents is the amount of amortization or depreciation allowed in computing the taxable income base for the taxable year. However, where a building is erected on leased land, by or on behalf of the taxpayer, the value of the land is determined by multiplying the gross rent by eight, and the value of the building is determined in the same manner as if owned by the taxpayer.

(d) The following are not included in the term "gross rents":

(i) Reasonable amounts payable as separate charges for water and electric service furnished by the lessor;

(ii) Reasonable amounts payable as service charges for janitorial services furnished by the lessor;

(iii) Reasonable amounts payable for storage, provided such amounts are payable for space not designated and not under the control of the taxpayer; and

(iv) That portion of any rental payment which is applicable to the space subleased from the taxpayer and not used by it.

(10) "Loan" means any extension of credit resulting from direct negotiations between the taxpayer and its customer, or the purchase, in whole or in part, of such extension of credit from another. Loans include debt obligations of subsidiaries, participations, syndications, and leases treated as loans for federal income tax purposes. "Loan" does not include: properties treated as loans under section 595 of the Internal Revenue Code; futures or forward contracts; options; notional principal contracts such as swaps; credit card receivables, including purchased credit card relationships; non-interest bearing balances due from depositor institutions; cash items in the process of collection; federal funds sold; securities purchased under agreements to resell; assets held in a trading account; securities; interests in a real estate mortgage investment conduit or other mortgage-backed or asset-backed security; and other similar items.

(11) "Loan secured by real property" means that fifty per cent or more of the aggregate value of the collateral used to secure a loan or other obligation, when valued at fair market value as of the time the original loan or obligation was incurred, was real property.

(12) "Merchant discount" means the fee, or negotiated discount, charged to a merchant by the taxpayer for the privilege of participating in a program whereby a credit card is accepted in payment for merchandise or services sold to the card holder.

(13) "Participation" means an extension of credit in which an undivided ownership interest is held on a pro rata basis in a single loan or pool of loans and related collateral. In a loan participation, the credit originator initially makes the loan and then subsequently resells all or a portion of it to other lenders. The participation may or may not be known to the borrower.

(14) "Principal base of operations" with respect to transportation property means the place of more or less permanent nature from which the property is regularly directed or controlled. With respect to an employee, the "principal base of operations" means the place of more or less permanent nature from which the employee regularly (a) starts work and to which the employee customarily returns in order to receive instructions from the employer or (b) communicates with the employee's customers or other persons or (c) performs any other functions necessary to the exercise of the trade or profession at some other point or points.

(15) "Qualified institution" means a financial institution that on or after June 1, 1997:

(a)(i) Has consummated one or more approved transactions with insured banks with different home states that would qualify under section 102 of the "Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994," Public Law 103-328, 108 Stat. 2338;

(ii) Is a federal savings association or federal savings bank that has consummated one or more interstate acquisitions that result in a financial institution that has branches in more than one state; or

(iii) Has consummated one or more approved interstate acquisitions under authority of Title XI of the Revised Code that result in a financial institution that has branches in more than one state; and

(b) Has at least nine per cent of its deposits in this state as of the last day of June prior to the beginning of the tax year.

(16) "Real property owned" and "tangible personal property owned" mean real and tangible personal property, respectively, on which the taxpayer may claim depreciation for federal income tax purposes, or to which the taxpayer holds legal title and on which no other person may claim depreciation for federal income tax purposes, or could claim depreciation if subject to federal income tax. Real and tangible personal property do not include coin, currency, or

property acquired in lieu of or pursuant to a foreclosure.

(17) "Regular place of business" means an office at which the taxpayer carries on its business in a regular and systematic manner and which is continuously maintained, occupied, and used by employees of the taxpayer.

(18) "State" means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico, or any territory or possession of the United States.

(19) "Syndication" means an extension of credit in which two or more persons fund and each person is at risk only up to a specified percentage of the total extension of credit or up to a specified dollar amount.

(20) "Transportation property" means vehicles and vessels capable of moving under their own power, such as aircraft, trains, water vessels and motor vehicles, as well as any equipment or containers attached to such property, such as rolling stock, barges, trailers, or the like.

(B) The annual financial institution report determines the value of the issued and outstanding shares of stock of the taxpayer, and is the base or measure of the franchise tax liability. Such determination shall be made as of the date shown by the report to have been the beginning of the financial institution's annual accounting period that includes the first day of January of the tax year. For purposes of this section, division (A) of section 5733.05, and division ~~(D)~~(E) of section 5733.06 of the Revised Code, the value of the issued and outstanding shares of stock of the financial institution shall include the total value, as shown by the books of the financial institution, of its capital, surplus, whether earned or unearned, undivided profits, and reserves, but exclusive of:

(1) Reserves for accounts receivable, depreciation, depletion, and any other valuation reserves with respect to specific assets;

(2) Taxes due and payable during the year for which such report was made;

(3) Voting stock and participation certificates in corporations chartered pursuant to the "Farm Credit Act of 1971," 85 Stat. 597, 12 U.S.C. 2091, as amended;

(4) Good will, net aggregate appreciation under the equity method of accounting of investments in the capital stock of directly owned first-tier affiliates, and abandoned property as set up in the annual report of the financial institution, provided a certified balance sheet of the company is made available upon the request of the tax commissioner. Such balance sheet shall not be a part of the public records, but shall be a confidential report for use of the tax commissioner only.

(5) A portion of the value of the issued and outstanding shares of stock of such financial institution equal to the amount obtained by multiplying such value by the quotient obtained by:

(a) Dividing (1) the amount of the financial institution's assets, as shown on its books, represented by investments in the capital stock and indebtedness of public utilities, except electric companies and combined companies, and, for tax years 2005 and thereafter, telephone companies, of which at least eighty per cent of the utility's issued and outstanding common stock is owned by the financial institution by (2) the total assets of such financial institution as shown on its books;

(b) Dividing (1) the amount of the financial institution's assets, as shown on its books, represented by investments in the capital stock and indebtedness of insurance companies of which at least eighty per cent of the insurance company's issued and outstanding common stock is owned by the financial institution by (2) the total assets of such financial institution as shown on its books;

(c) Dividing (1) the amount of the financial institution's assets, as shown on its books, represented by investments in the capital stock and indebtedness of other financial institutions of which at least twenty-five per cent of the other financial institution's issued and outstanding common stock is owned by the financial institution by (2) the total assets of the financial institution as shown on its books. Division (B)(5)(c) of this section applies only with respect to such other financial institutions that for the tax year immediately following the taxpayer's taxable year will pay the tax imposed by division ~~(D)~~(E) of section 5733.06 of the Revised Code.

(6) Land that has been determined pursuant to section 5713.31 of the Revised Code by the county auditor of the county in which the land is located to be devoted exclusively to agricultural use as of the first Monday of June in the financial institution's taxable year.

(7) Property within this state used exclusively during the taxable year for qualified research as defined in section 5733.05 of the Revised Code.

(C) The base upon which the tax levied under division ~~(D)~~(E) of section 5733.06 of the Revised Code shall be computed by multiplying the value of a financial institution's issued and outstanding shares of stock as determined in division (B) of this section by a fraction. The numerator of the fraction is the sum of the following: the property factor multiplied by fifteen, the payroll factor multiplied by fifteen, and the sales factor multiplied by seventy. The denominator of the fraction is one hundred, provided that the denominator shall be reduced by fifteen if the property factor has a denominator of zero, by fifteen if the payroll factor has a denominator of zero, and by seventy if the sales factor has a denominator of zero.

(D) A financial institution shall calculate the property factor as follows:

(1) The property factor is a fraction, the numerator of which is the average value of real property and tangible personal property rented to the taxpayer that is located or used within this state during the taxable year, the average value of real and tangible personal property owned by the taxpayer that is located or used within this state during the taxable year, and the average value

of the taxpayer's loans and credit card receivables that are located within this state during the taxable year; and the denominator of which is the average value of all such property located or used within and without this state during the taxable year.

(2)(a) The value of real property and tangible personal property owned by the taxpayer is the original cost or other basis of such property for federal income tax purposes without regard to depletion, depreciation, or amortization.

(b) Loans are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a loan is charged-off in whole or in part for federal income tax purposes, the portion of the loan charged-off is not outstanding. A specifically allocated reserve established pursuant to financial accounting guidelines which is treated as charged-off for federal income tax purposes shall be treated as charged-off for purposes of this section.

(c) Credit card receivables are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a credit card receivable is charged-off in whole or in part for federal income tax purposes, the portion of the receivable charged-off is not outstanding.

(3) The average value of property owned by the taxpayer is computed on an annual basis by adding the value of the property on the first day of the taxable year and the value on the last day of the taxable year and dividing the sum by two. If averaging on this basis does not properly reflect average value, the tax commissioner may require averaging on a more frequent basis. The taxpayer may elect to average on a more frequent basis. When averaging on a more frequent basis is required by the tax commissioner or is elected by the taxpayer, the same method of valuation must be used consistently by the taxpayer with respect to property within and without this state and on all subsequent returns unless the taxpayer receives prior permission from the tax commissioner or the tax commissioner requires a different method of determining value.

(4)(a) The average value of real property and tangible personal property that the taxpayer has rented from another and is not treated as property owned by the taxpayer for federal income tax purposes, shall be determined annually by multiplying the gross rents payable during the taxable year by eight.

(b) Where the use of the general method described in division (D)(4)(a) of this section results in inaccurate valuations of rented property, any other method which properly reflects the value may be adopted by the tax commissioner or by the taxpayer when approved in writing by the tax commissioner. Once approved, such other method of valuation must be used on all subsequent returns unless the taxpayer receives prior approval from the tax commissioner or the tax commissioner requires a different method of valuation.

(5)(a) Except as described in division (D)(5)(b) of this section, real property and tangible personal property owned by or rented to the taxpayer is considered to be located within this state if it is physically located, situated, or used within this state.

(b) Transportation property is included in the numerator of the property factor to the extent that the property is used in this state. The extent an aircraft will be deemed to be used in this state and the amount of value that is to be included in the numerator of this state's property factor is determined by multiplying the average value of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this state and the denominator of which is the total number of landings of the aircraft everywhere. If the extent of the use of any transportation property within this state cannot be determined, then the property will be deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle will be deemed to be used wholly in the state in which it is registered.

(6)(a)(i) A loan, other than a loan or advance described in division (D)(6)(d) of this section, is considered to be located within this state if it is properly assigned to a regular place of business of the taxpayer within this state.

(ii) A loan is properly assigned to the regular place of business with which it has a preponderance of substantive contacts. A loan assigned by the taxpayer to a regular place of business without the state shall be presumed to have been properly assigned if:

(I) The taxpayer has assigned, in the regular course of its business, such loan on its records to a regular place of business consistent with federal or state regulatory requirements;

(II) Such assignment on its records is based upon substantive contacts of the loan to such regular place of business; and

(III) The taxpayer uses the records reflecting assignment of loans for the filing of all state and local tax returns for which an assignment of loans to a regular place of business is required.

(iii) The presumption of proper assignment of a loan provided in division (D)(6)(a)(ii) of this section may be rebutted upon a showing by the tax commissioner, supported by a preponderance of the evidence, that the preponderance of substantive contacts regarding such loan did not occur at the regular place of business to which it was assigned on the taxpayer's records. When such presumption has been rebutted, the loan shall then be located within this state if (1) the taxpayer had a regular place of business within this state at the time the loan was made; and (2) the taxpayer fails to show, by a preponderance of the evidence, that the preponderance of substantive contacts regarding such loan did not occur within this state.

(b) In the case of a loan which is assigned by the taxpayer to a place without this state which is not a regular place of business, it shall be presumed, subject to rebuttal by the taxpayer on a showing supported by the preponderance of evidence, that the preponderance of substantive contacts regarding the loan occurred within this state if, at the time the loan was made the taxpayer's commercial domicile was within this state.

(c) To determine the state in which the preponderance of substantive contacts relating to a loan have occurred, the facts and circumstances regarding the loan at issue shall be reviewed on a case-by-case basis and consideration shall be given to such activities as the solicitation, investigation, negotiation, approval, and administration of the loan. The terms "solicitation," "investigation," "negotiation," "approval," and "administration" are defined as follows:

(i) "Solicitation" is either active or passive. Active solicitation occurs when an employee of the taxpayer initiates the contact with the customer. Such activity is located at the regular place of business which the taxpayer's employee is regularly connected with or working out of, regardless of where the services of such employee were actually performed. Passive solicitation occurs when the customer initiates the contact with the taxpayer. If the customer's initial contact was not at a regular place of business of the taxpayer, the regular place of business, if any, where the passive solicitation occurred is determined by the facts in each case.

(ii) "Investigation" is the procedure whereby employees of the taxpayer determine the creditworthiness of the customer as well as the degree of risk involved in making a particular agreement. Such activity is located at the regular place of business which the taxpayer's employees are regularly connected with or working out of, regardless of where the services of such employees were actually performed.

(iii) Negotiation is the procedure whereby employees of the taxpayer and its customer determine the terms of the agreement, such as the amount, duration, interest rate, frequency of repayment, currency denomination, and security required. Such activity is located at the regular place of business to which the taxpayer's employees are regularly connected or working from, regardless of where the services of such employees were actually performed.

(iv) "Approval" is the procedure whereby employees or the board of directors of the taxpayer make the final determination whether to enter into the agreement. Such activity is located at the regular place of business to which the taxpayer's employees are regularly connected or working from, regardless of where the services of such employees were actually performed. If the board of directors makes the final determination, such activity is located at the commercial domicile of the taxpayer.

(v) "Administration" is the process of managing the account. This process includes bookkeeping, collecting the payments, corresponding with the customer, reporting to management regarding the status of the agreement, and proceeding against the borrower or the security interest if the borrower is in default. Such activity is located at the regular place of business that oversees this activity.

(d) A loan or advance to a subsidiary corporation at least fifty-one per cent of whose common stock is owned by the financial institution shall be

allocated in and out of the state by the application of a ratio whose numerator is the sum of the net book value of the subsidiary's real property owned in this state and the subsidiary's tangible personal property owned in this state and whose denominator is the sum of the subsidiary's real property owned wherever located and the subsidiary's tangible personal property owned wherever located. For purposes of calculating this ratio, the taxpayer shall determine net book value in accordance with generally accepted accounting principles. If the subsidiary corporation owns at least fifty-one per cent of the common stock of another corporation, the ratio shall be calculated by including the other corporation's real property and tangible personal property. The calculation of the ratio applies with respect to all lower-tiered subsidiaries, provided that the immediate parent corporation of the subsidiary owns at least fifty-one per cent of the common stock of that subsidiary.

(7) For purposes of determining the location of credit card receivables, credit card receivables shall be treated as loans and shall be subject to division (D)(6) of this section.

(8) A loan that has been properly assigned to a state shall, absent any change of material fact, remain assigned to that state for the length of the original term of the loan. Thereafter, the loan may be properly assigned to another state if the loan has a preponderance of substantive contact to a regular place of business there.

(E) A financial institution shall calculate the payroll factor as follows:

(1) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the taxable year by the taxpayer for compensation, and the denominator of which is the total compensation paid both within and without this state during the taxable year.

(2) Compensation is paid in this state if any one of the following tests, applied consecutively, is met:

(a) The employee's services are performed entirely within this state.

(b) The employee's services are performed both within and without this state, but the service performed without this state is incidental to the employee's service within this state. The term "incidental" means any service which is temporary or transitory in nature, or which is rendered in connection with an isolated transaction.

(c) The employee's services are performed both within and without this state, and:

(i) The employee's principal base of operations is within this state; or

(ii) There is no principal base of operations in any state in which some part of the services are performed, but the place from which the services are directed or controlled is in this state; or

(iii) The principal base of operations and the place from which the



services are directed or controlled are not in any state in which some part of the service is performed but the employee's residence is in this state.

(F) A financial institution shall calculate the sales factor as follows:

(1) The sales factor is a fraction, the numerator of which is the receipts of the taxpayer in this state during the taxable year and the denominator of which is the receipts of the taxpayer within and without this state during the taxable year. The method of calculating receipts for purposes of the denominator is the same as the method used in determining receipts for purposes of the numerator.

(2) The numerator of the sales factor includes receipts from the lease or rental of real property owned by the taxpayer if the property is located within this state, or receipts from the sublease of real property if the property is located within this state.

(3)(a) Except as described in division (F)(3)(b) of this section the numerator of the sales factor includes receipts from the lease or rental of tangible personal property owned by the taxpayer if the property is located within this state when it is first placed in service by the lessee.

(b) Receipts from the lease or rental of transportation property owned by the taxpayer are included in the numerator of the sales factor to the extent that the property is used in this state. The extent an aircraft will be deemed to be used in this state and the amount of receipts that is to be included in the numerator of this state's sales factor is determined by multiplying all the receipts from the lease or rental of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this state and the denominator of which is the total number of landings of the aircraft. If the extent of the use of any transportation property within this state cannot be determined, then the property will be deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle will be deemed to be used wholly in the state in which it is registered.

(4)(a) The numerator of the sales factor includes interest and fees or penalties in the nature of interest from loans secured by real property if the property is located within this state. If the property is located both within this state and one or more other states, the receipts described in this paragraph are included in the numerator of the sales factor if more than fifty per cent of the fair market value of the real property is located within this state. If more than fifty per cent of the fair market value of the real property is not located within any one state, then the receipts described in this paragraph shall be included in the numerator of the sales factor if the borrower is located in this state.

(b) The determination of whether the real property securing a loan is located within this state shall be made as of the time the original agreement was made and any and all subsequent substitutions of collateral shall be disregarded.

(5) The numerator of the sales factor includes interest and fees or penalties in the nature of interest from loans not secured by real property if the

borrower is located in this state.

(6) The numerator of the sales factor includes net gains from the sale of loans. Net gains from the sale of loans includes income recorded under the coupon stripping rules of section 1286 of the Internal Revenue Code.

(a) The amount of net gains, but not less than zero, from the sale of loans secured by real property included in the numerator is determined by multiplying such net gains by a fraction the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(4) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

(b) The amount of net gains, but not less than zero, from the sale of loans not secured by real property included in the numerator is determined by multiplying such net gains by a fraction the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(5) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(7) The numerator of the sales factor includes interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to card holders, such as annual fees, if the billing address of the card holder is in this state.

(8) The numerator of the sales factor includes net gains, but not less than zero, from the sale of credit card receivables multiplied by a fraction, the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(7) of this section and the denominator of which is the taxpayer's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

(9) The numerator of the sales factor includes all credit card issuer's reimbursement fees multiplied by a fraction, the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(7) of this section and the denominator of which is the taxpayer's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

(10) The numerator of the sales factor includes receipts from merchant discount if the commercial domicile of the merchant is in this state. Such receipts shall be computed net of any card holder charge backs, but shall not be reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its card holders.

(11)(a)(i) The numerator of the sales factor includes loan servicing fees derived from loans secured by real property multiplied by a fraction the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(4) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans

secured by real property.

(ii) The numerator of the sales factor includes loan servicing fees derived from loans not secured by real property multiplied by a fraction the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(5) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(b) In circumstances in which the taxpayer receives loan servicing fees for servicing either the secured or the unsecured loans of another, the numerator of the sales factor shall include such fees if the borrower is located in this state.

(12) The numerator of the sales factor includes receipts from services not otherwise apportioned under this section if the service is performed in this state. If the service is performed both within and without this state, the numerator of the sales factor includes receipts from services not otherwise apportioned under this section, if a greater proportion of the income producing activity is performed in this state based on cost of performance.

(13)(a) Interest, dividends, net gains, but not less than zero, and other income from investment assets and activities and from trading assets and activities shall be included in the sales factor. Investment assets and activities and trading assets and activities include but are not limited to: investment securities; trading account assets; federal funds; securities purchased and sold under agreements to resell or repurchase; options; futures contracts; forward contracts; notional principal contracts such as swaps; equities; and foreign currency transactions. With respect to the investment and trading assets and activities described in divisions (F)(13)(a)(i) and (ii) of this section, the sales factor shall include the amounts described in such divisions.

(i) The sales factor shall include the amount by which interest from federal funds sold and securities purchased under resale agreements exceeds interest expense on federal funds purchased and securities sold under repurchase agreements.

(ii) The sales factor shall include the amount by which interest, dividends, gains, and other income from trading assets and activities, including, but not limited to, assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, exceed amounts paid in lieu of interest, amounts paid in lieu of dividends, and losses from such assets and activities.

(b) The numerator of the sales factor includes interest, dividends, net gains, but not less than zero, and other income from investment assets and activities and from trading assets and activities described in division (F)(13)(a) of this section that are attributable to this state.

(i) The amount of interest, other than interest described in division (F)(13)(b)(iv) of this section, dividends, other than dividends described in that division, net gains, but not less than zero, and other income from investment

assets and activities in the investment account to be attributed to this state and included in the numerator is determined by multiplying all such income from such assets and activities by a fraction, the numerator of which is the average value of such assets which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all such assets.

(ii) The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this state and included in the numerator is determined by multiplying the amount described in division (F)(13)(a)(i) of this section from such funds and such securities by a fraction, the numerator of which is the average value of federal funds sold and securities purchased under agreements to resell which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all such funds and such securities.

(iii) The amount of interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transaction, but excluding amounts described in division (F)(13)(b)(i) or (ii) of this section, attributable to this state and included in the numerator is determined by multiplying the amount described in division (F)(13)(a)(ii) of this section by a fraction, the numerator of which is the average value of such trading assets which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all such assets.

(iv) The amount of dividends received on the capital stock of, and the amount of interest received from loans and advances to, subsidiary corporations at least fifty-one per cent of whose common stock is owned by the reporting financial institution shall be allocated in and out of this state by the application of a ratio whose numerator is the sum of the net book value of the payor's real property owned in this state and the payor's tangible personal property owned in this state and whose denominator is the sum of the net book value of the payor's real property owned wherever located and the payor's tangible personal property owned wherever located. For purposes of calculating this ratio, the taxpayer shall determine net book value in accordance with generally accepted accounting principles.

(v) For purposes of this division, average value shall be determined using the rules for determining the average value of tangible personal property set forth in ~~division~~divisions (D)(2) and (3) of this section.

(c) In lieu of using the method set forth in division (F)(13)(b) of this section, the taxpayer may elect, or the tax commissioner may require in order to fairly represent the business activity of the taxpayer in this state, the use of the method set forth in division (F)(13)(c) of this section.

(i) The amount of interest, other than interest described in division

(F)(13)(b)(iv) of this section, dividends, other than dividends described in that division, net gains, but not less than zero, and other income from investment assets and activities in the investment account to be attributed to this state and included in the numerator is determined by multiplying all such income from such assets and activities by a fraction, the numerator of which is the gross income from such assets and activities which are properly assigned to a regular place of business of the taxpayer within this state, and the denominator of which is the gross income from all such assets and activities.

(ii) The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this state and included in the numerator is determined by multiplying the amount described in division (F)(13)(a)(i) of this section from such funds and such securities by a fraction, the numerator of which is the gross income from such funds and such securities which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the gross income from all such funds and such securities.

(iii) The amount of interest, dividends, gains, and other income from trading assets and activities, including, but not limited to, assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, but excluding amounts described in division (F)(13)(a)(i) or (ii) of this section, attributable to this state and included in the numerator, is determined by multiplying the amount described in division (F)(13)(a)(ii) of this section by a fraction, the numerator of which is the gross income from such trading assets and activities which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the gross income from all such assets and activities.

(iv) The amount of dividends received on the capital stock of, and the amount of interest received from loans and advances to, subsidiary corporations at least fifty-one per cent of whose common stock is owned by the reporting financial institution shall be allocated in and out of this state by the application of a ratio whose numerator is the sum of the net book value of the payor's real property owned in this state and the payor's tangible personal property owned in this state and whose denominator is the sum of the payor's real property owned wherever located and the payor's tangible personal property owned wherever located. For purposes of calculating this ratio, the taxpayer shall determine net book value in accordance with generally accepted accounting principles.

(d) If the taxpayer elects or is required by the tax commissioner to use the method set forth in division (F)(13)(c) of this section, it shall use this method on all subsequent returns unless the taxpayer receives prior permission from the tax commissioner to use or the tax commissioner requires a different method.

(e) The taxpayer shall have the burden of proving that an investment asset or activity or trading asset or activity was properly assigned to a regular place of business outside of this state by demonstrating that the day-to-day

decisions regarding the asset or activity occurred at a regular place of business outside this state. Where the day-to-day decisions regarding an investment asset or activity or trading asset or activity occur at more than one regular place of business and one such regular place of business is in this state and one such regular place of business is outside this state such asset or activity shall be considered to be located at the regular place of business of the taxpayer where the investment or trading policies or guidelines with respect to the asset or activity are established. Unless the taxpayer demonstrates to the contrary, such policies and guidelines shall be presumed to be established at the commercial domicile of the taxpayer.

(14) The numerator of the sales factor includes all other receipts if either:

(a) The income-producing activity is performed solely in this state; or

(b) The income-producing activity is performed both within and without this state and a greater proportion of the income-producing activity is performed within this state than in any other state, based on costs of performance.

(G) A qualified institution may calculate the base upon which the fee provided for in division ~~(D)~~(E) of section 5733.06 of the Revised Code is determined for each tax year by multiplying the value of its issued and outstanding shares of stock determined under division (B) of this section by a single deposits fraction whose numerator is the deposits assigned to branches in this state and whose denominator is the deposits assigned to branches everywhere. Deposits shall be assigned to branches in the same manner in which the assignment is made for regulatory purposes. If the base calculated under this division is less than the base calculated under division (C) of this section, then the qualifying institution may elect to substitute the base calculated under this division for the base calculated under division (C) of this section. Such election may be made annually for each tax year on the corporate report. The election need not accompany the report; rather, the election may accompany a subsequently filed but timely application for refund, a subsequently filed but timely amended report, or a subsequently filed but timely petition for reassessment. The election is not irrevocable and it applies only to the specified tax year. Nothing in this division shall be construed to extend any statute of limitations set forth in this chapter.

(H) If the apportionment provisions of this section do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the tax commissioner may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(1) Separate accounting;

(2) The exclusion of any one or more of the factors;

(3) The inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or

(4) The employment of any other method to effectuate an equitable

allocation and apportionment of the taxpayer's value.

**Sec. 5733.059.** (A) As used in this section:

(1) "Customer" means a person who purchases electricity for consumption either by that person or by the person's related member and the electricity is not for resale directly or indirectly to any person other than a related member.

(2) "Related member" has the same meaning as in ~~division (A)(6) of~~ section 5733.042 of the Revised Code without regard to division (B) of that section.

(B) Except as provided in division (C) of this section, this division applies only to sales of electric transmission and distribution services. For purposes of sections 5733.05 and 5747.21 of the Revised Code:

(1) Sales of the transmission of electricity are in this state in proportion to the ratio of the wire mileage of the taxpayer's transmission lines located in this state divided by the wire mileage of the taxpayer's transmission lines located everywhere. Transmission wire mileage shall be weighted for the voltage capacity of each line.

(2) Sales of the distribution of electricity are in this state in proportion to the ratio of the wire mileage of the taxpayer's distribution lines located in this state divided by the wire mileage of the taxpayer's distribution lines located everywhere. Distribution wire mileage shall not be weighted for the voltage capacity of each line.

(C) This division applies only to a person that has transmission or distribution lines in this state. If a contract for the sale of electricity includes the seller's or the seller's related member's obligation to transmit or distribute the electricity and if the sales contract separately identifies the price charged for the transmission or distribution of electricity, the price charged for the transmission and distribution of electricity shall be apportioned to this state in accordance with division (B) of this section. Any remaining portion of the sales price of the electricity shall be situated to this state in accordance with division (D) of this section.

If the sales contract does not separately identify the price charged for the transmission or distribution of electricity, the sales price of the electricity shall be situated to this state in accordance with division (D) of this section.

(D) Any person who makes a sale of electricity shall situs the following to this state:

(1) A sale of electricity directly or indirectly to a customer to the extent the customer consumes the electricity in this state;

(2) A sale of electricity directly or indirectly to a related member where the related member directly or indirectly sells electricity to a customer to the extent the customer consumes the electricity in this state;

(3) A sale of electricity if the seller or the seller's related member directly or indirectly delivers the electricity to a location in this state or directly or indirectly delivers the electricity exactly to the border of this state and another state;

(4) A sale of electricity if the seller or the seller's related member directly or indirectly directs the delivery of the electricity to a location in this state or directly or indirectly directs the delivery of the electricity exactly to the border of this state and another state.

(E) If the situsing provisions of this section do not fairly represent the extent of the taxpayer's or the taxpayer's related member's activity in this state, the taxpayer may request, or the tax commissioner may require, in respect to all or part of a taxpayer's or related member's sales, if reasonable, any of the following:

(1) Separate accounting;

(2) The exclusion of one or more additional situsing factors that will fairly represent the taxpayer's and the related member's sales in this state;

(3) The inclusion of one or more additional situsing factors that will fairly represent the taxpayer's and the related member's sales in this state.

The taxpayer's request shall be in writing and shall be filed with the report required by section 5733.02 of the Revised Code, a timely filed petition for reassessment, or a timely filed amended report. An alternative situsing method shall be effective with the approval of the tax commissioner.

Nothing in this section shall be construed to extend any statute of limitations set forth in this chapter.

(F) If the situsing provisions of this section do not fairly represent activity in this state, the tax commissioner may promulgate rules to situs sales using a methodology that fairly reflects sales in this state.

(G) Notwithstanding section 5703.56 of the Revised Code to the contrary, a person situsing a sale outside this state has the burden to establish by a preponderance of the evidence that the doctrines enumerated in that section do not apply.

**Sec. 5733.06.** The tax hereby charged each corporation subject to this chapter ~~that is not a financial institution~~ shall be the greater of the ~~sum of divisions (A) and~~ amount computed under division (A) or (B) of this section, after the reduction, if any, provided by division (J) of this section, or under division (C) or (D) of this section, after the reduction, if any, provided by division (J) of this section, ~~except that the~~ as applicable to the tax year. The tax hereby charged each corporation subject to this chapter that is a financial institution subject to this chapter shall be the amount computed under division ~~(D)~~(E) of this section.

(A) ~~Except~~ For tax years before tax year 2006, and except as set forth in



division ~~(F)~~(G)(1) of this section, five and one-tenth per cent upon the first fifty thousand dollars of the value of the taxpayer's issued and outstanding shares of stock as determined under division (B) of section 5733.05 of the Revised Code;

~~(B)~~ Except as set forth in ~~division (F) of this section~~, and eight and one-half per cent upon the value so determined in excess of fifty thousand dollars; ~~or~~.

~~(C)~~(1) Except as otherwise provided under ~~division (G) of this section~~(B) For tax years before tax year 2006, four mills times that portion of the value of the issued and outstanding shares of stock as determined under division (C) of section 5733.05 of the Revised Code. ~~For, not to exceed one hundred fifty thousand dollars.~~

For the purposes of ~~division (C)~~divisions (B) and (D) of this section, division (C)(2) of section 5733.065, and division (C) of section 5733.066 of the Revised Code, the value of the issued and outstanding shares of stock of an eligible corporation for tax year 2003 through tax year 2007, or of a ~~qualified~~qualifying holding company, is zero.

~~(2)~~ As used in ~~division (C)~~divisions (B) and (D) of this section, "eligible corporation" means a person treated as a corporation for federal income tax purposes that meets all of the following criteria:

~~(a)~~(1) The corporation conducts business for an entire taxable year as a qualified trade or business as defined by division (C) of section 122.15 of the Revised Code.

~~(b)~~(2) The corporation uses more than fifty per cent of the corporation's assets, based on net book value, that are located in Ohio solely to conduct activities that constitute a qualified trade or business as defined by section 122.15 of the Revised Code.

~~(c)~~(3) The corporation has been formed or organized not more than three years before the report required to be filed by section 5733.02 of the Revised Code is due, without regard to any extensions.

~~(d)~~(4) The corporation is not a related member, as defined in section 5733.042 of the Revised Code, at any time during the taxable year with respect to another person treated as a corporation for federal income tax purposes. A corporation is not a related member if during the entire taxable year at least seventy-five per cent of the corporation's stock is owned directly or through a pass-through entity by individuals, estates, and grantor trusts, and the individuals, estates, and grantor trusts do not directly or indirectly own more than twenty per cent of the value of another person treated as a corporation for federal income tax purposes that is conducting a qualified trade or business.

(C) For tax year 2006 and each subsequent tax year, the sum of the following amounts, except as provided in division (G)(2) of this section:

(1) Four per cent of the first fifty thousand dollars of the value of the taxpayer's issued and outstanding shares of stock as determined under division

(B) of section 5733.05 of the Revised Code:

(2) Seven per cent of such value in excess of fifty thousand dollars but not in excess of one hundred thousand dollars;

(3) Eight per cent of such value in excess of one hundred thousand dollars but not in excess of five hundred thousand dollars;

(4) Eight and one-half per cent on such value in excess of five hundred thousand dollars.

(D) For tax year 2006 and each subsequent tax year, the sum of the following amounts, not to exceed five hundred thousand dollars:

(1) Two mills times that portion of the value of the issued and outstanding shares of stock as determined under division (C) of section 5733.05 of the Revised Code that is not in excess of one million dollars;

(2) Three mills times that portion of such value in excess of one million dollars but not in excess of two million dollars;

(3) Four mills times that portion of such value that is in excess of two million dollars.

(E) The tax charged each financial institution subject to this chapter shall be that portion of the value of the issued and outstanding shares of stock as determined under division (A) of section 5733.05 of the Revised Code, multiplied by the following amounts:

(1) For tax years prior to the 1999 tax year, fifteen mills;

(2) For the 1999 tax year, fourteen mills;

(3) For tax year 2000 and thereafter, thirteen mills.

~~(E)~~(F) No tax shall be charged from any corporation that has been adjudicated bankrupt, or for which a receiver has been appointed, or that has made a general assignment for the benefit of creditors, except for the portion of the then current tax year during which the tax commissioner finds such corporation had the power to exercise its corporate franchise unimpaired by such proceedings or act. The minimum payment for each corporation shall be as follows:

(1) One thousand dollars in the case of a corporation having gross receipts for the taxable year equal to at least five million dollars from activities within or outside this state or in the case of a corporation employing at least three hundred employees at some time during the taxable year within or outside this state;

(2) ~~Fifty~~Three hundred dollars in the case of any other corporation.

The tax charged to corporations under this chapter for the privilege of engaging in business in this state, which is an excise tax levied on the value of the issued and outstanding shares of stock, shall in no manner be construed as

prohibiting or otherwise limiting the powers of municipal corporations, joint economic development zones created under section 715.691 of the Revised Code, and joint economic development districts created under section 715.70 or 715.71 or sections 715.72 to 715.81 of the Revised Code in this state to impose an income tax on the income of such corporations.

~~(F)~~ (G)(1) Division (G)(1) of this section applies to tax years before tax year 2006.

If two or more taxpayers satisfy the ownership or control requirements of division (A) of section 5733.052 of the Revised Code, each such taxpayer shall substitute "the taxpayer's pro-rata amount" for "fifty thousand dollars" in ~~divisions~~ division (A) and (B) of this section. For purposes of ~~this~~ division (G)(1) of this section, "the taxpayer's pro-rata amount" is an amount that, when added to the other such taxpayers' pro-rata amounts, does not exceed fifty thousand dollars. ~~For~~

(2) Division (G)(2) of this section applies to tax year 2006 and each tax year thereafter.

If two or more taxpayers satisfy the ownership or control requirements of division (A) of section 5733.052 of the Revised Code, each such taxpayer shall substitute "the taxpayer's pro-rata amount" for each of the dollar amounts in divisions (C)(1) to (4) of this section. For each such dollar amount, a taxpayer's pro-rata amount is the amount that, when added to such other taxpayers' pro-rata amounts, does not exceed that dollar amount.

(3) For the purpose of making ~~that computation,~~ the computations under division (G)(1) or (2) of this section, a taxpayer's pro-rata amount shall not be less than zero. Nothing in this division derogates from or eliminates the requirement to make the alternative computation of tax under ~~division (C)(B) or (D)~~ division (D) of this section.

~~(G) The tax liability of any corporation under division (C) of this section shall not exceed one hundred fifty thousand dollars.~~

(H)(1) For the purposes of division (H) of this section, "exiting corporation" means a corporation that satisfies all of the following conditions:

(a) The corporation had nexus with or in this state under the Constitution of the United States during any portion of a calendar year;

(b) The corporation was not a corporation described in division (A) of section 5733.01 of the Revised Code on the first day of January immediately following that calendar year;

(c) The corporation was not a financial institution on the first day of January immediately following that calendar year;

(d) If the corporation was a transferor as defined in section 5733.053 of the Revised Code, the corporation's transferee was not required to add to the transferee's net income the income of the transferor pursuant to division (B) of

that section;

(e) During any portion of that calendar year, or any portion of the immediately preceding calendar year, the corporation had net income that was not included in a report filed by the corporation or its transferee pursuant to section 5733.02, 5733.021, 5733.03, 5733.031, or 5733.053 of the Revised Code;

(f) The corporation would have been subject to the tax computed under divisions (A), (B), (C), ~~(F)(D)~~, and (G) of this section if the corporation is assumed to be a corporation described in division (A) of section 5733.01 of the Revised Code on the first day of January immediately following the calendar year to which division (H)(1)(a) of this section refers.

(2) For the purposes of division (H) of this section, "unreported net income" means net income that was not previously included in a report filed pursuant to section 5733.02, 5733.021, 5733.03, 5733.031, or 5733.053 of the Revised Code and that was realized or recognized during the calendar year to which division (H)(1) of this section refers or the immediately preceding calendar year.

(3) Each exiting corporation shall pay a tax computed by first allocating and apportioning the unreported net income pursuant to division (B) of section 5733.05 and section 5733.051 and, if applicable, section 5733.052 of the Revised Code. The exiting corporation then shall compute the tax due on its unreported net income allocated and apportioned to this state by applying divisions (A), ~~(B)(C)~~, and ~~(F)(G)~~ of this section to that income.

(4) Divisions ~~(C)(B)~~ and ~~(G)(D)~~ of this section, division (D)(2) of section 5733.065, and division (C) of section 5733.066 of the Revised Code do not apply to an exiting corporation, but exiting corporations are subject to every other provision of this chapter.

(5) Notwithstanding division (B) of section 5733.01 or sections 5733.02, 5733.021, and 5733.03 of the Revised Code to the contrary, each exiting corporation shall report and pay the tax due under division (H) of this section on or before the thirty-first day of May immediately following the calendar year to which division (H)(1)(a) of this section refers. The exiting corporation shall file that report on the form most recently prescribed by the tax commissioner for the purposes of complying with sections 5733.02 and 5733.03 of the Revised Code. Upon request by the corporation, the tax commissioner may extend the date for filing the report.

(6) If, on account of the application of section 5733.053 of the Revised Code, net income is subject to the tax imposed by ~~divisions~~ division (A) ~~and (B) or (C)~~ of this section, such income shall not be subject to the tax imposed by division (H)(3) of this section.

(7) The amendments made to division (H) of this section by Am. Sub. S.B. 287 of the 123rd general assembly do not apply to any transfer, as defined

in section 5733.053 of the Revised Code, for which negotiations began prior to January 1, 2001, and that was commenced in and completed during calendar year 2001, unless the taxpayer makes an election prior to December 31, 2001, to apply those amendments.

(8) The tax commissioner may adopt rules governing division (H) of this section.

(I) Any reference in the Revised Code to "the tax imposed by section 5733.06 of the Revised Code" or "the tax due under section 5733.06 of the Revised Code" includes the taxes imposed under sections 5733.065 and 5733.066 of the Revised Code.

(J)(1) Division (J) of this section applies solely to a combined company. Section 5733.057 of the Revised Code shall apply when calculating the adjustments required by division (J) of this section.

(2) Subject to division (J)(4) of this section, the total tax calculated in ~~divisions~~ division (A) and (B) or (C) of this section shall be reduced by an amount calculated by multiplying such tax by a fraction, the numerator of which is the total taxable gross receipts attributed to providing public utility activity other than as an electric company under section 5727.03 of the Revised Code for the year upon which the taxable gross receipts are measured immediately preceding the tax year, and the denominator of which is the total gross receipts from all sources for the year upon which the taxable gross receipts are measured immediately preceding the tax year. Nothing herein shall be construed to exclude from the denominator any item of income described in section 5733.051 of the Revised Code.

(3) Subject to division (J)(4) of this section, the total tax calculated in division (C) of this section shall be reduced by an amount calculated by multiplying such tax by the fraction described in division (J)(2) of this section.

(4) In no event shall the reduction provided by division (J)(2) or (J)(3) of this section exceed the amount of the excise tax paid in accordance with section 5727.38 of the Revised Code, for the year upon which the taxable gross receipts are measured immediately preceding the tax year.

**Sec. 5733.061. (A) As used in this section:**

(1) "Qualifying taxpayer" means either of the following:

(a) A person that was subject to the tax imposed under section 5733.06 of the Revised Code for tax year 2005;

(b) A taxpayer not described in division (A)(1)(a) of this section if a person described in that division transfers all or a portion of its assets and equity directly or indirectly to the taxpayer, the transfer occurred as part of an entity organization or reorganization or subsequent entity organization or reorganization, and the gain or loss with respect to the transfer is not recognized in whole or in part for federal income tax purposes under the Internal Revenue

Code on account of a transfer as part of an entity organization or reorganization or subsequent entity organization or reorganization.

(2) "Disallowed net operating loss carryforward" means the amount of any unused portion of a net operating loss carryforward from a qualifying taxpayer's taxable year preceding a taxable year ending in 2005 that may not be carried forward to and allowed as a deduction in computing net income for tax year 2006 or thereafter because of the amendment of division (I)(1) of section 5733.04 of the Revised Code by Am. Sub. H.B. 66 of the 126th general assembly.

(3) "Amortizable amount" means the disallowed net operating loss carryforward of a qualifying taxpayer to the extent such amount is shown as a deferred tax asset on the qualifying taxpayer's books and records on December 31, 2005, in accordance with generally accepted accounting principles, less any related valuation allowance accounts as shown on those books and records on that date.

(B) For tax year 2011 through tax year 2030, there is hereby allowed a refundable credit against the tax imposed under section 5733.06 of the Revised Code for qualifying taxpayers. The credit for each such tax year shall equal one-twentieth of the qualifying taxpayer's amortizable amount. The credit shall be claimed in the order prescribed by section 5733.98 of the Revised Code. If the amount of the credit exceeds the amount of such tax otherwise due after deducting all other credits, the excess shall be refunded to the taxpayer."

In line 62591, strike through "(B)" and insert "(C)(4)"

Between lines 62671 and 62672, insert:

**"Sec. 5733.09.** (A)(1) Except as provided in divisions (A)(2) and (3) of this section, an incorporated company, whether foreign or domestic, owning and operating a public utility in this state, and required by law to file reports with the tax commissioner and to pay an excise tax upon its gross receipts, and insurance, fraternal, beneficial, bond investment, and other corporations required by law to file annual reports with the superintendent of insurance and dealers in intangibles, the shares of which are, or the capital or ownership in capital employed by such dealer is, subject to the taxes imposed by section 5707.03 of the Revised Code, shall not be subject to this chapter, except for sections 5733.031, 5733.042, 5733.05, 5733.052, 5733.053, ~~5733.069~~, 5733.0611, 5733.40, 5733.41, and sections 5747.40 to 5747.453 of the Revised Code. However, for reports required to be filed under section 5725.14 of the Revised Code in 2003 and thereafter, nothing in this section shall be construed to exempt the property of any dealer in intangibles under section 5725.13 of the Revised Code from the tax imposed under section 5707.03 of the Revised Code.

(2) An electric company subject to the filing requirements of section 5727.08 of the Revised Code or otherwise having nexus with or in this state under the Constitution of the United States, or any other corporation having any gross receipts directly attributable to providing public utility service as an

electric company or having any property directly attributable to providing public utility service as an electric company, is subject to this chapter.

(3) A telephone company that no longer pays an excise tax under section 5727.30 of the Revised Code on its gross receipts billed after June 30, 2004, is first subject to taxation under this chapter for tax year 2005. For that tax year, a telephone company with a taxable year ending in 2004 shall compute the tax imposed under this chapter, and shall compute the net operating loss carry forward for tax year 2005, by multiplying the tax owed under this chapter, net of all nonrefundable credits, or the loss for the taxable year, by fifty per cent.

(B) A corporation that has made an election under subchapter S, chapter one, subtitle A, of the Internal Revenue Code for its taxable year under such code is exempt from the tax imposed by section 5733.06 of the Revised Code that is based on that taxable year.

A corporation that makes such an election shall file a notice of such election with the tax commissioner between the first day of January and the thirty-first day of March of each tax year that the election is in effect.

(C) An entity defined to be a "real estate investment trust" by section 856 of the Internal Revenue Code, a "regulated investment company" by section 851 of the Internal Revenue Code, or a "real estate mortgage investment conduit" by section 860D of the Internal Revenue Code, is exempt from taxation for a tax year as a corporation under this chapter and is exempt from taxation for a return year as a dealer in intangibles under Chapter 5725. of the Revised Code if it provides the report required by this division. By the last day of March of the tax or return year the entity shall submit to the tax commissioner the name of the entity with a list of the names, addresses, and social security or federal identification numbers of all investors, shareholders, and other similar investors who owned any interest or invested in the entity during the preceding calendar year. The commissioner may extend the date by which the report must be submitted for reasonable cause shown by the entity. The commissioner may prescribe the form of the report required for exemption under this division.

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

(a) "Commercial printer" means a person primarily engaged in the business of commercial printing. However, "commercial printer" does not include a person primarily engaged in the business of providing duplicating services using photocopy machines or other xerographic processes.

(b) "Commercial printing" means printing by one or more common processes such as letterpress, lithography, gravure, screen, or digital imaging, and includes related activities such as binding, platemaking, prepress operation, cartographic composition, and typesetting.

(c) "Contract for printing" means an oral or written agreement for the purchase of printed materials produced by a commercial printer.

(d) "Intangible property located at the premises of a commercial printer"

means intangible property of any kind owned or licensed by a customer of the commercial printer and furnished to the commercial printer for use in commercial printing.

(e) "Printed material" means any tangible personal property produced or processed by a commercial printer pursuant to a contract for printing.

(f) "Related member" has the same meaning as in section 5733.042 of the Revised Code without regard to division (B) of that section.

(2) Except as provided in divisions (D)(3) and (4) of this section, a corporation not otherwise subject to the tax imposed by section 5733.06 of the Revised Code for a tax year does not become subject to that tax for the tax year solely by reason of any one or more of the following occurring in this state during the taxable year that ends immediately prior to the tax year:

(a) Ownership by the corporation or a related member of the corporation of tangible personal property or intangible property located during all or any portion of the taxable year or on the first day of the tax year at the premises of a commercial printer with which the corporation or the corporation's related member has a contract for printing with respect to such property or the premises of a commercial printer's related member with which the corporation or the corporation's related member has a contract for printing with respect to such property;

(b) Sales by the corporation or a related member of the corporation of property produced at and shipped or distributed from the premises of a commercial printer with which the corporation or the corporation's related member has a contract for printing with respect to such property or the premises of a commercial printer's related member with which the corporation or the corporation's related member has a contract for printing with respect to such property;

(c) Activities of employees, officers, agents, or contractors of the corporation or a related member of the corporation on the premises of a commercial printer with which the corporation or the corporation's related member has a contract for printing or the premises of a commercial printer's related member with which the corporation or the corporation's related member has a contract for printing, where the activities are directly and solely related to quality control, distribution, or printing services, or any combination thereof, performed by or at the direction of the commercial printer or the commercial printer's related member.

(3) The exemption under this division does not apply for a taxable year to any corporation having on the first day of January of the tax year or at any time during the taxable year ending immediately preceding the first day of January of the tax year a related member which, on the first day of January of the tax year or during any portion of such taxable year of the corporation, has nexus in or with this state under the Constitution of the United States or holds a certificate of compliance with the laws of this state authorizing it to do business in this state.



(4) With respect to allowing the exemption under this division, the tax commissioner shall be guided by the doctrines of "economic reality," "sham transaction," "step transaction," and "substance over form." A corporation shall bear the burden of establishing by a preponderance of the evidence that any transaction giving rise to an exemption claimed under this division did not have as a principal purpose the avoidance of any portion of the tax imposed by section 5733.06 of the Revised Code.

Application of the doctrines listed in division (D)(4) of this section is not limited to this division.

**Sec. 5733.11.** (A) If any corporation required to file a report under this chapter fails to file the report within the time prescribed, files an incorrect report, or fails to remit the full amount of the tax due for the period covered by the report, the tax commissioner may make an assessment against the corporation for any deficiency for the period for which the report or tax is due, based upon any information in the commissioner's possession.

No assessment shall be made or issued against a corporation more than three years after the later of the final date the report subject to assessment was required to be filed or the date the report was filed. Such time limit may be extended if both the corporation and the commissioner consent in writing to the extension or if an agreement waiving or extending the time limit has been entered into pursuant to section 122.171 of the Revised Code. Any such extension shall extend the three-year time limit in division (B) of section 5733.12 of the Revised Code for the same period of time. There shall be no bar or limit to an assessment against a corporation that fails to file a report subject to assessment as required by this chapter, or that files a fraudulent report.

The commissioner shall give the corporation assessed written notice of the assessment in the manner provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition.

(B) Unless the corporation assessed files with the tax commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment, signed by the ~~corporation's~~ corporation's authorized agent having knowledge of the facts, the assessment becomes final, and the amount of the assessment is due and payable from the corporation assessed to the treasurer of state. The petition shall indicate the corporation's objections, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the corporation

has an office or place of business in this state, the county in which the corporation's statutory agent is located, or Franklin county.

Immediately upon the filing of the entry, the clerk shall enter a judgment against the corporation assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for state corporate franchise and litter taxes," and shall have the same effect as other judgments. Execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

The portion of an assessment not paid within sixty days after the day the assessment was issued shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the tax commissioner issues the assessment until the assessment is paid. Interest shall be paid in the same manner as the tax and may be collected by issuing an assessment under this section.

(D) All money collected under this section shall be considered as revenue arising from the taxes imposed by this chapter.

(E) The portion of an assessment that must be paid upon the filing of a petition for reassessment shall be as follows:

(1) If the sole item objected to is the assessed penalty or interest, payment of the assessment, including interest but not penalty, is required;

(2) If the corporation assessed failed to file, prior to the date of issuance of the assessment, the annual report required by section 5733.02 of the Revised Code, any amended report required by division (C) of section 5733.031 of the Revised Code for the tax year at issue, or any amended report required by division (D) of former section 5733.067 of the Revised Code to indicate a reduction in the amount of the credit provided under that section, payment of the assessment, including interest but not penalty, is required;

(3) If the corporation assessed filed, prior to the date of issuance of the assessment, the annual report required by section 5733.02 of the Revised Code, all amended reports required by division (C) of section 5733.031 of the Revised Code for the tax year at issue, and all amended reports required by division (D) of former section 5733.067 of the Revised Code to indicate a reduction in the amount of the credit provided under that section, and a balance of the taxes shown due on the reports as computed on the reports remains unpaid, payment of only that portion of the assessment representing the unpaid balance of tax and interest is required;

(4) If the corporation assessed does not dispute that it is a taxpayer but claims the protections of section 101 of Public Law 86-272, 73 Stat. 555, 15 U.S.C.A. 381, as amended, payment of only that portion of the assessment representing any balance of taxes shown due on the corporation's annual report required by section 5733.02 of the Revised Code, as computed on the report, that

remains unpaid, and that represents taxes imposed by division ~~(C)~~(B) or (D) of section 5733.06, division (C)(2) of section 5733.065, and division (C) of section 5733.066 of the Revised Code, together with all related interest, is required;

(5) If none of the conditions specified in divisions (E)(1) to (4) of this section apply, or if the corporation assessed disputes that it is a taxpayer, no payment is required.

(F) Notwithstanding the fact that a petition for reassessment is pending, the corporation may pay all or a portion of the assessment that is the subject of the petition. The acceptance of a payment by the treasurer of state does not prejudice any claim for refund upon final determination of the petition.

If upon final determination of the petition an error in the assessment is corrected by the tax commissioner, upon petition so filed or pursuant to a decision of the board of tax appeals or any court to which the determination or decision has been appealed, so that the amount due from the corporation under the corrected assessment is less than the portion paid, there shall be issued to the corporation, its assigns, or legal representative a refund in the amount of the overpayment as provided by section 5733.12 of the Revised Code, with interest on that amount as provided by section 5733.26 of the Revised Code, subject to section 5733.121 of the Revised Code.

**Sec. 5733.12.** (A) Four and two-tenths per cent of all payments received from the taxes imposed under sections 5733.06 and 5733.41 of the Revised Code shall be credited to the local government fund for distribution in accordance with section 5747.50 of the Revised Code, six-tenths of one per cent shall be credited to the local government revenue assistance fund for distribution in accordance with section 5747.61 of the Revised Code, and ninety-five and two-tenths per cent shall be credited to the general revenue fund.

(B) Except as otherwise provided under divisions (C) and (D) of this section, an application to refund to the corporation the amount of taxes imposed under section 5733.06 of the Revised Code that are overpaid, paid illegally or erroneously, or paid on any illegal, erroneous, or excessive assessment, with interest thereon as provided by section 5733.26 of the Revised Code, shall be filed with the tax commissioner, on the form prescribed by the commissioner, within three years from the date of the illegal, erroneous, or excessive payment of the tax, or within any additional period allowed by division (C)(2) of section 5733.031, ~~division (D)(2) of section 5733.067~~, or division (A) of section 5733.11 of the Revised Code. For purposes of division (B) of this section, any payment that the applicant made before the due date or extended due date for filing the report to which the payment relates shall be deemed to have been made on the due date or extended due date.

On the filing of the refund application, the commissioner shall determine the amount of refund to which the applicant is entitled. If the amount is not less than that claimed the commissioner shall certify the amount to the director of budget and management and treasurer of state for payment from the tax refund

fund created by section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.

(C) "Ninety days" shall be substituted for "three years" in division (B) of this section if the taxpayer satisfies both of the following:

(1) The taxpayer has applied for a refund based in whole or in part upon section 5733.0611 of the Revised Code;

(2) The taxpayer asserts that the imposition or collection of the tax imposed or charged by section 5733.06 of the Revised Code or any portion of such tax violates the Constitution of the United States or the Constitution of this state.

(D)(1) Division (D)(2) of this section applies only if all of the following conditions are satisfied:

(a) A qualifying pass-through entity pays an amount of the tax imposed by section 5733.41 of the Revised Code;

(b) The taxpayer is a qualifying investor as to that qualifying pass-through entity;

(c) The taxpayer did not claim the credit provided for in section 5733.0611 of the Revised Code as to the tax described in division (D)(1)(a) of this section;

(d) The three-year period described in division (B) of this section has ended as to the taxable year for which the taxpayer otherwise would have claimed that credit.

(2) A taxpayer shall file an application for refund pursuant to this division within one year after the date the payment described in division (D)(1)(a) of this section is made. An application filed under this division shall only claim refund of overpayments resulting from the taxpayer's failure to claim the credit described in division (D)(1)(c) of this section. Nothing in this division shall be construed to relieve a taxpayer from complying with the provisions of division (I)(14) of section 5733.04 of the Revised Code."

In line 62981, strike through "5733.31, 5733.311,"

In line 62982, strike through the comma

In line 63033, after "2004" delete the balance of the line

Delete line 63034

In line 63035, delete everything before the period

In line 63048, delete "A"

Delete lines 63049 through 63056

In line 63076, after "2004" delete the balance of the line

Delete line 63077

In line 63078, delete everything before the comma

In line 63093, after the period delete the balance of the line

Delete lines 63094 through 63097

Between lines 63123 and 63124, insert:

"**Sec. 5733.39.** (A) As used in this section:

(1) "Compliance facility" means property that is designed, constructed, or installed, and used, at a coal-fired electric generating facility for the primary purpose of complying with acid rain control requirements under Title IV of the "Clean Air Act Amendments of 1990," 104 Stat. 2584, 42 U.S.C.A. 7651, and that controls or limits emissions of sulfur or nitrogen compounds resulting from the combustion of coal through the removal or reduction of those compounds before, during, or after the combustion of the coal, but before the combustion products are emitted into the atmosphere. "Compliance facility" also includes any of the following:

(a) A facility that removes sulfur compounds from coal before the combustion of the coal and that is located off the premises of the electric generating facility where the coal processed by the compliance facility is burned;

(b) Modifications to the electric generating facility where the compliance facility is constructed or installed that are necessary to accommodate the construction or installation, and operation, of the compliance facility;

(c) A byproduct disposal facility, as defined in section 3734.051 of the Revised Code, that exclusively disposes of wastes produced by the compliance facility and other coal combustion byproducts produced by the generating unit in or to which the compliance facility is incorporated or connected regardless of whether the byproduct disposal facility is located on the same premises as the compliance facility or generating unit that produces the wastes disposed of at the facility;

(d) Facilities or equipment that is acquired, constructed, or installed, and used, at a coal-fired electric generating facility exclusively for the purpose of handling the byproducts produced by the compliance facility or other coal combustion byproducts produced by the generating unit in or to which the compliance facility is incorporated or connected;

(e) A flue gas desulfurization system that is connected to a coal-fired electric generating unit;

(f) Facilities or equipment acquired, constructed, or installed, and used, at a coal-fired electric generating unit primarily for the purpose of handling the byproducts produced by a compliance facility or other coal combustion byproducts produced by the generating unit in or to which the compliance facility is incorporated or connected.

(2) "Ohio coal" means coal mined from coal deposits in the ground that are located within this state, regardless of the location of the mine's tittle.

(3) "Sale and leaseback transaction" has the same meaning as in section 5727.01 of the Revised Code.

(B) An electric company shall be allowed a nonrefundable credit against the tax imposed by section 5733.06 of the Revised Code for Ohio coal used in any of its coal-fired electric generating units after April 30, 2001, but before January 1, ~~2008~~2006. Section 5733.057 of the Revised Code shall apply when calculating the credit allowed by this section. The credit shall be claimed at the following rates per ton of Ohio coal burned in a coal-fired electric generating unit during the taxable year ending immediately preceding the tax year: for tax years before tax year 2006, three dollars per ton; and for tax ~~years~~ year 2006; ~~2007, and 2008~~, one dollar per ton. The credit is allowed only if both of the following conditions are met during such taxable year:

(1) The coal-fired electric generating unit is owned and used by the company claiming the credit or leased and used by that company under a sale and leaseback transaction.

(2) A compliance facility is attached to, incorporated in, or used in conjunction with the coal-fired generating unit.

(C) The credit shall be claimed in the order required under section 5733.98 of the Revised Code. The taxpayer may carry forward any credit amount in excess of its tax due after allowing for any other credits that precede the credit allowed under this section in the order required under section 5733.98 of the Revised Code. The excess credit may be carried forward for three years following the tax year for which it is claimed under this section.

(D) The director of environmental protection, upon the request of the tax commissioner, shall certify whether a facility is a compliance facility. In the case of a compliance facility owned by an electric company, the public utilities commission shall certify to the tax commissioner the cost of the facility as of the date it was placed in service. In the case of a compliance facility owned by a person other than an electric company, the tax commissioner shall determine the cost of the facility as of the date it was placed in service. If the owner of such a facility fails to furnish the information necessary to make that determination, no credit shall be allowed."

In line 63284, delete "(A) or"; strike through "(B)" and insert "(A) or (C)"

In line 63390, strike through "division"

In line 63391, strike through "(A)(6) of"

In line 63394, strike through "division (A)(6) of"

Delete lines 63412 through 63481 and insert:

"**Sec. 5733.41.** The purpose of the tax imposed by this section is to

complement and to reinforce the tax imposed under section 5733.06 of the Revised Code.

For the same purposes for which the tax is levied under section 5733.06 of the Revised Code, there is hereby levied a tax on every qualifying pass-through entity having at least one qualifying investor that is not an individual. The tax imposed by this section is imposed on the sum of the adjusted qualifying amounts of the qualifying pass-through entity's qualifying investors that are not individuals at the rate specified in division ~~(B)(C)(4)~~ of section 5733.06 of the Revised Code that is in effect on the last day of the entity's taxable year.

The tax imposed by this section applies only if the qualifying entity has nexus with this state under the Constitution of the United States for any portion of the qualifying entity's qualifying taxable year, and the sum of the qualifying entity's adjusted qualifying amounts exceeds one thousand dollars for the qualifying entity's qualifying taxable year. This section does not apply to a pass-through entity if all of the partners, shareholders, members, or investors of the pass-through entity are taxpayers for the purposes of section 5733.04 of the Revised Code without regard to section 5733.09 of the Revised Code for the entire qualifying taxable year of the pass-through entity.

If, prior to the due date of the return, a qualifying pass-through entity receives from an investor a written representation, under penalties of perjury, that the investor is described in division (I)(1), (2), (6), (7), (8), or (9) of section 5733.40 of the Revised Code for the qualifying pass-through entity's entire qualifying taxable year, the qualifying pass-through entity is not required to withhold or pay the taxes or estimated taxes imposed under this section or sections 5747.41 to 5747.453 of the Revised Code with respect to that investor for that qualifying taxable year, and is not subject to any interest or interest penalties for failure to withhold or pay those taxes or estimated taxes with respect to that investor for that qualifying taxable year.

If, prior to the due date of the return, a qualifying trust receives from a beneficiary of that trust a written representation, under penalties of perjury, that the beneficiary is a resident taxpayer for the purposes of Chapter 5747. of the Revised Code for the qualifying trust's entire qualifying taxable year, the qualifying trust is not required to withhold or pay the taxes or estimated taxes imposed under this section or sections 5747.41 to 5747.453 of the Revised Code with respect to that beneficiary for that qualifying taxable year, and is not subject to any interest or interest penalties for failure to withhold or pay those taxes or estimated taxes with respect to that beneficiary for that qualifying taxable year.

The tax commissioner may adopt rules for the purpose of the tax levied by this section or section 5747.41 of the Revised Code, including a rule defining "qualifying investor" or "qualifying beneficiary", and a rule requiring or permitting a qualifying entity to combine its income with related members and to pay the tax and estimated tax on a combined basis.

Sections 5747.10 to 5747.19 and 5747.42 to 5747.453 of the Revised

Code apply to a qualifying entity subject to the tax imposed under this section.

The levy of the tax under this section does not prevent a municipal corporation or a joint economic development district created under section 715.70 or 715.71 or sections 715.72 to 715.81 of the Revised Code from levying a tax on income."

Delete lines 63525 through 63613 and insert:

"**Sec. 5733.98.** (A) To provide a uniform procedure for calculating the amount of tax imposed by section 5733.06 of the Revised Code that is due under this chapter, a taxpayer shall claim any credits to which it is entitled in the following order, except as otherwise provided in section 5733.058 of the Revised Code:

(1) The credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code;

(2) The credit allowed for financial institutions under section 5733.45 of the Revised Code;

~~(3) The credit for qualifying affiliated groups under section 5733.068 of the Revised Code;~~

~~(4) The subsidiary corporation credit under section 5733.067 of the Revised Code;~~

~~(5) The savings and loan assessment credit under section 5733.063 of the Revised Code;~~

~~(6) The credit for recycling and litter prevention donations under section 5733.064 of the Revised Code;~~

~~(7) The credit for employers that enter into agreements with child day care centers under section 5733.36 of the Revised Code;~~

~~(8) The credit for employers that reimburse employee child care expenses under section 5733.38 of the Revised Code;~~

~~(9) The credit for maintaining railroad active grade crossing warning devices under section 5733.43 of the Revised Code;~~

~~(10) The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;~~

~~(11) The job retention credit under division (B) of section 5733.0610 of the Revised Code;~~

~~(12)~~(4) The credit for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a nonrefundable credit under section 150.07 of the Revised Code;

~~(13) The credit for purchases of new manufacturing machinery and~~



~~equipment under section 5733.31 or section 5733.311 of the Revised Code;~~

~~(14)(5) The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;~~

~~(15) The job training credit under section 5733.42 of the Revised Code;~~

~~(16)(6) The credit for qualified research expenses under section 5733.351 of the Revised Code;~~

~~(17)(7) The enterprise zone credit under section 5709.66 of the Revised Code;~~

~~(18) The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;~~

~~(19) The credit for employers that establish on-site child day care centers under section 5733.37 of the Revised Code;~~

~~(20) The ethanol plant investment credit under section 5733.46 of the Revised Code;~~

~~(21) The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;~~

~~(22) The export sales credit under section 5733.069 of the Revised Code;~~

~~(23)(8) The credit for research and development and technology transfer investors under section 5733.35 of the Revised Code;~~

~~(24) The enterprise zone credits under section 5709.65 of the Revised Code;~~

~~(25)(9) The credit for using Ohio coal under section 5733.39 of the Revised Code;~~

~~(26)(10) The research and development credit under section 5733.352 of the Revised Code;~~

~~(27)(11) The credit for small telephone companies under section 5733.57 of the Revised Code;~~

~~(28)(12) The credit for eligible nonrecurring 9-1-1 charges under section 5733.55 of the Revised Code;~~

~~(29)(13) The credit for providing programs to aid the communicatively impaired under section 5733.56 of the Revised Code;~~

~~(30) The refundable jobs creation credit under division (A) of section 5733.0610 of the Revised Code;~~

~~(31)(14) The refundable credit for tax withheld under division (B)(2) of section 5747.062 of the Revised Code;~~

~~(32)(15) The credit for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer~~

elected a refundable credit under section 150.07 of the Revised Code;

(16) The refundable credit for disallowed net operating loss carryforwards under section 5733.061 of the Revised Code.

(B) For any credit except the credits enumerated in divisions (A)(30), (31), and (32)(14), (15), and (16) of this section, the amount of the credit for a tax year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit."

In line 63925, after "vendor" delete the balance of the line

In line 63926, delete "Chapter 5751. of the Revised Code"

In line 63974, after the period delete the balance of the line

Delete lines 63975 through 63977

In line 69634, after "goodwill" insert ", and includes any other income that is apportionable to the extent allowed under the constitution of the United States"

Between lines 70745 and 70746, insert:

**"Sec. 5747.21.** (A) This section applies solely for the purposes of computing the credit allowed under division (A) of section 5747.05 of the Revised Code;and computing income taxable in this state under division (D) of section 5747.08 of the Revised Code,~~and computing the credit allowed under section 5747.057 of the Revised Code.~~

(B) Except as otherwise provided under sections 5747.211 and 5747.212 of the Revised Code, all items of business income and business deduction shall be apportioned to this state by multiplying the adjusted gross income by the fraction calculated under division (B)(2) of section 5733.05 and section 5733.057 of the Revised Code ~~as if the taxpayer's business were a corporation subject to the tax imposed by section 5733.06 of the Revised Code.~~

(C) If the allocation and apportionment provisions of sections 5747.20 to 5747.23 of the Revised Code or of any rule adopted by the tax commissioner, do not fairly represent the extent of business activity in this state of a taxpayer or pass-through entity, the taxpayer or pass-through entity may request, which request must be in writing accompanying the return or amended return, or the tax commissioner may require, in respect of all or any part of the business activity, if reasonable, any one or more of the following:

(1) Separate accounting;

(2) The exclusion of one or more factors;

(3) The inclusion of one or more additional factors which will fairly represent the business activity in this state;

(4) The employment of any other method to effectuate an equitable allocation of such business in this state. An alternative method will be effective only with approval of the tax commissioner.

The tax commissioner may adopt rules in the manner provided by sections 5703.14 and 5747.18 of the Revised Code providing for alternative methods of calculating business income and nonbusiness income applicable to all taxpayers and pass-through entities, to classes of taxpayers and pass-through entities, or only to taxpayers and pass-through entities within a certain industry.

**Sec. 5747.211.** This section applies solely for the purpose of computing the credit allowed under division (A) of section 5747.05 of the Revised Code;~~and computing income taxable in this state under division (D) of section 5747.08 of the Revised Code, and computing the credit allowed under section 5747.057 of the Revised Code.~~ In lieu of sections 5747.20 and 5747.21 of the Revised Code, all items of business income or business deductions earned by a financial institution as defined in section 5725.01 of the Revised Code shall be apportioned to this state as required under section 5733.056 of the Revised Code."

Delete lines 70746 through 70784 and insert:

**"Sec. 5747.212.** This section applies solely for the purpose of computing the credit allowed under division (A) of section 5747.05 of the Revised Code;~~and computing income taxable in this state under division (D) of section 5747.08 of the Revised Code, and computing the credit allowed under section 5747.057 of the Revised Code.~~

A pass-through entity investor that owns, directly or indirectly, at least twenty per cent of the pass-through entity at any time during the current taxable year or either of the two preceding taxable years shall apportion any income, including gain or loss, realized from the sale, exchange, or other disposition of a debt or equity interest in the entity as prescribed in this section. For such purposes, in lieu of using the method prescribed by sections 5747.20 and 5747.21 of the Revised Code, the investor shall apportion the income using the average of the pass-through entity's apportionment fractions otherwise applicable under section 5747.21 of the Revised Code for the current and two preceding taxable years. If the pass-through entity was not in business for one or more of those years, each year that the entity was not in business shall be excluded in determining the average.

**Sec. 5747.31.** (A) This section applies to an individual or estate that is a proprietor or a pass-through entity investor.

(B) A taxpayer described in division (A) of this section is allowed a credit that shall be computed and claimed in the same manner as the credit allowed to corporations in section 5733.33 of the Revised Code. The taxpayer shall claim one-seventh of the credit amount for the calendar year in which the new manufacturing machinery and equipment is purchased for use in the county by the taxpayer or partnership. One-seventh of the taxpayer credit amount is

allowed for each of the six ensuing taxable years. The taxpayer shall claim the credit in the order required under section 5747.98 of the Revised Code.

The taxpayer shall file with the department of development a notice of intent to claim the credit in accordance with division (E) of section 5733.33 of the Revised Code.

~~(C)(1) A taxpayer described in division (A) of this section is allowed a credit that shall be computed in the same manner as the credit allowed to a corporation in section 5733.39 of the Revised Code, with the following adjustments:~~

~~(a) Substitute "taxable year" for "tax year" wherever "tax year" appears in section 5733.39 of the Revised Code;~~

~~(b) Substitute "5747.02" for "5733.06" wherever "5733.06" appears in section 5733.39 of the Revised Code;~~

~~(c) Substitute "5747.98" for "5733.98" wherever "5733.98" appears in section 5733.39 of the Revised Code;~~

~~(d) The credit allowed under division (C) of this section shall be subject to the same disallowance for the carryover or carryback of any unused credit as provided in division (C) of section 5733.39 of the Revised Code.~~

~~(2) Notwithstanding section 5703.56 of the Revised Code to the contrary, a taxpayer claiming a credit under this division has the burden of establishing by a preponderance of the evidence that the doctrines enumerated in section 5703.56 of the Revised Code do not apply with respect to the credit provided by this division.~~

~~(D) Nothing in this section shall be construed to limit or disallow pass-through treatment of a pass-through entity's income, deductions, credits, or other amounts necessary to compute the tax imposed by section 5747.02 of the Revised Code and the credits allowed by this chapter."~~

In line 70810, delete "Any credit"

Delete lines 70811 through 70814

Delete lines 70947 through 71043 and insert:

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

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

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

(3) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;

- (4) The dependent care credit under section 5747.054 of the Revised Code;
- (5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;
- (6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;
- (7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;
- (8) The low-income credit under section 5747.056 of the Revised Code;
- ~~(9)~~ (9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;
- ~~(9)~~(10) The campaign contribution credit under section 5747.29 of the Revised Code;
- ~~(10)~~(11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;
- ~~(11)~~(12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;
- ~~(12)~~(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;
- ~~(13)~~(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;
- ~~(14)~~The credit for employers that enter into agreements with child day care centers under section 5747.34 of the Revised Code;
- ~~(15)~~ The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;
- ~~(16)~~(15) The credit for adoption of a minor child under section 5747.37 of the Revised Code;
- ~~(17)~~ The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;
- ~~(18)~~ The job retention credit under division (B) of section 5747.058 of the Revised Code;
- ~~(19)~~(16) The credit for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a nonrefundable credit under section 150.07 of the Revised Code;
- ~~(20)~~ The credit for purchases of new manufacturing machinery and equipment under section 5747.26 or section 5747.261 of the Revised Code;

~~(24)~~(17) The second credit for purchases of new manufacturing machinery and equipment ~~and the credit for using Ohio coal under section 5747.31 of the Revised Code;~~

~~(22)~~ The job training credit under section 5747.39 of the Revised Code;

~~(23)~~(18) The enterprise zone credit under section 5709.66 of the Revised Code;

~~(24)~~ The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;

~~(25)~~ The credit for employers that establish on-site child day care centers under section 5747.35 of the Revised Code;

~~(26)~~ The ethanol plant investment credit under section 5747.75 of the Revised Code;

~~(27)~~ The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;

~~(28)~~ The export sales credit under section 5747.057 of the Revised Code;

~~(29)~~(19) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;

~~(30)~~(20) The enterprise zone credits under section 5709.65 of the Revised Code;

~~(31)~~(21) The research and development credit under section 5747.331 of the Revised Code;

~~(32)~~ The refundable jobs creation credit under division (A) of section 5747.058 of the Revised Code;

~~(33)~~(22) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;

~~(34)~~(23) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;

~~(35)~~(24) The refundable credit for tax withheld under division (B)(1) of section 5747.062 of the Revised Code;

~~(36)~~(25) The credit for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a refundable credit under section 150.07 of the Revised Code.

(B) For any credit, except the credits enumerated in divisions (A)~~(32) to (36)~~(22) to (25) of this section and the credit granted under division (I) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may

be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year."

Delete lines 71194 through 73361

In line 74194, after "122.011," insert "122.16,"

In line 74199, delete "140.08,"

In line 74205, after "742.59," insert "901.13,"

In line 74275, delete "5703.052, 5703.053,"; delete "5703.50, 5703.70,"

In line 74276, after "5705.391," insert "5709.65,"

In line 74282, after "5733.01," insert "5733.04, 5733.042, 5733.05, 5733.052, 5733.053, 5733.055, 5733.056, 5733.059, 5733.06,"; after "5733.066," insert "5733.09, 5733.11, 5733.12,"

In line 74283, after "5733.352," insert "5733.39,"

In line 74289, after "5747.08," insert "5747.21, 5747.211,"

In line 74290, after "5747.212," insert "5747.31,"

In line 74301, after "5731.20," insert "5733.061, 5733.067, 5733.068, 5733.069, 5733.0610,"; after "5733.122," insert "5733.31, 5733.311, 5733.32, 5733.34, 5733.36, 5733.37, 5733.38, 5733.43, 5733.44, 5733.46, 5747.057, 5747.058, 5747.28, 5747.32, 5747.34, 5747.35, 5747.36, 5747.38, 5747.75,"

Delete lines 78864 through 78873

In line 78874, after "**206.09.63.**" delete the balance of the line

Delete lines 78875 through 78881

Delete lines 85955 through 85963

Delete lines 86306 and 86306a

In lines 86315 and 86321, subtract \$6,000,000 from fiscal year 2006 and \$500,000 from fiscal year 2007

Delete lines 86431 through 86435

Delete lines 88871 through 88898

Delete lines 89433 through 89458

Between lines 89479 and 89480, insert:

**"Section \_\_\_\_.** (A) The repeal by this act of sections 5733.0610 and 5747.058 of the Revised Code does not prohibit a taxpayer that has entered into an agreement under section 122.17 or 122.171 of the Revised Code on or before the effective date of the amendment by this act of those latter sections from claiming credits under section 5733.0610 or 5747.058 of the Revised Code, as it existed immediately before that effective date, for the number of years provided

in the agreement. Any such credit shall be deducted from the tax as computed under section 5733.06 of the Revised Code, as amended by this act, or under Chapter 5747. of the Revised Code. Divisions (E) and (K) of section 122.17 and divisions (F) and (J) of section 122.171 of the Revised Code, as amended by this act, and as applicable to the taxpayer, continues to apply after the effective date of this act to any taxpayer otherwise entitled to claim the credit under the authority of this division. No credit may be claimed under the authority of this division by a taxpayer that, on or after the effective date of this act, relocates employment positions in violation of the provision of the agreement required under division (D)(8)(a) of section 122.17 or division (D)(8)(a) of section 122.171 of the Revised Code.

(B) The repeal by this act of section 5733.32 of the Revised Code applies to tax year 2006 and thereafter, and the repeal by this act of section 5747.28 of the Revised Code applies to taxable years beginning after December 31, 2005. The repeal does not prohibit a taxpayer qualified to deduct unused credit amounts carried over from a prior year under that section as it existed immediately before the effective date of this act from deducting the carried-forward amount, as otherwise provided in that section, in tax year 2006 or thereafter in the case of a credit allowed under 5733.32 of the Revised Code, or for a taxable year beginning after December 31, 2005, in the case of a credit allowed under section 5747.28 of the Revised Code. In the case of a credit claimed under section 5733.32 of the Revised Code, any such carried-forward amount applied to tax year 2006 or thereafter shall be deducted from the tax as computed under section 5733.06 of the Revised Code, as amended by this act. If the amount of the carried-forward amount exceeds the amount of tax as so computed for tax year 2006, the excess shall be carried forward and applied to subsequent tax years in a similar fashion until the credit has been fully applied, provided that no amount may be carried forward for more than seven tax years after the first year in which the credit was claimed. In the case of a credit claimed under section 5747.28 of the Revised Code, any such carried-forward amount applied to a taxable year beginning after December 31, 2005, shall be deducted from the amount of tax as computed under Chapter 5747. of the Revised Code for the first such taxable year. If the carried-forward amount exceeds the amount of tax as so computed for that year, the excess shall be carried forward and applied to the tax due for subsequent taxable years in a similar fashion until the credit has been fully applied, provided that no amount may be carried forward for more than seven taxable years after the first year the credit was claimed.

(C) The amendment by this act of section 122.16 and the repeal by this act of sections 5733.34 and 5747.32 of the Revised Code do not prohibit a taxpayer from claiming the credit under section 5733.34 or 5747.32 of the Revised Code as that section existed immediately before the effective date of this act for the number of years provided in the agreement, including unused credit amounts carried forward from a prior year. In the case of a credit claimed under section 5733.34 of the Revised Code, any such credit or carried-forward amount applied to tax year 2006 or thereafter shall be deducted from the tax as



computed under section 5733.06 of the Revised Code, as amended by this act, as applicable to the taxpayer. If the amount of the credit or carried-forward amount exceeds the amount of tax as so computed for tax year 2006, the excess shall be carried forward and applied to subsequent tax years in a similar fashion until the credit has been fully applied. Any such carried-forward amount applied to a taxable year beginning after December 31, 2005, shall be deducted from the amount of tax as computed under Chapter 5747. of the Revised Code for the first such taxable year. If the carried-forward amount exceeds the amount of tax as so computed for that year, the excess shall be carried forward and applied to the tax due for subsequent taxable years in a similar fashion until the credit has been fully applied.

(D) The repeal by this act of sections 5733.37 and 5747.35 of the Revised Code does not prohibit a taxpayer from deducting any unused credit that may be carried forward from a prior tax year to tax year 2006 or thereafter in the case of a credit allowed under section 5733.37 of the Revised Code, or from a prior taxable year to a taxable year beginning after December 31, 2005, in the case of a credit allowed under section 5747.35 of the Revised Code. In the case of a credit allowed under section 5733.37 of the Revised Code, any unused credit carried forward to tax year 2006 or thereafter under this division shall be deducted from the tax as computed under section 5733.06 of the Revised Code, as amended by this act. If the carried-forward amount exceeds the amount of tax as so computed for tax year 2006, the excess shall be carried forward and applied to subsequent tax years in a similar fashion until the credit has been fully applied, provided that the credit shall not be carried forward for more than five tax years after the tax year in which the credit was first claimed. In the case of a credit allowed under section 5747.35 of the Revised Code, any unused credit carried forward to a taxable year beginning after December 31, 2005, shall be deducted from the amount of tax as computed under Chapter 5747. of the Revised Code for the first such taxable year. If the carried-forward amount exceeds the amount of tax as so computed for that year, the excess shall be carried forward and applied to the tax due for subsequent taxable years in a similar fashion until the credit has been fully applied, provided that no amount may be carried forward for more than five taxable years after the first year the credit was claimed.

If a taxpayer or pass-through entity disposes of the day-care center or ceases to operate it at any time during the five-year period, the taxpayer or pass-through entity investor shall not carry forward any credit in connection with that property in the taxable year of disposal or cessation or any ensuing taxable year.

(E) A corporation subject to the tax computed under section 5733.06 of the Revised Code, as amended by this act, and entitled to carry forward to tax year 2006 an unused credit amount from a prior tax year from a credit allowed under section 5733.39 of the Revised Code may apply the unused credit amount to the tax as computed under section 5733.06 of the Revised Code as amended by this act. Any such carried-forward amount applied to tax year 2006 or

thereafter shall be deducted from the tax as computed under section 5733.06 of the Revised Code, as amended by this act. If the amount of the credit or carried-forward amount exceeds the amount of tax as so computed for tax year 2006, the excess may be carried forward and applied to subsequent tax years in a similar fashion until the credit has been fully applied, provided that the credit shall not be carried forward for more than three years following the tax year in which the credit was first claimed.

(F) The repeal by this act of section 5733.46 of the Revised Code applies to tax years 2006 and thereafter. No credit may be claimed under that section for tax year 2006 or thereafter, but unused credit amounts carried forward from a tax year prior to tax year 2006 may be claimed in tax year 2006 or thereafter to the extent allowed under that section as it existed immediately before the effective date of this act. Any such carried-forward amounts applied to tax year 2006 or thereafter shall be deducted from the tax as computed under section 5733.06 of the Revised Code, as amended by this act. If the amount of the credit or carried-forward amount exceeds the amount of tax as so computed for tax year 2006, the excess shall be carried forward and applied to subsequent tax years in a similar fashion until the credit has been fully applied, provided that any carried-forward amount shall not be carried forward for more than three years after the credit was first claimed.

The repeal by this act of section 5747.75 of the Revised Code applies to taxable years beginning after December 31, 2005. No credit may be claimed for money invested in a certified ethanol plant during a taxable year beginning after that date, but unused credit amounts carried forward from a prior taxable year may be claimed for a taxable year beginning after that date as allowed by that section as it existed before its repeal by this act. No amount may be carried forward under this division for more than three years after the first year the credit was claimed.

(G) The repeal by this act of sections 5733.069, 5733.38, 5733.43, and 5733.44 of the Revised Code applies to tax years 2006 and thereafter; no credit may be claimed under those sections for tax year 2006 or thereafter.

(H) The repeal by this act of sections 5747.057, 5747.36, and 5747.38 of the Revised Code applies to taxable years beginning after December 31, 2005; no credit may be claimed under any of those sections for a taxable year beginning after that date.

**Section \_\_\_\_.** (A) The amendment by this act of sections 122.171, 5733.04, 5733.042, 5733.05, 5733.052, 5733.053, 5733.056, 5733.11, 5733.41, and 5733.98 of the Revised Code applies to tax year 2006 and each tax year thereafter.

(B) The amendment by this act of sections 5747.01, 5747.31, and 5747.98 of the Revised Code applies to taxable years beginning on or after January 1, 2006.

**Section \_\_\_\_.** The amendment by this act of section 5733.40 of the

Revised Code applies to qualifying taxable years of a qualifying entity, as defined in section 5733.40 of the Revised Code, ending on or after the effective date of this act.

**Section \_\_\_\_.** The enactment by this act of sections 5733.023 and 5733.044 of the Revised Code applies to tax year 2006 and each tax year thereafter.

**Section \_\_\_\_.** The repeal by this act of sections 5733.069, 5733.0610, 5733.31, 5733.311, 5733.32, 5733.34, 5733.36, 5733.37, 5733.38, 5733.43, 5733.44, and 5733.46 of the Revised Code applies to tax year 2006 and each tax year thereafter.

**Section \_\_\_\_.** The repeal and reenactment by this act of section 5733.061 of the Revised Code applies to tax year 2006 and each tax year thereafter."

In line 89694, delete "5703.052, 5703.053,"; delete "5703.50, 5703.70,"

In line 89707, after "5747.98," insert "and"; after "5747.99," delete the balance of the line

Delete lines 89708 through 89711

In line 4 of the title, after "122.011," insert "122.16,"

In line 10 of the title, delete "140.08,"

In line 18 of the title, after "742.59," insert "901.13,"

In line 114 of the title, delete "5703.052, 5703.053,"

In line 115 of the title, delete "5703.50, 5703.70,"

In line 116 of the title, after "5705.391," insert "5709.65,"

In line 124 of the title, after "5733.01," insert "5733.04, 5733.042, 5733.05, 5733.052, 5733.053, 5733.055, 5733.056, 5733.059, 5733.06,"

In line 125 of the title, after "5733.066," insert "5733.09, 5733.11, 5733.12,"; after "5733.352," insert "5733.39,"

In line 135 of the title, after "5747.08," insert "5747.21, 5747.211,"; after "5747.212," insert "5747.31,"

In line 156 of the title, delete the first "and"; after "5123.048," insert "and 5733.061"

In line 201 of the title, after "5729.032," insert "5733.023, 5733.044,"

In line 203 of the title, after "5747.056," delete the balance of the line

Deletes lines 204 through 208 of the title

In line 209 of the title, delete "5751.98, 5751.99,"

In line 220 of the title, after "5731.20," insert "5733.061, 5733.067, 5733.068, 5733.069, 5733.0610,"; after "5733.122," insert "5733.31, 5733.311,"

5733.32, 5733.34, 5733.36, 5733.37, 5733.38, 5733.43, 5733.44, 5733.46, 5747.057, 5747.058, 5747.28, 5747.32, 5747.34, 5747.35, 5747.36, 5747.38, 5747.75,"

In line 259, after "131.23," insert "133.01,"

In line 263, after "319.20," insert "319.29,"

In line 286, after "3317.51, insert "3318.011,"; after "3318.33," insert "3318.42,"

In line 334, after "5552.01," insert "5701.08,"

In line 336, after "5705.19," insert "5705.34,"; after "5705.391," insert "5709.01, 5709.61, 5709.62, 5709.63, 5709.64, 5709.88, 5711.01, 5711.02, 5711.13,"

In line 338, after "5727.12," insert "5727.15,"

Between lines 6805 and 6806, insert:

**"Sec. 133.01.** As used in this chapter, in sections 9.95, 9.96, and 2151.655 of the Revised Code, in other sections of the Revised Code that make reference to this chapter unless the context does not permit, and in related proceedings, unless otherwise expressly provided:

(A) "Acquisition" as applied to real or personal property includes, among other forms of acquisition, acquisition by exercise of a purchase option, and acquisition of interests in property, including, without limitation, easements and rights-of-way, and leasehold and other lease interests initially extending or extendable for a period of at least sixty months.

(B) "Anticipatory securities" means securities, including notes, issued in anticipation of the issuance of other securities.

(C) "Board of elections" means the county board of elections of the county in which the subdivision is located. If the subdivision is located in more than one county, "board of elections" means the county board of elections of the county that contains the largest portion of the population of the subdivision or that otherwise has jurisdiction in practice over and customarily handles election matters relating to the subdivision.

(D) "Bond retirement fund" means the bond retirement fund provided for in section 5705.09 of the Revised Code, and also means a sinking fund or any other special fund, regardless of the name applied to it, established by or pursuant to law or the proceedings for the payment of debt charges. Provision may be made in the applicable proceedings for the establishment in a bond retirement fund of separate accounts relating to debt charges on particular securities, or on securities payable from the same or common sources, and for the application of moneys in those accounts only to specified debt charges on specified securities or categories of securities. Subject to law and any provisions in the applicable proceedings, moneys in a bond retirement fund or separate

account in a bond retirement fund may be transferred to other funds and accounts.

(E) "Capitalized interest" means all or a portion of the interest payable on securities from their date to a date stated or provided for in the applicable legislation, which interest is to be paid from the proceeds of the securities.

(F) "Chapter 133. securities" means securities authorized by or issued pursuant to or in accordance with this chapter.

(G) "County auditor" means the county auditor of the county in which the subdivision is located. If the subdivision is located in more than one county, "county auditor" means the county auditor of the county that contains the highest amount of the tax valuation of the subdivision or that otherwise has jurisdiction in practice over and customarily handles property tax matters relating to the subdivision. In the case of a county that has adopted a charter, "county auditor" means the officer who generally has the duties and functions provided in the Revised Code for a county auditor.

(H) "Credit enhancement facilities" means letters of credit, lines of credit, stand-by, contingent, or firm securities purchase agreements, insurance, or surety arrangements, guarantees, and other arrangements that provide for direct or contingent payment of debt charges, for security or additional security in the event of nonpayment or default in respect of securities, or for making payment of debt charges to and at the option and on demand of securities holders or at the option of the issuer or upon certain conditions occurring under put or similar arrangements, or for otherwise supporting the credit or liquidity of the securities, and includes credit, reimbursement, marketing, remarketing, indexing, carrying, interest rate hedge, and subrogation agreements, and other agreements and arrangements for payment and reimbursement of the person providing the credit enhancement facility and the security for that payment and reimbursement.

(I) "Current operating expenses" or "current expenses" means the lawful expenditures of a subdivision, except those for permanent improvements and for payments of debt charges of the subdivision.

(J) "Debt charges" means the principal, including any mandatory sinking fund deposits and mandatory redemption payments, interest, and any redemption premium, payable on securities as those payments come due and are payable. The use of "debt charges" for this purpose does not imply that any particular securities constitute debt within the meaning of the Ohio Constitution or other laws.

(K) "Financing costs" means all costs and expenses relating to the authorization, including any required election, issuance, sale, delivery, authentication, deposit, custody, clearing, registration, transfer, exchange, fractionalization, replacement, payment, and servicing of securities, including, without limitation, costs and expenses for or relating to publication and printing, postage, delivery, preliminary and final official statements, offering circulars, and informational statements, travel and transportation, underwriters, placement

agents, investment bankers, paying agents, registrars, authenticating agents, remarketing agents, custodians, clearing agencies or corporations, securities depositories, financial advisory services, certifications, audits, federal or state regulatory agencies, accounting and computation services, legal services and obtaining approving legal opinions and other legal opinions, credit ratings, redemption premiums, and credit enhancement facilities. Financing costs may be paid from any moneys available for the purpose, including, unless otherwise provided in the proceedings, from the proceeds of the securities to which they relate and, as to future financing costs, from the same sources from which debt charges on the securities are paid and as though debt charges.

(L) "Fiscal officer" means the following, or, in the case of absence or vacancy in the office, a deputy or assistant authorized by law or charter to act in the place of the named officer, or if there is no such authorization then the deputy or assistant authorized by legislation to act in the place of the named officer for purposes of this chapter, in the case of the following subdivisions:

- (1) A county, the county auditor;
- (2) A municipal corporation, the city auditor or village clerk or clerk-treasurer, or the officer who, by virtue of a charter, has the duties and functions provided in the Revised Code for the city auditor or village clerk or clerk-treasurer;
- (3) A school district, the treasurer of the board of education;
- (4) A regional water and sewer district, the secretary of the board of trustees;
- (5) A joint township hospital district, the treasurer of the district;
- (6) A joint ambulance district, the clerk of the board of trustees;
- (7) A joint recreation district, the person designated pursuant to section 755.15 of the Revised Code;
- (8) A detention facility district or a district organized under section 2151.65 of the Revised Code or a combined district organized under sections 2152.41 and 2151.65 of the Revised Code, the county auditor of the county designated by law to act as the auditor of the district;
- (9) A township, a fire district organized under division (C) of section 505.37 of the Revised Code, or a township police district, the clerk of the township;
- (10) A joint fire district, the clerk of the board of trustees of that district;
- (11) A regional or county library district, the person responsible for the financial affairs of that district;
- (12) A joint solid waste management district, the fiscal officer appointed by the board of directors of the district under section 343.01 of the Revised Code;

(13) A joint emergency medical services district, the person appointed as fiscal officer pursuant to division (D) of section 307.053 of the Revised Code;

(14) A fire and ambulance district, the person appointed as fiscal officer under division (B) of section 505.375 of the Revised Code;

(15) A subdivision described in division (MM)(17) of this section, the officer who is designated by law as or performs the functions of its chief fiscal officer.

(M) "Fiscal year" has the same meaning as in section 9.34 of the Revised Code.

(N) "Fractionalized interests in public obligations" means participations, certificates of participation, shares, or other instruments or agreements, separate from the public obligations themselves, evidencing ownership of interests in public obligations or of rights to receive payments of, or on account of, principal or interest or their equivalents payable by or on behalf of an obligor pursuant to public obligations.

(O) "Fully registered securities" means securities in certificated or uncertificated form, registered as to both principal and interest in the name of the owner.

(P) "Fund" means to provide for the payment of debt charges and expenses related to that payment at or prior to retirement by purchase, call for redemption, payment at maturity, or otherwise.

(Q) "General obligation" means securities to the payment of debt charges on which the full faith and credit and the general property taxing power, including taxes within the tax limitation if available to the subdivision, of the subdivision are pledged.

(R) "Interest" or "interest equivalent" means those payments or portions of payments, however denominated, that constitute or represent consideration for forbearing the collection of money, or for deferring the receipt of payment of money to a future time.

(S) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1 et seq., as amended, and includes any laws of the United States providing for application of that code.

(T) "Issuer" means any public issuer and any nonprofit corporation authorized to issue securities for or on behalf of any public issuer.

(U) "Legislation" means an ordinance or resolution passed by a majority affirmative vote of the then members of the taxing authority unless a different vote is required by charter provisions governing the passage of the particular legislation by the taxing authority.

(V) "Mandatory sinking fund redemption requirements" means amounts required by proceedings to be deposited in a bond retirement fund for the

purpose of paying in any year or fiscal year by mandatory redemption prior to stated maturity the principal of securities that is due and payable, except for mandatory prior redemption requirements as provided in those proceedings, in a subsequent year or fiscal year.

(W) "Mandatory sinking fund requirements" means amounts required by proceedings to be deposited in a year or fiscal year in a bond retirement fund for the purpose of paying the principal of securities that is due and payable in a subsequent year or fiscal year.

(X) "Net indebtedness" has the same meaning as in division (A) of section 133.04 of the Revised Code.

(Y) "Obligor," in the case of securities or fractionalized interests in public obligations issued by another person the debt charges or their equivalents on which are payable from payments made by a public issuer, means that public issuer.

(Z) "One purpose" relating to permanent improvements means any one permanent improvement or group or category of permanent improvements for the same utility, enterprise, system, or project, development or redevelopment project, or for or devoted to the same general purpose, function, or use or for which self-supporting securities, based on the same or different sources of revenues, may be issued or for which special assessments may be levied by a single ordinance or resolution. "One purpose" includes, but is not limited to, in any case any off-street parking facilities relating to another permanent improvement, and:

(1) Any number of roads, highways, streets, bridges, sidewalks, and viaducts;

(2) Any number of off-street parking facilities;

(3) In the case of a county, any number of permanent improvements for courthouse, jail, county offices, and other county buildings, and related facilities;

(4) In the case of a school district, any number of facilities and buildings for school district purposes, and related facilities.

(AA) "Outstanding," referring to securities, means securities that have been issued, delivered, and paid for, except any of the following:

(1) Securities canceled upon surrender, exchange, or transfer, or upon payment or redemption;

(2) Securities in replacement of which or in exchange for which other securities have been issued;

(3) Securities for the payment, or redemption or purchase for cancellation prior to maturity, of which sufficient moneys or investments, in accordance with the applicable legislation or other proceedings or any applicable law, by mandatory sinking fund redemption requirements, mandatory sinking fund



requirements, or otherwise, have been deposited, and credited for the purpose in a bond retirement fund or with a trustee or paying or escrow agent, whether at or prior to their maturity or redemption, and, in the case of securities to be redeemed prior to their stated maturity, notice of redemption has been given or satisfactory arrangements have been made for giving notice of that redemption, or waiver of that notice by or on behalf of the affected security holders has been filed with the subdivision or its agent for the purpose.

(BB) "Paying agent" means the one or more banks, trust companies, or other financial institutions or qualified persons, including an appropriate office or officer of the subdivision, designated as a paying agent or place of payment of debt charges on the particular securities.

(CC) "Permanent improvement" or "improvement" means any property, asset, or improvement certified by the fiscal officer, which certification is conclusive, as having an estimated life or period of usefulness of five years or more, and includes, but is not limited to, real estate, buildings, and personal property and interests in real estate, buildings, and personal property, equipment, furnishings, and site improvements, and reconstruction, rehabilitation, renovation, installation, improvement, enlargement, and extension of property, assets, or improvements so certified as having an estimated life or period of usefulness of five years or more. The acquisition of all the stock ownership of a corporation is the acquisition of a permanent improvement to the extent that the value of that stock is represented by permanent improvements. A permanent improvement for parking, highway, road, and street purposes includes resurfacing, but does not include ordinary repair.

(DD) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes any federal, state, interstate, regional, or local governmental agency, any subdivision, and any combination of those persons.

(EE) "Proceedings" means the legislation, certifications, notices, orders, sale proceedings, trust agreement or indenture, mortgage, lease, lease-purchase agreement, assignment, credit enhancement facility agreements, and other agreements, instruments, and documents, as amended and supplemented, and any election proceedings, authorizing, or providing for the terms and conditions applicable to, or providing for the security or sale or award of, public obligations, and includes the provisions set forth or incorporated in those public obligations and proceedings.

(FF) "Public issuer" means any of the following that is authorized by law to issue securities or enter into public obligations:

(1) The state, including an agency, commission, officer, institution, board, authority, or other instrumentality of the state;

(2) A taxing authority, subdivision, district, or other local public or governmental entity, and any combination or consortium, or public division, district, commission, authority, department, board, officer, or institution, thereof;

(3) Any other body corporate and politic, or other public entity.

(GG) "Public obligations" means both of the following:

(1) Securities;

(2) Obligations of a public issuer to make payments under installment sale, lease, lease purchase, or similar agreements, which obligations bear interest or interest equivalent.

(HH) "Refund" means to fund and retire outstanding securities, including advance refunding with or without payment or redemption prior to maturity.

(II) "Register" means the books kept and maintained by the registrar for registration, exchange, and transfer of registered securities.

(JJ) "Registrar" means the person responsible for keeping the register for the particular registered securities, designated by or pursuant to the proceedings.

(KK) "Securities" means bonds, notes, certificates of indebtedness, commercial paper, and other instruments in writing, including, unless the context does not admit, anticipatory securities, issued by an issuer to evidence its obligation to repay money borrowed, or to pay interest, by, or to pay at any future time other money obligations of, the issuer of the securities, but not including public obligations described in division (GG)(2) of this section.

(LL) "Self-supporting securities" means securities or portions of securities issued for the purpose of paying costs of permanent improvements to the extent that receipts of the subdivision, other than the proceeds of taxes levied by that subdivision, derived from or with respect to the improvements or the operation of the improvements being financed, or the enterprise, system, project, or category of improvements of which the improvements being financed are part, are estimated by the fiscal officer to be sufficient to pay the current expenses of that operation or of those improvements or enterprise, system, project, or categories of improvements and the debt charges payable from those receipts on securities issued for the purpose. Until such time as the improvements or increases in rates and charges have been in operation or effect for a period of at least six months, the receipts therefrom, for purposes of this definition, shall be those estimated by the fiscal officer, except that those receipts may include, without limitation, payments made and to be made to the subdivision under leases or agreements in effect at the time the estimate is made. In the case of an operation, improvements, or enterprise, system, project, or category of improvements without at least a six-month history of receipts, the estimate of receipts by the fiscal officer, other than those to be derived under leases and agreements then in effect, shall be confirmed by the taxing authority.

(MM) "Subdivision" means any of the following:

(1) A county, including a county that has adopted a charter under Article X, Ohio Constitution;

(2) A municipal corporation, including a municipal corporation that has

adopted a charter under Article XVIII, Ohio Constitution;

(3) A school district;

(4) A regional water and sewer district organized under Chapter 6119. of the Revised Code;

(5) A joint township hospital district organized under section 513.07 of the Revised Code;

(6) A joint ambulance district organized under section 505.71 of the Revised Code;

(7) A joint recreation district organized under division (C) of section 755.14 of the Revised Code;

(8) A detention facility district organized under section 2152.41, a district organized under section 2151.65, or a combined district organized under sections 2152.41 and 2151.65 of the Revised Code;

(9) A township police district organized under section 505.48 of the Revised Code;

(10) A township;

(11) A joint fire district organized under section 505.371 of the Revised Code;

(12) A county library district created under section 3375.19 or a regional library district created under section 3375.28 of the Revised Code;

(13) A joint solid waste management district organized under section 343.01 or 343.012 of the Revised Code;

(14) A joint emergency medical services district organized under section 307.052 of the Revised Code;

(15) A fire and ambulance district organized under section 505.375 of the Revised Code;

(16) A fire district organized under division (C) of section 505.37 of the Revised Code;

(17) Any other political subdivision or taxing district or other local public body or agency authorized by this chapter or other laws to issue Chapter 133 securities.

(NN) "Taxing authority" means in the case of the following subdivisions:

(1) A county, a county library district, or a regional library district, the board or boards of county commissioners, or other legislative authority of a county that has adopted a charter under Article X, Ohio Constitution, but with respect to such a library district acting solely as agent for the board of trustees of that district;

(2) A municipal corporation, the legislative authority;

(3) A school district, the board of education;

(4) A regional water and sewer district, a joint ambulance district, a joint recreation district, a fire and ambulance district, or a joint fire district, the board of trustees of the district;

(5) A joint township hospital district, the joint township hospital board;

(6) A detention facility district or a district organized under section 2151.65 of the Revised Code, a combined district organized under sections 2152.41 and 2151.65 of the Revised Code, or a joint emergency medical services district, the joint board of county commissioners;

(7) A township, a fire district organized under division (C) of section 505.37 of the Revised Code, or a township police district, the board of township trustees;

(8) A joint solid waste management district organized under section 343.01 or 343.012 of the Revised Code, the board of directors of the district;

(9) A subdivision described in division (MM)(17) of this section, the legislative or governing body or official.

(OO) "Tax limitation" means the "ten-mill limitation" as defined in section 5705.02 of the Revised Code without diminution by reason of section 5705.313 of the Revised Code or otherwise, or, in the case of a municipal corporation or county with a different charter limitation on property taxes levied to pay debt charges on unvoted securities, that charter limitation. Those limitations shall be respectively referred to as the "ten-mill limitation" and the "charter tax limitation."

(PP) "Tax valuation" means the aggregate of the valuations of property subject to ad valorem property taxation by the subdivision on the real property, personal property, and public utility property tax lists and duplicates most recently certified for collection, and shall be calculated without deductions of the valuations of otherwise taxable property exempt in whole or in part from taxation by reason of exemptions of certain amounts of taxable value under ~~division (C) of section 5709.01 or~~ section 323.152 of the Revised Code, or similar laws now or in the future in effect.

(QQ) "Year" means the calendar year.

(RR) "Administrative agent," "agent," "commercial paper," "floating rate interest structure," "indexing agent," "interest rate hedge," "interest rate period," "put arrangement," and "remarketing agent" have the same meanings as in section 9.98 of the Revised Code.

(SS) "Sales tax supported" means obligations to the payment of debt charges on which an additional sales tax or additional sales taxes have been pledged by the taxing authority of a county pursuant to section 133.081 of the

Revised Code."

Between lines 9101 and 9102, insert:

"**Sec. 319.29.** On or before the first Monday of August, ~~annually of each year before 2006~~, the county auditor shall compile and make up, in tabular form and alphabetical order, separate lists of the names of the several persons, companies, firms, partnerships, associations, and corporations in whose names personal property required to be entered on the general tax list and duplicate has been listed and assessed as shown on the returns and in the preliminary and final assessment certificates in the hands of the auditor pursuant to sections 5711.01 to 5711.36 ~~and 5727.29~~ of the Revised Code, in each township, municipal corporation, special district, or separate school district or part of either in ~~his~~the auditor's county. ~~He~~The auditor shall place in an appropriate column opposite each name, the aggregate value of such personal property as listed and assessed in such lists. On or before the third Monday of August in each such year the auditor shall correct such lists in accordance with the additions and deductions ordered by the department of taxation, and shall certify and deliver one copy of such corrected lists to the county treasurer. The copies prepared by the auditor shall constitute the auditor's general tax list and treasurer's general duplicate of personal property for the current year."

Delete lines 9154 through 9278 and insert:

"**Sec. 321.24.** (A) On or before the fifteenth day of February, in each year, the county treasurer shall settle with the county auditor for all taxes and assessments that the treasurer has collected on the general duplicate of real and public utility property at the time of making the settlement.

(B) On or before the thirtieth day of June, in each year, the treasurer shall settle with the auditor for all advance payments of general personal and classified property taxes that the treasurer has received at the time of making the settlement.

(C) On or before the tenth day of August, in each year, the treasurer shall settle with the auditor for all taxes and assessments that the treasurer has collected on the general duplicates of real and public utility property at the time of making such settlement, not included in the preceding February settlement.

(D) On or before the thirty-first day of October, in each year before 2006, the treasurer shall settle with the auditor for all taxes that the treasurer has collected on the general personal and classified property duplicates, and for all advance payments of general personal and classified property taxes, not included in the preceding June settlement, that the treasurer has received at the time of making such settlement.

(E) In the event the time for the payment of taxes is extended, pursuant to section 323.17 of the Revised Code, the date on or before which settlement for the taxes so extended must be made, as herein prescribed, shall be deemed to be extended for a like period of time. At each such settlement, the auditor shall

allow to the treasurer, on the moneys received or collected and accounted for by the treasurer, the treasurer's fees, at the rate or percentage allowed by law, at a full settlement of the treasurer.

(F) Within thirty days after the day of each settlement of taxes required under divisions (A) and (C) of this section, the treasurer shall certify to the tax commissioner any adjustments which have been made to the amount certified previously pursuant to section 319.302 of the Revised Code and that the settlement has been completed. Upon receipt of such certification, the commissioner shall provide for payment to the county treasurer from the general revenue fund of an amount equal to one-half of the amount certified by the treasurer in the preceding tax year under section 319.302 of the Revised Code, less one-half of the amount computed for all taxing districts in that county for the current fiscal year under section 5703.80 of the Revised Code for crediting to the property tax administration fund. Such payment shall be credited upon receipt to the county's undivided income tax fund, and the county auditor shall transfer to the county general fund from the amount thereof the total amount of all fees and charges which the auditor and treasurer would have been authorized to receive had such section not been in effect and that amount had been levied and collected as taxes. The county auditor shall distribute the amount remaining among the various taxing districts in the county as if it had been levied, collected, and settled as real property taxes. The amount distributed to each taxing district shall be reduced by the total of the amounts computed for the district under divisions (A), (B), and (C) of section 5703.80 of the Revised Code, but the reduction shall not exceed the amount that otherwise would be distributed to the taxing district under this division. The tax commissioner shall make available to taxing districts such information as is sufficient for a taxing district to be able to determine the amount of the reduction in its distribution under this section.

~~(G)(1) Within thirty days after the day of the settlement required in division (D) of this section, the county treasurer shall notify the tax commissioner that the settlement has been completed. Upon receipt of that notification~~ Not later than the thirtieth day of November each year before 2013, the ~~tax~~ commissioner shall provide for payment to the county treasurer from the general revenue fund of an amount equal to the amount certified under former section 319.311 of the Revised Code and paid in the state's fiscal year 2003 multiplied by the percentage specified in division (G)(2) of this section. The payment shall be credited upon receipt to the county's undivided income tax fund, and the county auditor shall distribute the amount thereof among the various taxing districts of the county as if it had been levied, collected, and settled as personal property taxes. The amount received by a taxing district under this division shall be apportioned among its funds in the same proportion as the current year's ~~personal~~ property taxes are apportioned.

(2) Payments required under division (G)(1) of this section shall be made at the following percentages of the amount certified under former section 319.311 of the Revised Code and paid under division (G)(1) of this section in the

state's fiscal year 2003:

- (a) In fiscal year 2004, ninety per cent;
- (b) In fiscal year 2005, eighty per cent;
- (c) In fiscal year 2006, seventy per cent;
- (d) In fiscal year 2007, sixty per cent;
- (e) In fiscal year 2008, fifty per cent;
- (f) In fiscal year 2009, forty per cent;
- (g) In fiscal year 2010, thirty per cent;
- (h) In fiscal year 2011, twenty per cent;
- (i) In fiscal year 2012, ten per cent.

After fiscal year 2012, no payments shall be made under division (G)(1) of this section.

(H)(1) On or before the fifteenth day of April each year, the county treasurer shall settle with the county auditor for all manufactured home taxes that the county treasurer has collected on the manufactured home tax duplicate at the time of making the settlement.

(2) On or before the fifteenth day of September each year, the county treasurer shall settle with the county auditor for all remaining manufactured home taxes that the county treasurer has collected on the manufactured home tax duplicate at the time of making the settlement.

(3) If the time for payment of such taxes is extended under section 4503.06 of the Revised Code, the time for making the settlement as prescribed by divisions (H)(1) and (2) of this section is extended for a like period of time.

(I) Within thirty days after the day of each settlement of taxes required under division (H) of this section, the county treasurer shall certify to the tax commissioner any adjustments that have been made to the amount certified previously pursuant to section 319.302 of the Revised Code and that the settlement has been completed. Upon receipt of such certification, the commissioner shall provide for payment to the county treasurer from the general revenue fund of an amount equal to one-half of the amount certified by the treasurer in the current tax year under section 319.302 of the Revised Code. Such payment shall be credited upon receipt to the county's undivided income tax fund, and the county auditor shall transfer to the county general fund from the amount thereof the total amount of all fees and charges that the auditor and treasurer would have been authorized to receive had such section not been in effect and that amount had been levied and collected as taxes. The county auditor shall distribute the amount remaining among the various taxing districts in the county as if it had been levied, collected, and settled as manufactured home taxes."

Delete lines 23524 through 23593 and insert:

"**Sec. 3317.028.** (A) On or before the fifteenth day of May in each calendar year, the tax commissioner shall determine for each school district whether the taxable value of all tangible personal property, including utility tangible personal property, subject to taxation by the district in the preceding tax year was less or greater than the taxable value of such property during the second preceding tax year. The tax commissioner shall disregard reductions in the taxable value of such property in 2006 and thereafter as a result of the amendments to section 5709.01 of the Revised Code by H.B. 66 of the 126th General Assembly. If any such decrease exceeds five per cent of the district's tangible personal property taxable value included in the total taxable value used in the district's state aid computation for the fiscal year that ends in the current calendar year, or if any such increase exceeds five per cent of the district's total taxable value used in the district's state aid computation for the fiscal year that ends in the current calendar year, the tax commissioner shall certify both of the following to the department of education:

(1) The taxable value of the tangible personal property increase or decrease, including utility tangible personal property increase or decrease, which shall be considered a change in valuation;

(2) The decrease or increase in taxes charged and payable on such change in taxable value calculated in the same manner as in division (A)(3) of section 3317.021 of the Revised Code.

(B) Notwithstanding division (A) of this section, when determining under that division in calendar year 2002 whether the taxable value of tangible personal property subject to taxation by each school district in the preceding tax year was less or greater than the taxable value of such property during the second preceding tax year, the tax commissioner shall exclude from the taxable value for both years the tax value loss, as defined in section 5727.84 of the Revised Code.

(C) Upon receipt of such certification, the department of education shall reduce or increase by the respective amounts certified, the taxable value and the taxes charged and payable that were used in the district's state aid computation under section 3317.022 of the Revised Code for the fiscal year that ends in the current calendar year and shall recompute the state aid for such fiscal year. During the last six months of the fiscal year, the department shall pay the district a sum equal to one-half of the recomputed payments in lieu of the payments otherwise required under such sections.

(D) If a school district received a grant from the catastrophic expenditures account pursuant to division (C) of section 3316.20 of the Revised Code on the basis of the same circumstances for which a recomputation is made under this section, the amount of the recomputation shall be reduced and transferred in accordance with division (C) of section 3316.20 of the Revised Code."



Between lines 25772 and 25773, insert:

"**Sec. 3318.011.** For purposes of providing assistance under sections 3318.01 to 3318.20 of the Revised Code, the department of education shall annually do all of the following:

(A) Calculate the adjusted valuation per pupil of each city, local, and exempted village school district according to the following formula:

$$\frac{\text{The district's valuation per pupil}}{[\$30,000 \times (1 - \text{the district's income factor})]}$$

For purposes of this calculation:

(1) "Valuation per pupil" for a district means its average taxable value, divided by its formula ADM reported under section 3317.03 of the Revised Code for the previous fiscal year.

(2) "Average taxable value" means the average of the amounts certified for a district in the second, third, and fourth preceding fiscal years under divisions (A)(1) and (2) of section 3317.021 of the Revised Code. If the amount certified in any of those fiscal years includes taxable values for tax year 2006 or a subsequent tax year, then, for the purposes of this calculation, there shall be added to the amount certified in each such fiscal year the amount certified under division (A)(2) of section 3317.021 of the Revised Code in fiscal year 2006 less the taxable value of public utility personal property included in the certification in fiscal year 2006.

(3) "Income factor" has the same meaning as in section 3317.02 of the Revised Code.

(B) Calculate for each district the three-year average of the adjusted valuations per pupil calculated for the district for the current and two preceding fiscal years;

(C) Rank all such districts in order of adjusted valuation per pupil from the district with the lowest three-year average adjusted valuation per pupil to the district with the highest three-year average adjusted valuation per pupil;

(D) Divide such ranking into percentiles with the first percentile containing the one per cent of school districts having the lowest three-year average adjusted valuations per pupil and the one-hundredth percentile containing the one per cent of school districts having the highest three-year average adjusted valuations per pupil;

(E) Determine the school districts that have three-year average adjusted valuations per pupil that are greater than the median three-year average adjusted valuation per pupil for all school districts in the state;

(F) On or before the first day of September, certify the information described in divisions (A) to (E) of this section to the Ohio school facilities commission."

Between lines 25928 and 25929, insert:

"**Sec. 3318.42.** (A) Not later than the sixty-first day after ~~the effective date of this section~~ March 14, 2003, and subsequently not later than the sixty-first day after the first day of each ensuing fiscal year, the department of education shall do all of the following:

(1) Calculate the valuation per pupil of each joint vocational school district according to the following formula:

The school district's average taxable value divided by the school district's formula ADM reported under section 3317.03 of the Revised Code for the previous fiscal year.

For purposes of this calculation:

(a) "Average taxable value" means the average of the amounts certified for a school district in the second, third, and fourth preceding ~~tax~~ fiscal years under divisions (A)(1) and (2) of section 3317.021 of the Revised Code. If the amount certified in any of those fiscal years includes taxable values for tax year 2006 or a subsequent tax year, then, for the purposes of this calculation, there shall be added to the amount certified in each such fiscal year the amount certified under division (A)(2) of section 3317.021 of the Revised Code in fiscal year 2006 less the taxable value of public utility personal property included in the certification in fiscal year 2006.

(b) "Formula ADM" has the same meaning as defined in section 3317.02 of the Revised Code.

(2) Calculate for each school district the three-year average of the valuations per pupil calculated for the school district for the current and two preceding fiscal years;

(3) Rank all joint vocational school districts in order from the school district with the lowest three-year average valuation per pupil to the school district with the highest three-year average valuation per pupil;

(4) Divide the ranking under division (A)(3) of this section into percentiles with the first percentile containing the one per cent of school districts having the lowest three-year average valuations per pupil and the one-hundredth percentile containing the one per cent of school districts having the highest three-year average valuations per pupil;

(5) Certify the information described in divisions (A)(1) to (4) of this section to the Ohio school facilities commission.

(B) The commission annually shall select school districts for assistance under sections 3318.40 to 3318.45 of the Revised Code in the order of the school districts' three-year average valuations per pupil such that the school district with the lowest three-year average valuation per pupil shall be given the highest priority for assistance.

(C) Each joint vocational school district's portion of the basic project cost

of the school district's project under sections 3318.40 to 3318.45 of the Revised Code shall be one per cent times the percentile in which the district ranks, except that no school district's portion shall be less than twenty-five per cent or greater than ninety-five per cent of the basic project cost."

Between lines 58629 and 58630, insert:

"**Sec. 5701.08.** As used in Title LVII of the Revised Code:

(A) Personal property is "used" within the meaning of "used in business" when employed or utilized in connection with ordinary or special operations, when acquired or held as means or instruments for carrying on the business, when kept and maintained as a part of a plant capable of operation, whether actually in operation or not, or when stored or kept on hand as material, parts, products, or merchandise. Machinery and equipment classifiable upon completion as personal property while under construction or installation to become part of a new or existing plant or other facility is not considered to be "used" by the owner of such plant or other facility within the meaning of "used in business" until such machinery and equipment is installed and in operation or capable of operation in the business for which acquired. Agricultural products in storage in a grain elevator, a warehouse, or a place of storage which products are subject to control of the United States government and are to be shipped on order of the United States government are not used in business in this state.

(B) Merchandise or agricultural products shipped from outside this state and held in this state in a warehouse or a place of storage without further manufacturing or processing and for storage only and for shipment outside this state are not used in business in this state. Such property qualifies for this exception if division (B)(1) or (2) of this section applies:

(1) During any period that a person owns such property in this state:

(a) The property is to be shipped from a warehouse or place of storage in this state to the owner of the property or persons other than customers at locations outside this state for use, processing, or sale; or

(b) The property is located in public or private warehousing facilities in this state which are not subject to the control of or under the supervision of the owner of the property or manned by its employees and from which the property is to be shipped to any person, including a customer, outside this state.

(2) During the first twenty-four calendar months that a person first owns such property in this state, the property is held in a warehouse or place of storage in this state located within one mile of the closest boundary of an airport, and is shipped to any person, including a customer, outside this state.

For the purposes of division (B)(2) of this section, "airport" means any airport, as defined in division (C) of section 4561.01 of the Revised Code, which is approved by the department of transportation under section 4561.11 of the Revised Code to be used for commercial purposes, is regularly served by only one air carrier authorized to do so under 14 C.F.R., and is not a public airport as

defined in 49 U.S.C. Appx. 2202(a)(17) as existing on ~~the effective date of this amendment~~ July 26, 1991.

(3) For property that may meet the condition for the exception provided in division (B)(2) of this section, if it is not known at the conclusion of a reporting period whether the property yet qualifies for such exception, the owner of such property shall return it for taxation. If it is later determined that the returned property does so qualify, the owner may apply for a final assessment and refund on the property as provided in section 5711.26 of the Revised Code. Division (B)(3) of this section applies only to tax years before tax year 2006.

(C) Leased property used by the lessee exclusively for agricultural purposes and new or used machinery and equipment and accessories therefor that are designed and built for agricultural use and owned by a merchant as defined in section 5711.15 of the Revised Code are not considered to be "used" within the meaning of "used in business."

(D) Moneys, deposits, investments, accounts receivable, and prepaid items, and other taxable intangibles are "used" when they or the avails thereof are being applied, or are intended to be applied, in the conduct of the business, whether in this state or elsewhere.

(E) "Business" includes all enterprises, except agriculture, conducted for gain, profit, or income and extends to personal service occupations."

Delete lines 58838 through 58895 and insert:

**"Sec. 5703.80.** There is hereby created in the state treasury the property tax administration fund. All money to the credit of the fund shall be used to defray the costs incurred by the department of taxation in administering the taxation of property and the equalization of real property valuation.

Each fiscal year between the first and fifteenth days of July, the tax commissioner shall compute the following amounts for the property in each taxing district in each county, and certify to the director of budget and management the sum of those amounts for all taxing districts in all counties:

(A) Three-tenths of one per cent of the total amount by which taxes charged against real property on the general tax list of real and public utility property were reduced under section 319.302 of the Revised Code for the preceding tax year;

(B) Fifteen-hundredths of one per cent of the total amount of taxes charged and payable against public utility personal property on the general tax list of real and public utility property for the preceding tax year;

(C) Seventy-five hundredths of one per cent of the total amount of taxes charged and payable against tangible personal property on the general tax list of personal property of the preceding tax year and for which returns were filed with the tax commissioner under section 5711.13 of the Revised Code.

After receiving the tax commissioner's certification, the director of

budget and management shall transfer from the general revenue fund to the property tax administration fund one-fourth of the amount certified on or before each of the following days: the first days of August, November, February, and May.

On or before the thirtieth day of June of ~~the fiscal year~~years 2004, 2005, and 2006, the tax commissioner shall certify to the director of budget and management the sum of the amounts by which the amounts computed for a taxing district under divisions (A), (B), and (C) of this section exceeded the distributions to the taxing district under division (F) of section 321.24 of the Revised Code, and the director shall transfer that sum from the property tax administration fund to the general revenue fund."

Between lines 59214 and 59215, insert:

"**Sec. 5705.34.** When the budget commission has completed its work with respect to a tax budget or other information required to be provided under section 5705.281 of the Revised Code, it shall certify its action to the taxing authority, together with an estimate by the county auditor of the rate of each tax necessary to be levied by the taxing authority within its subdivision or taxing unit, and what part thereof is in excess of, and what part within, the ten-mill tax limitation. The certification shall also indicate the date on which each tax levied by the taxing authority will expire.

If a taxing authority levies a tax for a fixed sum of money or to pay debt charges for the tax year for which the tax budget is prepared, and a payment on account of that tax is payable to the taxing authority for the tax year under section 5751.21, 5751.22, 5727.85, or 5727.86 of the Revised Code, the county auditor, when estimating the rate at which the tax shall be levied in the current year, shall estimate the rate necessary to raise the required sum less the estimated amount of any payments made for the tax year to a taxing unit for fixed-sum levies under ~~those sections 5727.85 and 5727.86 of the Revised Code~~. The estimated rate shall be the rate of the levy that the budget commission certifies with its action under this section.

Each taxing authority, by ordinance or resolution, shall authorize the necessary tax levies and certify them to the county auditor before the first day of October in each year, or at such later date as is approved by the tax commissioner, except that the certification by a board of education shall be made by the first day of April or at such later date as is approved by the commissioner, and except that a township board of park commissioners that is appointed by the board of township trustees and oversees a township park district that contains only unincorporated territory shall authorize only those taxes approved by, and only at the rate approved by, the board of township trustees as required by division (C) of section 511.27 of the Revised Code. If the levying of a tax to be placed on the duplicate of the current year is approved by the electors of the subdivision under sections 5705.01 to 5705.47 of the Revised Code; if the rate of a school district tax is increased due to the repeal of a school district income tax and property tax rate reduction at an election held pursuant to section 5748.04 of

the Revised Code; or if refunding bonds to refund all or a part of the principal of bonds payable from a tax levy for the ensuing fiscal year are issued or sold and in the process of delivery, the budget commission shall reconsider and revise its action on the budget of the subdivision or school library district for whose benefit the tax is to be levied after the returns of such election are fully canvassed, or after the issuance or sale of such refunding bonds is certified to it."

Between lines 59307 and 59308, insert:

"**Sec. 5709.01.** (A) All real property in this state is subject to taxation, except only such as is expressly exempted therefrom.

(B) ~~Except as provided by division (C) of this section or otherwise expressly exempted from taxation:~~

(1) ~~All personal property located and used in business in this state; and all domestic animals kept in this state and not used in agriculture are not subject to taxation, regardless of the residence of the owners thereof.~~

(2) ~~All ships, vessels, and boats, and all shares and interests therein, defined in section 5701.03 of the Revised Code as personal property and belonging to persons residing in this state, and aircraft belonging to persons residing in this state and not used in business wholly in another state, other than aircraft licensed in accordance with sections 4561.17 to 4561.21 of the Revised Code, are subject to taxation.~~

(C) ~~The following property of the kinds mentioned in division (B) of this section shall be exempt from taxation:~~

(1) ~~Unmanufactured tobacco to the extent of the value, or amounts, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof.~~

(2) ~~Spirituous liquor, as defined in division (B)(5) of section 4301.01 of the Revised Code, that is stored in warehouses in this state pursuant to an agreement with the division of liquor control.~~

(3) ~~Except as otherwise provided in section 5711.27 of the Revised Code, all other such property if the aggregate taxable value thereof required to be listed by the taxpayer under Chapter 5711. of the Revised Code does not exceed ten thousand dollars.~~

(a) ~~If the taxable value of such property exceeds ten thousand dollars only such property having an aggregate taxable value of ten thousand dollars shall be exempt.~~

(b) ~~If such property is located in more than one taxing district as defined in section 5711.01 of the Revised Code, the exemption of ten thousand dollars shall be applied as follows:~~

(i) ~~The taxable value of such property in the district having the greatest amount of such value shall be reduced until the exemption has been fully utilized~~

~~or the value has been reduced to zero, whichever occurs first;~~

~~(ii) If the exemption has not been fully utilized under division (C)(3)(b)(i) of this section, the value in the district having the second greatest value shall be reduced until the exemption has been fully utilized or the value has been reduced to zero, whichever occurs first;~~

~~(iii) If the exemption has not been fully utilized under division (C)(3)(b)(ii) of this section, further reductions shall be made, in repeated steps which include property in districts having declining values, until the exemption has been fully utilized for any tax year after tax year 2005, except as provided in division (C) of this section.~~

(C) All property required by section 5727.06 of the Revised Code to be assessed by the tax commissioner is subject to taxation as provided in Chapter 5727. of the Revised Code.

(D) All property mentioned as taxable in this section shall be entered on the general tax list and duplicate of ~~taxable~~ real and public utility property.

**Sec. 5709.61.** As used in sections 5709.61 to 5709.69 of the Revised Code:

(A) "Enterprise zone" or "zone" means any of the following:

(1) An area with a single continuous boundary designated in the manner set forth in section 5709.62 or 5709.63 of the Revised Code and certified by the director of development as having a population of at least four thousand according to the best and most recent data available to the director and having at least two of the following characteristics:

(a) It is located in a municipal corporation defined by the United States office of management and budget as a principal city of a metropolitan statistical area;

(b) It is located in a county designated as being in the "Appalachian region" under the "Appalachian Regional Development Act of 1965," 79 Stat. 5, 40 App. U.S.C.A. 403, as amended;

(c) Its average rate of unemployment, during the most recent twelve-month period for which data are available, is equal to at least one hundred twenty-five per cent of the average rate of unemployment for the state of Ohio for the same period;

(d) There is a prevalence of commercial or industrial structures in the area that are vacant or demolished, or are vacant and the taxes charged thereon are delinquent, and certification of the area as an enterprise zone would likely result in the reduction of the rate of vacant or demolished structures or the rate of tax delinquency in the area;

(e) The population of all census tracts in the area, according to the federal census of 2000, decreased by at least ten per cent between the years 1980 and

2000;

(f) At least fifty-one per cent of the residents of the area have incomes of less than eighty per cent of the median income of residents of the municipal corporation or municipal corporations in which the area is located, as determined in the same manner specified under section 119(b) of the "Housing and Community Development Act of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended;

(g) The area contains structures previously used for industrial purposes, but currently not so used due to age, obsolescence, deterioration, relocation of the former occupant's operations, or cessation of operations resulting from unfavorable economic conditions either generally or in a specific economic sector;

(h) It is located within one or more adjacent city, local, or exempted village school districts, the income-weighted tax capacity of each of which is less than seventy per cent of the average of the income-weighted tax capacity of all city, local, or exempted village school districts in the state according to the most recent data available to the director from the department of taxation.

The director of development shall adopt rules in accordance with Chapter 119. of the Revised Code establishing conditions constituting the characteristics described in divisions (A)(1)(d), (g), and (h) of this section.

If an area could not be certified as an enterprise zone unless it satisfied division (A)(1)(g) of this section, the legislative authority may enter into agreements in that zone under section 5709.62, 5709.63, or 5709.632 of the Revised Code only if such agreements result in the development of the facilities described in that division, the parcel of land on which such facilities are situated, or adjacent parcels. The director of development annually shall review all agreements in such zones to determine whether the agreements have resulted in such development; if the director determines that the agreements have not resulted in such development, the director immediately shall revoke certification of the zone and notify the legislative authority of such revocation. Any agreements entered into prior to revocation under this paragraph shall continue in effect for the period provided in the agreement.

(2) An area with a single continuous boundary designated in the manner set forth in section 5709.63 of the Revised Code and certified by the director of development as:

(a) Being located within a county that contains a population of three hundred thousand or less;

(b) Having a population of at least one thousand according to the best and most recent data available to the director;

(c) Having at least two of the characteristics described in divisions (A)(1)(b) to (h) of this section.



(3) An area with a single continuous boundary designated in the manner set forth under division (A)(1) of section 5709.632 of the Revised Code and certified by the director of development as having a population of at least four thousand, or under division (A)(2) of that section and certified as having a population of at least one thousand, according to the best and most recent data available to the director.

(B) "Enterprise" means any form of business organization including, but not limited to, any partnership, sole proprietorship, or corporation, including an S corporation as defined in section 1361 of the Internal Revenue Code and any corporation that is majority work-owned either directly through the ownership of stock or indirectly through participation in an employee stock ownership plan.

(C) "Facility" means an enterprise's place of business in a zone, including land, buildings, machinery, equipment, and other materials, except inventory, used in business. "Facility" includes land, buildings, machinery, production and station equipment, other equipment, and other materials, except inventory, used in business to generate electricity, provided that, for purposes of sections 5709.61 to 5709.69 of the Revised Code, the value of the property at such a facility shall be reduced by the value, if any, that is not apportioned under section 5727.15 of the Revised Code to the taxing district in which the facility is physically located. In the case of such a facility that is physically located in two adjacent taxing districts, the property located in each taxing district constitutes a separate facility.

"Facility" does not include any portion of an enterprise's place of business used primarily for making retail sales, unless the place of business is located in an impacted city as defined in section 1728.01 of the Revised Code.

(D) "Vacant facility" means a facility that has been vacant for at least ninety days immediately preceding the date on which an agreement is entered into under section 5709.62 or 5709.63 of the Revised Code.

(E) "Expand" means to make expenditures to add land, buildings, machinery, equipment, or other materials, except inventory, to a facility that equal at least ten per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

(F) "Renovate" means to make expenditures to alter or repair a facility that equal at least fifty per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

(G) "Occupy" means to make expenditures to alter or repair a vacant facility equal to at least twenty per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

(H) "Project site" means all or any part of a facility that is newly constructed, expanded, renovated, or occupied by an enterprise.

(I) "Project" means any undertaking by an enterprise to establish a facility or to improve a project site by expansion, renovation, or occupancy.

(J) "Position" means the position of one full-time employee performing a particular set of tasks and duties.

(K) "Full-time employee" means an individual who is employed for consideration by an enterprise for at least thirty-five hours a week, or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment.

(L) "New employee" means a full-time employee first employed by an enterprise at a facility that is a project site after the enterprise enters an agreement under section 5709.62 or 5709.63 of the Revised Code. "New employee" does not include an employee if, immediately prior to being employed by the enterprise, the employee was employed by an enterprise that is a related member or predecessor enterprise of that enterprise.

(M) "Unemployed person" means any person who is totally unemployed in this state, as that term is defined in division (M) of section 4141.01 of the Revised Code, for at least ten consecutive weeks immediately preceding that person's employment at a facility that is a project site, or who is so unemployed for at least twenty-six of the fifty-two weeks immediately preceding that person's employment at such a facility.

(N) "~~JTPA-eligible~~ Targeted jobs credit-eligible employee" means any individual ~~who is eligible for employment or training under the "Job Training Partnership Act," 96 Stat. 1324 (1982), 29 U.S.C. 1501, as amended on the basis of whom an enterprise may claim a federal work opportunity credit under sections 38, 51, and 52 of the Internal Revenue Code.~~

(O) "First used in business" means that the property referred to has not been used in business in this state by the enterprise that owns it, or by an enterprise that is a related member or predecessor enterprise of such an enterprise, other than as inventory, prior to being used in business at a facility as the result of a project.

(P) "Training program" means any noncredit training program or course of study that is offered by any state college or university; university branch district; community college; technical college; nonprofit college or university certified under section 1713.02 of the Revised Code; school district; joint vocational school district; school registered and authorized to offer programs under section 3332.05 of the Revised Code; an entity administering any federal, state, or local adult education and training program; or any enterprise; and that meets all of the following requirements:

- (1) It is approved by the director of development;
- (2) It is established or operated to satisfy the need of a particular industry or enterprise for skilled or semi-skilled employees;
- (3) An individual is required to complete the course or program before filling a position at a project site.

(Q) "Development" means to engage in the process of clearing and grading land, making, installing, or constructing water distribution systems, sewers, sewage collection systems, steam, gas, and electric lines, roads, curbs, gutters, sidewalks, storm drainage facilities, and construction of other facilities or buildings equal to at least fifty per cent of the market value of the facility prior to the expenditures, as determined for the purposes of local property taxation.

(R) "Large manufacturing facility" means a single Ohio facility that employed an average of at least one thousand individuals during the five calendar years preceding an agreement authorized under division (C)(3) of section 5709.62 or division (B)(2) of section 5709.63 of the Revised Code. For purposes of this division, both of the following apply:

(1) A single Ohio manufacturing facility employed an average of at least one thousand individuals during the five calendar years preceding entering into such an agreement if one-fifth of the sum of the number of employees employed on the highest employment day during each of the five calendar years equals or exceeds one thousand.

(2) The highest employment day is the day or days during a calendar year on which the number of employees employed at a single Ohio manufacturing facility was greater than on any other day during the calendar year.

(S) "Business cycle" means the cycle of business activity usually regarded as passing through alternating stages of prosperity and depression.

(T) "Making retail sales" means the effecting of point-of-final-purchase transactions at a facility open to the consuming public, wherein one party is obligated to pay the price and the other party is obligated to provide a service or to transfer title to or possession of the item sold.

(U) "Environmentally contaminated" means that hazardous substances exist at a facility under conditions that have caused or would cause the facility to be identified as contaminated by the state or federal environmental protection agency. These may include facilities located at sites identified in the master sites list or similar database maintained by the state environmental protection agency if the sites have been investigated by the agency and found to be contaminated.

(V) "Remediate" means to make expenditures to clean up an environmentally contaminated facility so that it is no longer environmentally contaminated that equal at least ten per cent of the real property market value of the facility prior to such expenditures as determined for the purposes of property taxation.

(W) "Related member" has the same meaning as defined in section 5733.042 of the Revised Code without regard to division (B) of that section, except that it is used with respect to an enterprise rather than a taxpayer.

(X) "Predecessor enterprise" means an enterprise from which the assets or equity of another enterprise has been transferred, which transfer resulted in

the full or partial nonrecognition of gain or loss, or resulted in a carryover basis, both as determined by rule adopted by the tax commissioner.

(Y) "Successor enterprise" means an enterprise to which the assets or equity of another enterprise has been transferred, which transfer resulted in the full or partial nonrecognition of gain or loss, or resulted in a carryover basis, both as determined by rule adopted by the tax commissioner.

**Sec. 5709.62.** (A) In any municipal corporation that is defined by the United States office of management and budget as a principal city of a metropolitan statistical area, the legislative authority of the municipal corporation may designate one or more areas within its municipal corporation as proposed enterprise zones. Upon designating an area, the legislative authority shall petition the director of development for certification of the area as having the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code as amended by Substitute Senate Bill No. 19 of the 120th general assembly. Except as otherwise provided in division (E) of this section, on and after July 1, 1994, legislative authorities shall not enter into agreements under this section unless the legislative authority has petitioned the director and the director has certified the zone under this section as amended by that act; however, all agreements entered into under this section as it existed prior to July 1, 1994, and the incentives granted under those agreements shall remain in effect for the period agreed to under those agreements. Within sixty days after receiving such a petition, the director shall determine whether the area has the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code, and shall forward the findings to the legislative authority of the municipal corporation. If the director certifies the area as having those characteristics, and thereby certifies it as a zone, the legislative authority may enter into an agreement with an enterprise under division (C) of this section.

(B) Any enterprise that wishes to enter into an agreement with a municipal corporation under division (C) of this section shall submit a proposal to the legislative authority of the municipal corporation on a form prescribed by the director of development, together with the application fee established under section 5709.68 of the Revised Code. The form shall require the following information:

(1) An estimate of the number of new employees whom the enterprise intends to hire, or of the number of employees whom the enterprise intends to retain, within the zone at a facility that is a project site, and an estimate of the amount of payroll of the enterprise attributable to these employees;

(2) An estimate of the amount to be invested by the enterprise to establish, expand, renovate, or occupy a facility, including investment in new buildings, additions or improvements to existing buildings, machinery, equipment, furniture, fixtures, and inventory;

(3) A listing of the enterprise's current investment, if any, in a facility as of the date of the proposal's submission.

The enterprise shall review and update the listings required under this division to reflect material changes, and any agreement entered into under division (C) of this section shall set forth final estimates and listings as of the time the agreement is entered into. The legislative authority may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(C) Upon receipt and investigation of a proposal under division (B) of this section, if the legislative authority finds that the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and improve the economic climate of the municipal corporation, the legislative authority, on or before October 15, 2009, may do one of the following:

(1) Enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to seventy-five per cent, of the assessed value of tangible personal property first used in business at the project site as a result of the agreement. If an exemption for inventory is specifically granted in the agreement pursuant to this division, the exemption applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except that, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the establishment of the zone, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

An exemption granted under division (C)(1)(a) of this section does not apply to a tax year after tax year 2005.

(b) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to seventy-five per cent, of the increase in the assessed valuation of real property constituting the project site subsequent to formal approval of the agreement by the legislative authority;

(c) Provision for a specified number of years, not to exceed fifteen, of any optional services or assistance that the municipal corporation is authorized to provide with regard to the project site.

(2) Enter into an agreement under which the enterprise agrees to remediate an environmentally contaminated facility, to spend an amount equal to at least two hundred fifty per cent of the true value in money of the real property of the facility prior to remediation as determined for the purposes of property taxation to establish, expand, renovate, or occupy the remediated facility, and to hire new employees or preserve employment opportunities for existing

employees at the remediated facility, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, not to exceed fifty per cent, of the assessed valuation of the real property of the facility prior to remediation;

(b) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, not to exceed one hundred per cent, of the increase in the assessed valuation of the real property of the facility during or after remediation;

(c) The incentive under division (C)(1)(a) of this section, except that the percentage of the assessed value of such property exempted from taxation shall not exceed one hundred per cent;

(d) The incentive under division (C)(1)(c) of this section.

(3) Enter into an agreement with an enterprise that plans to purchase and operate a large manufacturing facility that has ceased operation or announced its intention to cease operation, in return for exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to one hundred per cent, of the assessed value of tangible personal property used in business at the project site as a result of the agreement, or of the assessed valuation of real property constituting the project site, or both.

(D)(1) Notwithstanding divisions (C)(1)(a) and (b) of this section, the portion of the assessed value of tangible personal property or of the increase in the assessed valuation of real property exempted from taxation under those divisions may exceed seventy-five per cent in any year for which that portion is exempted if the average percentage exempted for all years in which the agreement is in effect does not exceed sixty per cent, or if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a percentage in excess of seventy-five per cent.

(2) Notwithstanding any provision of the Revised Code to the contrary, the exemptions described in divisions (C)(1)(a), (b), and (c), (C)(2)(a), (b), and (c), and (C)(3) of this section may be for up to fifteen years if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a number of years in excess of ten.

(3) For the purpose of obtaining the approval of a city, local, or exempted village school district under division (D)(1) or (2) of this section, the legislative authority shall deliver to the board of education a notice not later than forty-five days prior to approving the agreement, excluding Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code. The notice shall state the percentage to be exempted, an estimate of the true value of the property to be exempted, and the number of years the property is to be exempted. The board of education, by resolution adopted by a majority of the board, shall approve or

disapprove the agreement and certify a copy of the resolution to the legislative authority not later than fourteen days prior to the date stipulated by the legislative authority as the date upon which approval of the agreement is to be formally considered by the legislative authority. The board of education may include in the resolution conditions under which the board would approve the agreement, including the execution of an agreement to compensate the school district under division (B) of section 5709.82 of the Revised Code. The legislative authority may approve the agreement at any time after the board of education certifies its resolution approving the agreement to the legislative authority, or, if the board approves the agreement conditionally, at any time after the conditions are agreed to by the board and the legislative authority.

If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board is not required under this division. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under this division fewer than forty-five business days prior to the legislative authority's approval of the agreement, the legislative authority shall deliver the notice to the board not later than the number of days prior to such approval as prescribed by the board in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board shall certify a copy of the resolution to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority.

(4) The legislative authority shall comply with section 5709.83 of the Revised Code unless the board of education has adopted a resolution under that section waiving its right to receive such notice.

(E) This division applies to zones certified by the director of development under this section prior to July 22, 1994.

On or before October 15, 2009, the legislative authority that designated a zone to which this division applies may enter into an agreement with an enterprise if the legislative authority finds that the enterprise satisfies one of the criteria described in divisions (E)(1) to (5) of this section:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently

operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

The agreement shall require the enterprise to agree to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the incentives described in division (C) of this section.

(F) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement is entered into under this section, if the legislative authority revokes its designation of a zone, or if the director of development revokes a zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(G) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority and shall be used by the legislative authority exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority may waive or reduce the amount of the fee charged against an enterprise, but such a waiver or reduction does not affect the obligations of the legislative authority or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code.

(H) When an agreement is entered into pursuant to this section, the legislative authority authorizing the agreement shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be foregone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development along with the copy of the agreement forwarded under this division.

(I) After an agreement is entered into, the enterprise shall file with each



personal property tax return required to be filed, or annual report required to be filed under section 5727.08 of the Revised Code, while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(J) Enterprises may agree to give preference to residents of the zone within which the agreement applies relative to residents of this state who do not reside in the zone when hiring new employees under the agreement.

(K) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

(L) The tax commissioner's authority in determining the accuracy of any exemption granted by an agreement entered into under this section is limited to divisions (C)(1)(a) and (b), (C)(2)(a), (b), and (c), (C)(3), (D), and (I) of this section and divisions (B)(1) to (10) of section 5709.631 of the Revised Code and, as authorized by law, to enforcing any modification to, or revocation of, that agreement by the legislative authority of a municipal corporation or the director of development.

**Sec. 5709.63.** (A) With the consent of the legislative authority of each affected municipal corporation or of a board of township trustees, a board of county commissioners may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in one or more municipal corporations or in unincorporated areas of the county as proposed enterprise zones. A board of county commissioners may designate no more than one area within a township, or within adjacent townships, as a proposed enterprise zone. The board shall petition the director of development for certification of the area as having the characteristics set forth in division (A)(1) or (2) of section 5709.61 of the Revised Code as amended by Substitute Senate Bill No. 19 of the 120th general assembly. Except as otherwise provided in division (D) of this section, on and after July 1, 1994, boards of county commissioners shall not enter into agreements under this section unless the board has petitioned the director and the director has certified the zone under this section as amended by that act; however, all agreements entered into under this section as it existed prior to July 1, 1994, and the incentives granted under those agreements shall remain in effect for the period agreed to under those agreements. The director shall make the determination in the manner provided under section 5709.62 of the Revised Code.

Any enterprise wishing to enter into an agreement with the board under division (B) or (D) of this section shall submit a proposal to the board on the form and accompanied by the application fee prescribed under division (B) of

section 5709.62 of the Revised Code. The enterprise shall review and update the estimates and listings required by the form in the manner required under that division. The board may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(B) If the board of county commissioners finds that an enterprise submitting a proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and to improve the economic climate of the municipal corporation or municipal corporations or the unincorporated areas in which the zone is located and to which the proposal applies, the board, on or before October 15, 2009, and with the consent of the legislative authority of each affected municipal corporation or of the board of township trustees may do either of the following:

(1) Enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for the following incentives:

(a) When the facility is located in a municipal corporation, the board may enter into an agreement for one or more of the incentives provided in division (C) of section 5709.62 of the Revised Code, subject to division (D) of that section;

(b) When the facility is located in an unincorporated area, the board may enter into an agreement for one or more of the following incentives:

(i) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to sixty per cent, of the assessed value of tangible personal property first used in business at a project site as a result of the agreement. If an exemption for inventory is specifically granted in the agreement pursuant to this division, the exemption applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the establishment of the zone, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

An exemption granted under division (B)(1)(b)(i) of this section does not apply to a tax year after tax year 2005.

(ii) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to sixty per cent, of the increase in the assessed valuation of real property constituting the project site subsequent to formal approval of the agreement by the board;

(iii) Provision for a specified number of years, not to exceed fifteen, of

any optional services or assistance the board is authorized to provide with regard to the project site;

(iv) The incentive described in division (C)(2) of section 5709.62 of the Revised Code.

(2) Enter into an agreement with an enterprise that plans to purchase and operate a large manufacturing facility that has ceased operation or has announced its intention to cease operation, in return for exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to one hundred per cent, of tangible personal property used in business at the project site as a result of the agreement, or of real property constituting the project site, or both.

(C)(1)(a) Notwithstanding divisions (B)(1)(b)(i) and (ii) of this section, the portion of the assessed value of tangible personal property or of the increase in the assessed valuation of real property exempted from taxation under those divisions may exceed sixty per cent in any year for which that portion is exempted if the average percentage exempted for all years in which the agreement is in effect does not exceed fifty per cent, or if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a percentage in excess of sixty per cent.

(b) Notwithstanding any provision of the Revised Code to the contrary, the exemptions described in divisions (B)(1)(b)(i), (ii), (iii), and (iv) and (B)(2) of this section may be for up to fifteen years if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a number of years in excess of ten.

(c) For the purpose of obtaining the approval of a city, local, or exempted village school district under division (C)(1)(a) or (b) of this section, the board of county commissioners shall deliver to the board of education a notice not later than forty-five days prior to approving the agreement, excluding Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code. The notice shall state the percentage to be exempted, an estimate of the true value of the property to be exempted, and the number of years the property is to be exempted. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the board of county commissioners not later than fourteen days prior to the date stipulated by the board of county commissioners as the date upon which approval of the agreement is to be formally considered by the board of county commissioners. The board of education may include in the resolution conditions under which the board would approve the agreement, including the execution of an agreement to compensate the school district under division (B) of section 5709.82 of the Revised Code. The board of county commissioners may approve the agreement at any time after the board of education certifies its resolution approving the agreement to the board of county commissioners, or, if the board of education approves the agreement conditionally, at any time after

the conditions are agreed to by the board of education and the board of county commissioners.

If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board of education is not required under division (C) of this section. If a board of education has adopted a resolution allowing a board of county commissioners to deliver the notice required under this division fewer than forty-five business days prior to approval of the agreement by the board of county commissioners, the board of county commissioners shall deliver the notice to the board of education not later than the number of days prior to such approval as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board of education shall certify a copy of the resolution to the board of county commissioners. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the board of county commissioners.

(2) The board of county commissioners shall comply with section 5709.83 of the Revised Code unless the board of education has adopted a resolution under that section waiving its right to receive such notice.

(D) This division applies to zones certified by the director of development under this section prior to July 22, 1994.

On or before October 15, 2009, and with the consent of the legislative authority of each affected municipal corporation or board of township trustees of each affected township, the board of county commissioners that designated a zone to which this division applies may enter into an agreement with an enterprise if the board finds that the enterprise satisfies one of the criteria described in divisions (D)(1) to (5) of this section:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

The agreement shall require the enterprise to agree to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the incentives described in division (B) of this section.

(E) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement under this section is entered into, if the board of county commissioners revokes its designation of a zone, or if the director of development revokes a zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(F) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the board of county commissioners once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the board and shall be used by the board exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The board may waive or reduce the amount of the fee charged against an enterprise, but such waiver or reduction does not affect the obligations of the board or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code, respectively.

(G) With the approval of the legislative authority of a municipal corporation or the board of township trustees of a township in which a zone is designated under division (A) of this section, the board of county commissioners may delegate to that legislative authority or board any powers and duties of the board of county commissioners to negotiate and administer agreements with regard to that zone under this section.

(H) When an agreement is entered into pursuant to this section, the board of county commissioners authorizing the agreement or the legislative authority or board of township trustees that negotiates and administers the agreement shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be foregone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development along with the copy of the agreement forwarded under this division.

(I) After an agreement is entered into, the enterprise shall file with each

personal property tax return required to be filed, or annual report that is required to be filed under section 5727.08 of the Revised Code, while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(J) Enterprises may agree to give preference to residents of the zone within which the agreement applies relative to residents of this state who do not reside in the zone when hiring new employees under the agreement.

(K) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

(L) The tax commissioner's authority in determining the accuracy of any exemption granted by an agreement entered into under this section is limited to divisions (B)(1)(b)(i) and (ii), (B)(2), (C), and (I) of this section, division (B)(1)(b)(iv) of this section as it pertains to divisions (C)(2)(a), (b), and (c) of section 5709.62 of the Revised Code, and divisions (B)(1) to (10) of section 5709.631 of the Revised Code and, as authorized by law, to enforcing any modification to, or revocation of, that agreement by the board of county commissioners or the director of development or, if the board's powers and duties are delegated under division (G) of this section, by the legislative authority of a municipal corporation or board of township trustees.

**Sec. 5709.64.** (A) If an enterprise has been granted an incentive for the current calendar year under an agreement entered into pursuant to section 5709.62, 5709.63, or 5709.632 of the Revised Code, ~~if the enterprise~~ the enterprise may apply, on or before the thirtieth day of April of that year, to the director of development, on a form prescribed by the director, for a tax incentive qualification certificate. The enterprise qualifies for an initial certificate if, on or before the last day of the calendar year immediately preceding that in which application is made, it satisfies all of the following requirements:

(1) The enterprise has established, expanded, renovated, or occupied a facility pursuant to the agreement under section 5709.62, 5709.63, or 5709.632 of the Revised Code.

(2) The enterprise has hired new employees to fill nonretail positions at the facility, at least twenty-five per cent of whom at the time they were employed were at least one of the following:

(a) Unemployed persons who had resided at least six months in the county in which the enterprise's project site is located;

(b) ~~JPTA-eligible~~ Targeted jobs credit-eligible employees who had

resided at least six months in the county in which the enterprise's project site is located;

(c) Participants of the Ohio works first program under Chapter 5107. of the Revised Code or the prevention, retention, and contingency program under Chapter 5108. of the Revised Code or recipients of general assistance under former Chapter 5113. of the Revised Code, financial assistance under Chapter 5115. of the Revised Code, or unemployment compensation benefits who had resided at least six months in the county in which the enterprise's project site is located;

(d) Handicapped persons, as defined under division (A) of section 3304.11 of the Revised Code, who had resided at least six months in the county in which the enterprise's project site is located;

(e) Residents for at least one year of a zone located in the county in which the enterprise's project site is located.

The director of development shall, by rule, establish criteria for determining what constitutes a nonretail position at a facility.

(3) The average number of positions attributable to the enterprise in the ~~municipal corporation~~ subdivision's territory during the calendar year immediately preceding the calendar year in which application is made exceeds the maximum number of positions attributable to the enterprise in ~~the municipal corporation~~ that territory during the calendar year immediately preceding the first year the enterprise satisfies the requirements set forth in divisions (A)(1) and (2) of this section. If the enterprise is engaged in a business which, because of its seasonal nature, customarily enables the enterprise to operate at full capacity only during regularly recurring periods of the year, the average number of positions attributable to the enterprise in the ~~municipal corporation~~ subdivision's territory during each period of the calendar year immediately preceding the calendar year in which application is made must exceed only the maximum number of positions attributable to the enterprise in each corresponding period of the calendar year immediately preceding the first year the enterprise satisfies the requirements of divisions (A)(1) and (2) of this section. The director of development shall, by rule, prescribe methods for determining whether an enterprise is engaged in a seasonal business and for determining the length of the corresponding periods to be compared. For the purposes of division (A)(3) of this section, "subdivision's territory" means the territory of a municipal corporation or the unincorporated territory of a county.

(4) The enterprise has not closed or reduced employment at any place of business in the state for the primary purpose of establishing, expanding, renovating, or occupying a facility. The legislative authority of any municipal corporation or the board of county commissioners of any county that concludes that an enterprise has closed or reduced employment at a place of business in that municipal corporation or county for the primary purpose of establishing, expanding, renovating, or occupying a facility in a zone may appeal to the director to determine whether the enterprise has done so. Upon receiving such an

appeal, the director shall investigate the allegations and make such a determination before issuing an initial or renewal tax incentive qualification certificate under this section.

Within sixty days after receiving an application under this division, the director shall review, investigate, and verify the application and determine whether the enterprise qualifies for a certificate. The application shall include an affidavit executed by the applicant verifying that the enterprise satisfies the requirements of division (A)(2) of this section, and shall contain such information and documents as the director requires, by rule, to ascertain whether the enterprise qualifies for a certificate. If the director finds the enterprise qualified, the director shall issue a tax incentive qualification certificate, which shall bear as its date of issuance the thirtieth day of June of the year of application, and shall state that the applicant is entitled to receive, for the taxable year that includes the certificate's date of issuance, the tax incentives provided under section 5709.65 of the Revised Code with regard to the facility to which the certificate applies. If an enterprise is issued an initial certificate, it may apply, on or before the thirtieth day of April of each succeeding calendar year for which it has been granted an incentive under an agreement entered into pursuant to section 5709.62, 5709.63, or 5709.632 of the Revised Code, for a renewal certificate. Subsequent to its initial certification, the enterprise qualifies for up to three successive renewal certificates if, on or before the last day of the calendar year immediately preceding that in which the application is made, it satisfies all the requirements of divisions (A)(1) to (4) of this section, and neither the zone's designation nor the zone's certification has been revoked prior to the fifteenth day of June of the year in which the application is made. The application shall include an affidavit executed by the applicant verifying that the enterprise satisfies the requirements of division (A)(2) of this section. An enterprise with ten or more supervisory personnel at the facility to which a certificate applies qualifies for any subsequent renewal certificates only if it meets all of the foregoing requirements and, in addition, at least ten per cent of those supervisory personnel are employees who, when first hired by the enterprise, satisfied at least one of the criteria specified in divisions (A)(2)(a) to (e) of this section. If the enterprise qualifies, a renewal certificate shall be issued bearing as its date of issuance the thirtieth day of June of the year of application. The director shall send copies of the initial certificate, and each renewal certificate, by certified mail, to the enterprise, the tax commissioner, and the board of county commissioners of the county, ~~and~~ the chief executive of the municipal corporation, in which the facility to which the certificate applies is located.

(B) If the director determines that an enterprise is not qualified for an initial or renewal tax incentive qualification certificate, the director shall send notice of this determination, specifying the reasons for it, by certified mail, to the applicant, the tax commissioner, and the board of county commissioners of the county, ~~and~~ the chief executive of the municipal corporation, in which the facility to which the certificate would have applied is located. Within thirty days after receiving such a notice, an enterprise may request, in writing, a hearing



before the director for the purpose of reviewing the application and the reasons for the determination. Within sixty days after receiving a request for a hearing, the director shall afford one and, within thirty days after the hearing, shall issue a redetermination of the enterprise's qualification for a certificate. If the enterprise is found to be qualified, the director shall proceed in the manner provided under division (A) of this section. If the enterprise is found to be unqualified, the director shall send notice of this finding, by certified mail, to the applicant, the tax commissioner, and the board of county commissioners of the county, and/or the chief executive of the municipal corporation, in which the facility to which the certificate would have applied is located. The director's redetermination that an enterprise is unqualified may be appealed to the board of tax appeals in the manner provided under section 5717.02 of the Revised Code.

**Sec. 5709.88.** (A) As used in sections 5709.88 ~~through~~ to 5709.883 of the Revised Code:

(1) "Enterprise," "expand," "renovate," "project," "project site," "position," "full-time employee," "first used in business," and "making retail sales" have the same meanings as in section 5709.61 of the Revised Code.

(2) "Property," "remedy," and "remedial activities" have the same meanings as in section 3746.01 of the Revised Code.

(3) "Facility" means an enterprise's place of business, including land constituting property that is described in a certification under division (B) of section 5709.87 of the Revised Code, and buildings, improvements, fixtures, structures, machinery, equipment, and other materials, except inventory, used in business and situated on such land. "Facility" does not include any portion of an enterprise's place of business used primarily for making retail sales unless the place of business is located in an impacted city as defined in section 1728.01 of the Revised Code.

(4) "New employee" means a full-time employee first employed by an enterprise at a facility that is a project site after the enterprise enters into an agreement under division (D) of this section.

(5) "Remediate" means to make expenditures for remedies or remedial activities equal to at least ten per cent of the true value in money of the land, buildings, improvements, structures, and fixtures constituting a facility as determined for purposes of property taxation immediately prior to formal approval of an agreement under division (D) of this section.

(6) "Occupy" means to make expenditures to alter or repair a vacant facility equal to at least twenty per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

(7) "Vacant facility" means a facility that has been vacant for at least ninety days immediately preceding the date on which an agreement is entered into under division (D) of this section.

(B) The legislative authority of any county or municipal corporation

within which is located property that is the subject of a certification under division (B) of section 5709.87 of the Revised Code may enter into an agreement with an enterprise under division (D) of this section, provided that the legislative authority of a county may enter into such agreements with respect only to property located within the unincorporated territory of the county. Prior to entering into such an agreement, the legislative authority shall petition the director of development for the director's confirmation that the property is the subject of such a certification, and the director, within thirty days after receipt of such a petition, shall confirm whether such a certification has been issued. The petition shall be accompanied by a description of the property in the form and manner prescribed by the director.

(C) Any enterprise that wishes to enter into an agreement with a legislative authority under division (D) of this section shall submit a proposal to the legislative authority on a form prescribed by the director of development together with the application fee established under section 5709.882 of the Revised Code. The form shall require the following information:

(1) An estimate of the number of new employees whom the enterprise intends to hire, or of the number of employees whom the enterprise intends to retain, at a facility that is a project site, and an estimate of the amount of payroll of the enterprise attributable to these employees;

(2) An estimate of the amount to be invested by the enterprise to establish, expand, renovate, or occupy a facility, including investment in new buildings, additions or improvements to existing buildings, machinery, equipment, furniture, fixtures, and inventory;

(3) A listing of the enterprise's current investment, if any, in a facility as of the date of the proposal's submission.

The enterprise shall review and update the listings required under this division to reflect material changes, and any agreement entered into under division (D) of this section shall set forth final estimates and listings as of the time the agreement is entered into. The legislative authority, on a separate form and at any time, may require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.882 of the Revised Code.

(D) Upon receipt and investigation of a proposal under division (C) of this section, if the legislative authority finds that the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities at the project site and improve the economic climate of the county or municipal corporation, the legislative authority, after complying with section 5709.83 of the Revised Code, may enter into, and formally shall approve, an agreement with the enterprise under which the enterprise agrees to remediate a facility and to spend an amount equal to at least two hundred fifty per cent of the true value in money of the land, buildings, improvements, structures, and fixtures constituting the facility, as determined for

purposes of property taxation immediately prior to formal approval of the agreement, to establish, expand, renovate, or occupy a facility and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the following incentives:

(1) Exemption for a specified number of years, not to exceed ten, of a specified portion, up to one hundred per cent, of the assessed value of tangible personal property first used in business at the project site as a result of the agreement. An exemption granted pursuant to division (D)(1) of this section applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except that, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the effective date of the agreement, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

An exemption granted under division (D)(1) of this section does not apply to a tax year after tax year 2005.

(2) Exemption for a specified number of years, not to exceed ten, of a specified portion, up to one hundred per cent, of the increase, subsequent to formal approval of the agreement by the legislative authority, in the assessed valuation of buildings, improvements, structures, and fixtures constituting the project site;

(3) Provision for a specified number of years, not to exceed ten, of any optional services or assistance that the county or municipal corporation is authorized to provide with regard to the project site.

(E) All agreements entered into under this section shall be in the form prescribed under section 5709.881 of the Revised Code.

(F) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars, provided that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for that purpose by the legislative authority and shall be used by the legislative authority exclusively for the purpose of complying with section 5709.882 of the Revised Code and by the tax incentive review council created under section 5709.883 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority may waive or reduce the amount of the fee charged against an enterprise, but such a waiver or reduction does not affect the obligations of the legislative authority or the tax incentive review council to comply with section 5709.882 or

5709.883 of the Revised Code.

(G) When an agreement is entered into under this section, the legislative authority authorizing the agreement shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is entered into.

(H) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(I) The legislative authority may require the owner of record to pay the amount of taxes that, during the period beginning with the commencement of the exemption and ending with the date of revocation of the covenant not to sue under Chapter 3746. of the Revised Code, would have been charged against the property had the property not been exempted from taxation pursuant to an agreement entered into under this section. In the case of real property, the proper county auditor shall determine the taxable value of the property for each of the tax years for which the property had been exempted from taxation, and shall determine the amount of taxes that would have been charged against the property had the property been subject to taxation each of those years. The county treasurer shall issue a tax bill as otherwise required by law, and the taxes shall be payable in full on the first succeeding day on which the first one-half of taxes is required to be paid under section 323.12 of the Revised Code. If such real property taxes are not paid in full when due, a penalty shall be charged, and interest shall accrue on those taxes, as provided in section 323.121 of the Revised Code. In cases of underpayment or nonpayment, the deficiency shall be collected as otherwise provided for the collection of delinquent real property taxes.

In the case of tangible personal property, the tax commissioner shall determine the taxable value of the property for each of the tax years for which the property had been exempted from taxation on the basis of the informational return required to be filed under this section or any further assessment necessary to make such a determination, and certify that determination to the proper county auditor, who shall add the property to the proper tax lists and duplicates. Taxes shall be charged against such property at the rates charged for the respective years for which taxes are charged under this division. The county treasurer shall issue a tax bill as otherwise required by law, and the taxes shall be payable on the next succeeding date for the payment of current taxes. If the taxes are not paid in full when due, a penalty shall be charged, and interest shall accrue, as otherwise provided in sections 5719.03 and 5719.041 of the Revised Code. In cases of underpayment or nonpayment, the deficiency shall be collected as otherwise provided in Chapter 5719. of the Revised Code.

**Sec. 5711.01.** As This chapter applies to the listing and assessment of taxable property for tax years prior to tax year 2006.

As used in this chapter:

(A) "Taxable property" includes all the kinds of property mentioned in division (B) of former section 5709.01 as that section existed prior to its amendment by H.B. 66 of the 126th general assembly and section 5709.02 of the Revised Code, and also the amount or value as of the date of conversion of all taxable property converted into bonds or other securities not taxed on or after the first day of November in the year preceding the date of listing, and of all other taxable property converted into deposits after the date as of which deposits are required to be listed in such year, except in the usual course of the taxpayer's business, to the extent ~~hethe taxpayer~~ may hold or control such bonds, securities, or deposits on such day, without deduction for indebtedness created in the purchase of such bonds or securities from ~~histe taxpayer's~~ credits. However, taxable property does not include such investments and deposits as are taxable at the source as provided in sections 5725.01 to 5725.26 of the Revised Code, surrender values under policies of insurance, or any tangible personal property acquired from a public utility or interexchange telecommunications company as defined in section 5727.01 of the Revised Code, and leased back to the public utility or interexchange telecommunications company pursuant to a sale and leaseback transaction as defined in division (I) of section 5727.01 of the Revised Code.

(B) "Taxpayer" means any owner of taxable property, including property exempt under division (C) of former section 5709.01 of the Revised Code as that section existed prior to its amendment by H.B. 66 of the 126th general assembly, and includes every person residing in, or incorporated or organized by or under the laws of this state, or doing business in this state, or owning or having a beneficial interest in taxable personal property in this state and every fiduciary required by sections 5711.01 to 5711.36 of the Revised Code, to make a return for or on behalf of another. The tax commissioner may by rule define and designate the taxpayer, as to any taxable property which would not otherwise be required by this section to be returned; and any such rule shall be considered supplementary to the enumeration of kinds of taxpayers following:

(1) Individuals of full age and sound mind residing in this state;

(2) Partnerships, corporations, associations, and joint-stock companies, under whatever laws organized or existing, doing business or having taxable property in this state; and corporations incorporated by or organized under the laws of this state, wherever their actual business is conducted;

(3) Fiduciaries appointed by any court in this state or having title, possession, or custody of taxable personal property in this state or engaged in business in this state;

(4) Unincorporated mutual funds.

Taxpayer excludes all individuals, partnerships, corporations, associations, and joint-stock companies, their executors, administrators, and receivers who are defined in Title LVII of the Revised Code as financial

institutions, dealers in intangibles, domestic insurance companies, or public utilities, except to the extent they may be required by sections 5711.01 to 5711.36 of the Revised Code, to make returns as fiduciaries, or by section 5725.26 of the Revised Code, to make returns of property leased, or held for the purpose of leasing, to others if the owner or lessor of the property acquired it for the sole purpose of leasing it to others or to the extent that property is taxable under section 5725.25 of the Revised Code.

(C) "Return" means the taxpayer's annual report of taxable property.

(D) "List" means the designation, in a return, of the description of taxable property, the valuation or amount thereof, the name of the owner, and the taxing district where assessable.

(E) "Taxing district" means, in the case of property assessable on the classified tax list and duplicate, a municipal corporation or the territory in a county outside the limits of all municipal corporations therein; in the case of property assessable on the general tax list and duplicate, a municipal corporation or township, or part thereof, in which the aggregate rate of taxation is uniform.

(F) "Assessor" includes the tax commissioner and the county auditor as deputy of the commissioner.

(G) "Fiduciary" includes executors, administrators, parents, guardians, receivers, assignees, official custodians, factors, bailees, lessees, agents, attorneys, and employees, but does not include trustees unless the sense so requires.

(H) "General tax list and duplicate" means the books or records containing the assessments of property subject to local tax levies.

(I) "Classified tax list and duplicate" means the books or records containing the assessments of property not subject to local tax levies.

(J) "Investment company" means any corporation, the shares of which are regularly offered for sale to the public, engaged solely in the business of investing and reinvesting funds in real property or investments, or holding or selling real property or investments for the purpose of realizing income or profit which is distributed to its shareholders. Investment company does not include any dealer in intangibles, as defined in section 5725.01 of the Revised Code.

(K) "Unincorporated mutual fund" means any partnership, each partner of which is a corporation, engaged solely in the business of investing and reinvesting funds in investments, or holding or selling investments for the purpose of realizing income or profit which is distributed to its partners and which is subject to Chapter 1707. of the Revised Code. An unincorporated mutual fund does not include any dealer in intangibles as defined in section 5725.01 of the Revised Code.

**Sec. 5711.02.** Except as otherwise provided by section 5711.13 of the Revised Code, ~~each year, beginning in tax year 2004, for tax year 2005~~ each

taxpayer having taxable personal property with an aggregate taxable value in excess of ten thousand dollars shall make a return to the county auditor of each county in which any taxable property the taxpayer must return is required by this chapter to be listed. The taxpayer shall truly and correctly list on the return all taxable property so required to be listed, including property exempt under division (C)(3) of section 5709.01 of the Revised Code as that section existed prior to its amendment by H.B. 66 of the 126th general assembly. Such returns shall be made on the blanks prescribed by the tax commissioner, which the county auditor shall supply at the auditor's office along with blanks of the kind required for the county supplemental return required by section 5711.131 of the Revised Code. The county auditor shall mail or distribute such blanks prior to the fifteenth day of February to all persons known to the auditor to be taxpayers and to all persons to whom the commissioner may direct blanks of either type to be mailed or distributed. The county auditor may place listing and county supplemental blanks at convenient places in the county. The failure of a taxpayer to receive or procure blanks shall not excuse the taxpayer from making any return or county supplemental return. The individual required to make the return shall furnish all statements and documents, give all information required, answer all questions asked on the required blanks, and subscribe to the truth and correctness of all matters contained therein.

**Sec. 5711.13. Beginning in** ~~In~~ tax year 2004 and in tax year 2005, each taxpayer having taxable property with an aggregate taxable value in excess of ten thousand dollars and required to be listed in more than one county shall make a combined return to the tax commissioner listing all its taxable property in this state, in conformity with sections 5711.01 to 5711.36 of the Revised Code, including property exempt under division (C)(3) of section 5709.01 of the Revised Code as that section existed prior to its amendment by H.B. 66 of the 126th general assembly, but the taxpayer shall not assign property of the kinds mentioned in section 5709.02 of the Revised Code to any particular taxing district or county. The tax commissioner shall assess the personal property of such taxpayer in the several taxing districts in which it is required to be assessed under sections 5711.01 to 5711.36 of the Revised Code, and shall issue assessment certificates therefor to the proper county auditors at the time and in the manner required by section 5711.25 of the Revised Code. All other property of such taxpayer required to be so listed shall be entered on the intangible property tax list in the office of the treasurer of state, and shall be subject to taxation under section 5707.03 of the Revised Code. The commissioner shall assess all other property of each such taxpayer and, on or before the second Monday of August annually, shall certify the total value or amount of each kind thereof to the treasurer of state, who shall enter the value or amount on the intangible property tax list in the treasurer of state's office in the manner provided in sections 5725.01 to 5725.26 of the Revised Code. Sections 5711.01 to 5711.36 of the Revised Code shall apply to and govern such taxpayer, its proper officers and representatives, the commissioner, and the county auditor as to all proceedings in the assessment of the property of such taxpayer."

Delete lines 59409 through 59624 and insert:

**"Sec. 5711.22.** (A) Deposits not taxed at the source shall be listed and assessed at their amount in dollars on the day they are required to be listed. Moneys shall be listed and assessed at the amount thereof in dollars on hand on the day that they are required to be listed. In listing investments, the amount of the income yield of each for the calendar year next preceding the date of listing shall, except as otherwise provided in this chapter, be stated in dollars and cents and the assessment thereof shall be at the amount of such income yield; but any property defined as investments in either division (A) or (B) of section 5701.06 of the Revised Code that has not been outstanding for the full calendar year next preceding the date of listing, except shares of stock of like kind as other shares of the same corporation outstanding for the full calendar year next preceding the date of listing, or which has yielded no income during such calendar year shall be listed and assessed as unproductive investments, at their true value in money on the day that such investments are required to be listed.

Credits and other taxable intangibles shall be listed and assessed at their true value in money on the day as of which the same are required to be listed.

Shares of stock of a bank holding company, as defined in Title 12 U.S.C.A., section 1841, that are required to be listed for taxation under this division and upon which dividends were paid during the year of their issuance, which dividends are subject to taxation under the provisions of Chapter 5747. of the Revised Code, shall be exempt from the intangibles tax for the year immediately succeeding their issuance. If such shares bear dividends the first calendar year after their issuance, which dividends are subject to taxation under the provisions of Chapter 5747. of the Revised Code, it shall be deemed that the nondelinquent intangible property tax pursuant to division (A) of section 5707.04 of the Revised Code was paid on those dividends paid that first calendar year after the issuance of the shares.

(B)(1) Boilers, machinery, equipment, and personal property the true value of which is determined under division (B) of section 5711.21 of the Revised Code shall be listed and assessed at an amount equal to the sum of the products determined under divisions (B)(1)(a), (b), and (c) of this section.

(a) Multiply the portion of the true value determined under division (B)(1) of section 5711.21 of the Revised Code by the assessment rate in division (F) of this section;

(b) Multiply the portion of the true value determined under division (B)(2) of section 5711.21 of the Revised Code by the assessment rate in section 5727.111 of the Revised Code that is applicable to the production equipment of an electric company;

(c) Multiply the portion of the true value determined under division (B)(3) of section 5711.21 of the Revised Code by the assessment rate in section 5727.111 of the Revised Code that is applicable to the property of an electric company that is not production equipment.

(2) Personal property leased to a public utility or interexchange



telecommunications company as defined in section 5727.01 of the Revised Code and used directly in the rendition of a public utility service as defined in division (P) of section 5739.01 of the Revised Code shall be listed and assessed at the same percentage of true value in money that such property is required to be assessed by section 5727.111 of the Revised Code if owned by the public utility or interexchange telecommunications company.

(C)(1) Merchandise or an agricultural product shipped from outside this state and held in this state in a warehouse or a place of storage without further manufacturing or processing and for storage only and for shipment outside this state, but that is taxable because it does not qualify as "not used in business in this state" under division (B)(1) or (2) of section 5701.08 of the Revised Code, shall be listed and assessed at a rate of twenty-five one-hundredths of its true value in money until reduced in accordance with the following schedule:

(a) For any year, subtract five one-hundredths from the rate at which such property was required to be listed and assessed in the preceding year, if the total statewide collection of all real and tangible personal property taxes for the second preceding year exceeded the total statewide collection of all real and tangible personal property taxes for the third preceding year by more than the greater of four per cent or the rate of increase from the third to the second preceding years in the average consumer price index (all urban consumers, all items) prepared by the bureau of labor statistics of the United States department of labor;

(b) If no reduction in the assessment rate is made for a year, the rate is the same as for the preceding year.

(2) Each year until the year the assessment rate equals zero, the tax commissioner shall determine the assessment rate required under this division and shall notify all county auditors of that rate.

(3) Notwithstanding provisions to the contrary in division (B) of section 5701.08 of the Revised Code, during and after the year for which the assessment rate as calculated under this division equals zero, any merchandise or agricultural product shipped from outside this state and held in this state in any warehouse or place of storage, whether public or private, without further manufacturing or processing and for storage only and for shipment outside this state to any person for any purpose is not used in business in this state for property tax purposes.

(D)(1) Merchandise or an agricultural product owned by a qualified out-of-state person shipped from outside this state and held in this state in a public warehouse without further manufacturing or processing and for temporary storage only and for shipment inside this state, but that is taxable because it does not qualify as "not used in business in this state" under division (B)(1) or (2) of section 5701.08 of the Revised Code, shall be listed and assessed at a rate of twenty-five one-hundredths of its true value in money until reduced in accordance with the following schedule:

(a) For any year, subtract five one-hundredths from the rate at which such property was required to be listed and assessed in the preceding year, if the total statewide collection of all real and tangible personal property taxes for the second preceding year exceeded the total statewide collection of all real and tangible personal property taxes for the third preceding year by more than the greater of four per cent or the rate of increase from the third to the second preceding years in the average consumer price index (all urban consumers, all items) prepared by the bureau of labor statistics of the United States department of labor;

(b) If no reduction in the assessment rate is made for a year, the rate is the same as for the preceding year.

(2) Each year until the year the assessment rate equals zero, the tax commissioner shall determine the assessment rate required under this division and shall notify all county auditors of that rate.

(3) Notwithstanding provisions to the contrary in division (B) of section 5701.08 of the Revised Code, during and after the year for which the assessment rate as calculated under this division equals zero, any merchandise or agricultural product described in division (D)(1) of this section is not used in business in this state for property tax purposes.

(4) As used in division (D) of this section:

(a) "Qualified out-of-state person" means a person that does not own, lease, or use property, other than merchandise or an agricultural product described in this division, in this state, and does not have employees, agents, or representatives in this state;

(b) "Public warehouse" means a warehouse in this state that is not subject to the control of or under the supervision of the owner of the merchandise or agricultural product stored in it, or staffed by the owner's employees, and from which the property is to be shipped inside this state.

(E) ~~Personal property valued pursuant to section 5711.15 of the Revised Code and personal property required to be listed on the average basis by division (A) of section 5711.16 of the Revised Code, except property described in division (C) or (D) of this section, business fixtures, and furniture not held for sale in the course of business, shall be listed and assessed at the rate of twenty five per cent of its true value in money until reduced to zero in accordance with the following schedule:~~

~~(1) Beginning in tax year 2002 and for each of tax years 2003 and 2004, subtract one percentage point from the rate at which the property was required to be listed and assessed in the preceding year, if the total statewide collection of tangible personal property taxes for the second preceding year exceeded the total statewide collection of tangible personal property taxes for the third preceding year. If no reduction in the assessment rate is made for a year, the rate is the same as for the preceding year.~~

~~(2) In tax years 2005 and 2006, the assessment rate shall be reduced by two percentage points, if the total statewide collection of tangible personal property taxes for the second preceding year exceeded the total statewide collection of tangible personal property taxes for the third preceding year. If no reduction in the assessment rate is made for a year, the rate is the same as for the preceding year.~~

~~(3) For tax year 2007 and each tax year thereafter, the assessment rate shall be reduced by two percentage points. During and after the tax year that the assessment rate equals zero, the property described in division (E) of this section shall not be listed for taxation.~~

~~Each year until the year the assessment rate equals zero, the tax commissioner shall determine the assessment rate required under this division and shall notify all county auditors of that rate.~~

~~For purposes of division (E) of this section, "total statewide collection of tangible person property taxes" excludes taxes collected from public utilities and interexchange telecommunications companies on property that is determined to be taxable pursuant to section 5727.06 of the Revised Code.~~

~~(F) Unless otherwise provided by law, all other personal property used in business that has not been legally regarded as an improvement on land and considered in arriving at the value of the real property assessed for taxation shall be listed and assessed at the rate of twenty-five per cent of its true value in money."~~

Delete lines 60080 through 60170 and insert:

**"Sec. 5727.06.** (A) Except as otherwise provided by law, the following constitutes the taxable property of a public utility or interexchange telecommunications company that shall be assessed by the tax commissioner:

(1) In the case of a railroad company, all real property ~~and tangible personal property~~ owned or operated by the railroad company in this state on the thirty-first day of December of the preceding year;

(2) In the case of a water transportation company, all tangible personal property, except watercraft, owned or operated by the water transportation company in this state on the thirty-first day of December of the preceding year and all watercraft owned or operated by the water transportation company in this state during the preceding calendar year;

(3) In the case of all other public utilities and interexchange telecommunications companies, all tangible personal property that on the thirty-first day of December of the preceding year was both located in this state and:

(a) Owned by the public utility or interexchange telecommunications company; or

(b) Leased by the public utility or interexchange telecommunications

company under a sale and leaseback transaction.

(B) In the case of an interexchange telecommunications company, all taxable property shall be subject to the provisions of this chapter and shall be valued by the commissioner in accordance with division (A) of section 5727.11 of the Revised Code. A person described by this division shall file the report required by section 5727.08 of the Revised Code. Persons described in this division shall not be considered taxpayers, as defined in division (B) of section 5711.01 of the Revised Code, and shall not be required to file a return and list their taxable property under any provision of Chapter 5711. of the Revised Code.

(C) The lien of the state for taxes levied each year on the real ~~and/or~~ personal property of public utilities and interexchange telecommunications companies shall attach thereto on the thirty-first day of December of the preceding year.

(D) Property that is required by division (A)(3)(b) of this section to be assessed by the tax commissioner under this chapter shall not be listed by the owner of the property under Chapter 5711. of the Revised Code.

(E) The tax commissioner may adopt rules governing the listing of the taxable property of public utilities and interexchange telecommunications companies and the determination of true value."

Delete lines 60344 through 60373 and insert:

"**Sec. 5727.12.** As used in this chapter, "property used in railroad operations" means property used in or determined by the tax commissioner to be held by a railroad for use in railroad operations. In determining the true value of all real and personal property owned or leased by each railroad company and used in railroad operations, the commissioner shall use the unitary method and value all of the property of the company's railroad system as a whole, considering the factors generally used in that method, and weighing each factor appropriately. The true value of the property used in railroad operations shall be apportioned to this state as provided in section 5727.14 of the Revised Code. The commissioner shall separately determine the true value of property owned by the company that the commissioner determines is not used in railroad operations. The commissioner may require the advice of county auditors concerning such values.

All property of a railroad shall be assessed for taxation at the same percentage of true value at which all other real property in this state is assessed, in the case of real property, and at the percentage of true value provided under ~~divisions~~ division (E) ~~and (F)~~ of section 5711.22 of the Revised Code, in the case of personal property.

A determination of the value of each tract, lot, or parcel of real property or each item of personal property not used in railroad operations shall be considered a separate determination with respect to which a separate petition for reassessment may be filed under section 5727.47 of the Revised Code.

Where a line of railroad is subsidized under the terms of the federal regional rail reorganization act or the federal rail revitalization and regulatory reform act, the real ~~and other fixed~~ property shall be assessed solely in the name of its owner.

**Sec. 5727.15.** When all the taxable property of a public utility is located in one taxing district, the tax commissioner shall apportion the total taxable value thereof to that taxing district.

When taxable property of a public utility is located in more than one taxing district, the commissioner shall apportion the total taxable value thereof among the taxing districts as follows:

(A)(1) In the case of a telegraph, interexchange telecommunications, or telephone company that owns miles of wire in this state, the value apportioned to each taxing district shall be the same percentage of the total value apportioned to all taxing districts as the miles of wire owned by the company within the taxing district are to the total miles of wire owned by the company within this state;

(2) In the case of a telegraph, interexchange telecommunications, or telephone company that does not own miles of wire in this state, the value apportioned to each taxing district shall be the same percentage of the total value apportioned to all taxing districts as the cost of the taxable property physically located in the taxing district is of the total cost of all taxable property physically located in this state.

(B) In the case of a railroad company:

(1) The taxable value of real ~~and personal~~ property not used in railroad operations shall be apportioned according to its situs;

~~(2) The taxable value of personal property used in railroad operations shall be apportioned to each taxing district in proportion to the miles of track and trackage rights, weighted to reflect the relative use of such personal property in each taxing district;~~

~~(3) The taxable value of real property used in railroad operations shall be apportioned to each taxing district in proportion to its relative value in each taxing district.~~

(C)(1) Prior to tax year 2001, in the case of an electric company:

(a) Seventy per cent of the taxable value of all production equipment and of all station equipment that is not production equipment shall be apportioned to the taxing district in which such property is physically located; and

(b) The remaining value of such property, together with the value of all other taxable personal property, shall be apportioned to each taxing district in the per cent that the cost of all transmission and distribution property physically located in the taxing district is of the total cost of all transmission and distribution property physically located in this state.

(c) If an electric company's taxable value for the current year includes the value of any production equipment at a plant at which the initial cost of the plant's production equipment exceeded one billion dollars, then prior to making the apportionments required for that company by division (C)(1)(a) and (b) of this section, the tax commissioner shall do the following:

(i) Subtract four hundred twenty million dollars from the total taxable value of the production equipment at that plant for the current tax year.

(ii) Multiply the difference thus obtained by a fraction, the numerator of which is the portion of the taxable value of that plant's production equipment included in the company's total value for the current tax year, and the denominator of which is the total taxable value of such equipment included in the total taxable value of all electric companies for such year;

(iii) Apportion the product thus obtained to taxing districts in the manner prescribed in division (C)(1)(b) of this section.

(iv) Deduct the amounts so apportioned from the taxable value of the company's production equipment at the plant, prior to making the apportionments required by divisions (C)(1)(a) and (b) of this section.

For purposes of division (C)(1)(c) of this section, "initial cost" applies only to production equipment of plants placed in commercial operation on or after January 1, 1987, and means the cost of all production equipment at a plant for the first year the plant's equipment was subject to taxation.

(2) For tax year 2001 and thereafter, in the case of an electric company:

(a) The taxable value of all production equipment shall be apportioned to the taxing district in which such property is physically located; and

(b) The value of taxable personal property, other than production equipment, shall be apportioned to each taxing district in the proportion that the cost of such other taxable personal property physically located in each taxing district is of the total cost of such other taxable personal property physically located in this state.

(D) In the case of all other public utilities, the value of the property to be apportioned shall be apportioned to each taxing district in proportion to the entire value of such property within this state."

In line 74199, after "131.23," insert "133.01,"

In line 74203, after "319.20," insert "319.29,"

In line 74226, after "3317.51," insert "3318.011,"; after "3318.33," insert "3318.42,"

In line 74275, after "5552.01," insert "5701.08,"

In line 74276, after "5705.19," insert "5705.34,"; after "5705.391," insert "5709.01, 5709.61, 5709.62, 5709.63, 5709.64, 5709.88, 5711.01, 5711.02,"

5711.13,"

In line 74278, after "5727.12," insert "5727.15,"

Between 88870 and 88871, insert:

**"Section 557.07.** The amendment by this act of sections 5711.22, 5727.06, 5727.12, and 5727.15 of the Revised Code takes effect January 1, 2006, and applies to tax year 2006 and thereafter.

The amendment by this act of section 5739.10 of the Revised Code is not intended to supersede the January 1, 2006, effective date of the amendment to that section in Am. Sub. H.B. 95 of the 125th General Assembly pertaining to the elimination of the exemption for retail sales under 16 ?."

In line 89617, after "(3318.49)," insert "3318.011,"

In line 89692, after "122.171," insert "133.01,"; after "150.10," insert "319.29,"

In line 89693, after "4505.06," insert "5701.08,"

In line 89695, after "5703.99," insert "5705.34,"; after "5707.031," insert "5709.01, 5709.61, 5709.62, 5709.63, 5709.64, 5709.88, 5711.01, 5711.02, 5711.13,"

In line 89697, after "5727.12," insert "5727.15,"

In line 10 of the title, after "131.23," insert "133.01,"

In line 15 of the title, after "319.20," insert "319.29,"

In line 47 of the title, after "3317.51," insert "3318.011,"; after "3318.33," insert "3318.42,"

In line 114 of the title, after "5552.01," insert "5701.08,"

In line 116 of the title, after "5705.29," insert "5705.34,"; after "5705.391," insert "5709.01, 5709.61, 5709.62, 5709.63, 5709.64, 5709.88, 5711.01, 5711.02, 5711.13,"

In line 119 of the title, after "5727.12," insert "5727.15,"

In line 404, after "5747.056," insert "5747.71,"

Between lines 70905 and 70906, insert:

**"Sec. 5747.71.** For taxable years beginning on or after January 1, 2005, there is hereby allowed a refundable credit against the tax imposed by section 5747.02 of the Revised Code for a taxpayer who is an "eligible individual," as defined in section 32 of the Internal Revenue Code. The credit shall equal twenty per cent of the credit allowed on the taxpayer's federal income tax return pursuant to section 32 of the Internal Revenue Code for the taxable year, or, if an earned income eligibility certificate with respect to the taxpayer is in effect during the taxpayer's taxable year pursuant to section 3507 of the Internal

Revenue Code, twenty per cent of the amount of advance payments of the earned income credit made by the employer during the taxpayer's taxable year pursuant to that section. The credit shall be claimed in the order prescribed by section 5747.98 of the Revised Code. If the amount of the credit exceeds the amount of tax due after deducting all other credits that precede the credit allowed by this section in that order, the taxpayer shall receive a refund of the excess."

In line 71033, after "Code" insert ";

(38) The refundable earned income tax credit under section 5747.71 of the Revised Code"

In line 71035, delete "(37)" and insert "(38)"

Between lines 80811 and 80812, insert:

**"Section \_\_\_. EARNED INCOME TAX CREDIT**

At the request of the Tax Commissioner, in fiscal year 2006 and fiscal year 2007, the Director of Job and Family Services shall transfer to the GRF an amount to be determined by the Tax Commissioner from the moneys appropriated for the TANF program in appropriation item 600-689, TANF Block Grant, to support the refundable portion of the earned income tax credit under section 5747.71 of the Revised Code."

In line 89707, after "5747.331," insert "5747.71,"

In line 203 of the title, after "5747.056," insert "5747.71,"

In line 403, after "5729.032," insert "5733.08,"

Between lines 62671 and 62672, insert:

**"Sec. 5733.08. (A) As used in this section:**

(1) "Bad debts" means any debts that have become worthless or uncollectible between the preceding and current quarterly tax reporting periods, have been uncollected for at least six months, and may be claimed as a deduction under section 166 of the Internal Revenue Code and the regulations adopted pursuant thereto, or that could be claimed as such if the credit card company had kept its accounts on an accrual basis. "Bad debts" does not include uncollectible amounts on property that remains in the possession of the credit card company until the full purchase price is paid, expenses in attempting to collect any account receivable or for any portion of the debt recovered, and repossessed property.

(2) "Credit card company" means any person, as defined in section 5701.01 of the Revised Code, that issues a card that allows another person to purchase goods, services, or otherwise incur charges against the company's card at multiple locations and with entities that are not related to the person who issues the card. "Credit card company" does not include persons who issue cards that allow for charges against the card for purchases at locations owned by the person who issues the card.



(3) "Taxable credit card company gross receipts" includes all of the following:

(a) The total amount charged on a credit card against any cardholder's account at a location within this state.

(b) Interest, charges, and fees of any kind assessed by the credit card company against cardholders, apportioned to this state. The amount of interest, charges, and fees to be apportioned to this state shall equal the product of the amounts set forth in division (A)(3)(b)(i) and (ii) of this section.

(i) The total amount of interest, charges, and fees of any kind assessed everywhere by the credit card company against credit cards.

(ii) A fraction, the numerator of which is the amount of interest, charges, and fees assessed by the credit card company against credit card accounts with a billing address in this state, and the denominator of which is the amount of interest, charges, and fees assessed by the credit card company against credit card accounts billed everywhere.

(c) Any amount received from the collection of bad debts that were previously deducted by the credit card company from the amount of credit card company gross receipts taxable under this section, and apportioned to this state. The amount of previously deducted bad debts to be apportioned to this state shall equal the product of the amounts set forth in divisions (A)(3)(c)(i) and (ii) of this section.

(i) The total amount of previously deducted bad debts collected everywhere.

(ii) A fraction, the numerator of which is the amount of previously deducted bad debts collected from credit card accounts with a billing address in this state, and the denominator of which is the amount of previously deducted bad debts collected everywhere.

(B)(1) For the same purposes for which the tax is levied under section 5733.06 of the Revised Code, there is hereby levied a tax on each credit card company having taxable credit card company gross receipts in this state for the privilege of doing business in the state. The tax levied under this section is not a tax on or measured by net income and is in addition to any other taxes or fees imposed under other chapters of the Revised Code.

(2) The tax imposed by this section is a tax on the credit card company and shall not be billed or invoiced to another person.

(C) The tax levied under this section for each quarterly tax reporting period shall be the product of two and six-tenths mills per dollar times the remainder of the credit card company's taxable credit card company gross receipts after subtracting the amount described in division (D) of this section. The tax imposed by this section shall be paid and reported in the same manner as the tax imposed under section 5733.06 of the Revised Code, and is subject to the

provisions of this chapter regarding distribution, collection, assessment, penalty, interest, and enforcement, except that the tax shall be paid and reported on or before the fifteenth day of the second month following the close of each calendar quarter in the tax year on the basis of taxable credit card company gross receipts received during the calendar quarter.

(D) In computing its tax under this section, a credit card company shall deduct the total amount of bad debts incurred during the quarterly tax reporting period and apportioned to this state. The amount of previously deducted bad debts to be apportioned to this state shall equal the product of the amounts set forth in divisions (D)(1) and (2) of this section.

(1) The total amount of bad debts incurred everywhere.

(2) A fraction, the numerator of which is the amount of bad debts incurred from credit card accounts with a billing address in this state, and the denominator of which is the amount of bad debts incurred everywhere.

(E) A nonrefundable credit against the tax imposed by this section is allowed for the amount, if any, paid by the credit card company under section 5733.06 of the Revised Code based on the same tax year. No other credit authorized under this chapter may be claimed against the tax imposed under this section."

Between lines 88870 and 88871, insert:

"**Section** \_\_\_\_\_. Notwithstanding division (C) of section 5733.08 of the Revised Code, as enacted by this act, the first report and payment of the tax shall be made not later than February 15, 2006, and shall be computed on the basis of taxable credit card company gross receipts received from July 1, 2005, through December 31, 2005, without deduction for bad debts during that period. Bad debts incurred during that period are deductible as provided in division (D) of section 5733.08 of the Revised Code for quarterly tax reporting periods beginning on or after January 1, 2006."

In line 89701, after "5733.01," insert "5733.08,"

In line 201 of the title, after "5729.032," insert "5733.08,"

In line 69544, delete "but not for any taxable"

In line 69545, delete "year beginning after December 31, 2005"

In line 89473, delete "(A)(18) of section 5747.01 and division"

Between lines 86900 and 86901, insert:

"**Section** \_\_\_\_\_. OBJECT CODE 13 REDUCTIONS

The Director of Budget and Management shall reduce state agency General Revenue Fund Object Code 13 expenditures by one-third in each fiscal year without disrupting essential services of the state."

In line 377, delete "3310.01,"

Delete line 378

In line 379, delete everything before "3314.016,"

Delete lines 18952 through 19161

In line 19621, reinsert "~~an amount established~~"

In line 19622, reinsert "~~by the state superintendent not in excess of~~"

In line 19623, delete "before fiscal year 2007 and three thousand four hundred"

In line 19624, delete "fifty dollars in fiscal year 2007 and thereafter"

In line 19628, reinsert "~~an amount established by the~~"

In line 19629, reinsert "~~state superintendent not in excess of~~"

In line 19630, delete "before fiscal year 2007 and three thousand four hundred"

In line 19631, delete "fifty dollars in fiscal year 2007 and thereafter"

In line 19640, reinsert "a" and delete the underlined colon

In line 19641, delete "(a) Before fiscal year 2007, a"

In line 19644, delete the underlined semicolon

In line 19645, delete all before the period

In line 24313, delete "and scholarship students"

In line 24314, delete "divisions" and insert "division"; delete "and (f)"

In line 24363, delete the underlined semicolon

Delete line 24364

In line 24365, delete all before the period

Delete lines 24419 and 24420

In line 24421, delete "(g)" and insert "(f)"

In line 77149, delete "\$13,707,665 \$13,557,665" and insert "\$13,232,665 \$13,232,665"

In lines 77181 and 77250, subtract \$475,000 from fiscal year 2006 and \$325,000 from fiscal year 2007

Delete lines 77523 through 77527

Delete lines 79296 through 79313

In line 89608, after "3301.88," delete the balance of the line

Delete line 89609

In line 89610, delete "3310.16, 3310.17,"

In line 168 of the title, after "3302.10," delete the balance of the line

Delete lines 169 and 170 of the title

Between lines 75726 and 75727 insert:

"SPECIAL COUNSEL EXPENSE

Notwithstanding any provision of the Revised Code to the contrary, the state shall not pay more than \$20,862,267.97 for services provided during fiscal year 2006, and shall not pay more than \$20,862,267.97 for services provided during fiscal year 2007, by special counsel appointed by the attorney general pursuant to section 109.07 of the Revised Code."

Between lines 88311 and 88312 insert:

"**Section \_\_\_\_.** (A) The Auditor of State shall conduct a performance audit of each of the departments listed in section 121.02 of the Revised Code and the Department of Taxation to determine potential savings in the expenditures of each department.

(B) The Auditor of State shall submit, not later than December 31, 2005, to the Governor, the Speaker of the House of Representatives, the President of the Senate, the Minority Leader of the House of Representatives, and the Minority Leader of the Senate recommendations, resulting from the performance audits described in division (A) of this section, for saving not less than thirty million dollars during fiscal year 2006 in the total expenditures of the departments referred to in that division."

In line 369, after "103.132," insert "117.102,"

In line 390, after "5101.803," insert "5101.90,"

Between lines 1985 and 1986, insert:

**Sec. 117.102.** The auditor of state may conduct a performance audit of the medicaid program, as defined in section 5111.01 of the Revised Code, to determine ways of reducing or eliminating fraud, waste, and abuse in the program, making the program more efficient, and enhancing the program's results. Audits conducted under this section shall be conducted in accordance with generally accepted government auditing standards.

Between lines 45972 and 45973, insert:

**Sec. 5101.90.** The department of job and family services shall implement the recommendations of the Ohio commission to reform medicaid in accordance with the commission's report, "Transforming Ohio Medicaid," by doing the following:

(A) Consolidating all pharmaceutical purchasing by the state and other public entities with the medicaid program;

(B) Participating in a multiple-state prescription drug purchasing program, in accordance with section 5111.0114 of the Revised Code;

(C) Developing a more restrictive medicaid drug formulary by implementing a program that requires medicaid beneficiaries to use generic medications except where a physician demonstrates that a brand-name drug is medically necessary and the physician obtains prior approval from the medicaid program;

(D) Reducing medicaid prescription drug expenditures by doing the following:

(1) Reducing the dispensing fee paid to pharmacies for medicaid prescription drugs;

(2) Implementing a mail-order program for medicaid recipients with disabilities or chronic illnesses;

(3) Increasing the use of generic drugs as brand-name drugs lose patent protection.

(E) Analyzing the prescription drugs covered under medicaid compared to those covered under medicare part D to determine whether medicaid should cover drugs not covered by medicare part D;

(F) Establishing a bill payment schedule that is consistent with the prompt payment law but allows the medicaid program to earn interest on funds;

(G) Modifying current benefit coordination procedures to ensure that medicare is the first payer for all individuals who are eligible for both medicare and medicaid;

(H) Modifying current benefit coordination procedures to ensure that non-medicare payment sources are billed prior to billing medicaid for services;

(I) To the extent permitted by federal law, expanding selective contracting to services and items such as laboratory services, medical devices, durable medical equipment, nonemergency transportation, specialty inpatient care, and any other services the medicaid program determines appropriate."

In line 47356, delete "may" and insert "shall"

Delete lines 81332 through 81343

In line 156 of the title, after "103.132," insert "117.102,"

In line 185 of the title, after "5101.803," insert "5101.90,"

In line 254, delete "122.17, 122.171,"

In line 259, delete "140.08,"

In line 334, delete "5703.052,"

In line 335, delete "5703.053,"; delete "5703.50, 5703.70,"

In line 343, delete "5733.351, 5733.352,"

In line 350, delete "5747.331,"

In line 404, delete "5751.01, 5751.011,"

Delete lines 405 through 408

In line 409, delete "5751.98, 5751.99,"

Delete lines 3477 through 4187

Delete lines 6999 through 7037

In line 49997, delete ". allowable taxes imposed"

In line 49998, delete "under Chapter 5751. of the Revised Code."

Delete lines 58630 through 58690

Delete lines 58773 through 58837

In line 59620, delete everything after "(I)" and insert "The reductions in revenue resulting from the amendment of this section by Sub. H.B. 66 of the 126th general assembly shall be reimbursed from the general revenue fund to each school district and other taxing unit in the amount by which the revenue was reduced from tax levies imposed for tax year 2005 and on the basis of taxable values for that tax year. The tax commissioner shall compute and make necessary arrangements for the reimbursement on a quarterly basis. In making the reimbursement computation for school districts, the tax commissioner shall subtract from the revenue reduction the amount by which payments to the district under Chapter 3317. of the Revised Code increase because of the reduction in taxable value resulting from the amendment of this section by Sub. H.B. 66 of the 126th general assembly."

Delete lines 59621 through 59624

Delete lines 62467 through 62546

Delete lines 63020 through 63123

In line 63925, after "vendor" delete the balance of the line

In line 63926, delete everything before the comma

In line 63974, delete everything after the period

Delete lines 63975 through 63977

Delete lines 70785 through 70841

Delete lines 71194 through 73361

In line 74195, delete "122.17, 122.171,"

In line 74199, delete "140.08,"

In line 74275, delete "5703.052, 5703.053,"; delete "5703.50, 5703.70,"

In line 74283, delete "5733.351, 5733.352,"

In line 74290, delete "5747.331,"

Delete lines 88871 through 88898

Delete lines 89433 through 89458

In line 89692, delete "122.17, 122.171, 140.08,"

In line 89694, delete "5703.052, 5703.053, "; delete "5703.50, 5703.70,"

In line 89698, after "5727.82," insert "5727.84,"

In line 89707, delete "5747.331, "; after "5747.98," insert "and"; delete ", 5751.01, 5751.011, 5751.012,"

Delete lines 89708 through 89711

Delete lines 90075 and 90076

In line 4 of the title, delete "122.17, 122.171,"

In line 10 of the title, delete "140.08,"

In line 114 of the title, delete "5703.052, 5703.053,"

In line 115 of the title, delete "5703.50, 5703.70,"

In line 125 of the title, delete "5733.351, 5733.352,"

In line 135 of the title, delete "5747.331,"

In line 203 of the title, delete everything after "5747.056,"

Delete lines 204 through 208 of the title

In line 209 of the title, delete "5751.98, 5751.99,"

In line 404, after "5747.056," insert "5747.81,"

Between lines 70946 and 70947, insert:

**"Sec. 5747.81. (A) As used in this section:**

**(1) "Pass-through entity" includes a sole proprietorship.**

**(2) "Qualified reinvestment expenses" means expenses incurred by a pass-through entity in purchasing or upgrading computers, telecommunications equipment, and other equipment of a technological nature owned by the pass-through entity and used in its business; purchasing or upgrading equipment or purchasing services designed to increase productivity of its business; and employee training.**

**(B) For taxable years beginning on or after January 1, 2005, there is hereby allowed a refundable credit against the tax imposed by section 5747.02 of the Revised Code for a pass-through entity investor who applies the credit to qualified reinvestment expenses. The credit equals twenty-one per cent of the**

total income tax liability for the taxable year of a pass-through entity investor that is attributable to the pass-through entity investor's distributive or proportionate share from the pass-through entity. An amount equal to the amount of the credit allowed under this section shall be credited to an account maintained by the pass-through entity at a bank, savings bank, or savings association located in this state and insured by the federal deposit insurance corporation. Money in the account shall be used solely for the purpose of paying qualified reinvestment expenses incurred by the pass-through entity. The account shall consist solely of amounts credited to it under this section and any interest earned on those amounts. The tax commissioner may audit any account created pursuant to this section to determine the purposes for which money in the account is expended.

(C) Money credited to an account created under division (B) of this section during a pass-through entity's taxable year shall be used by the pass-through entity for qualified reinvestment expenses within two years after the last day of that taxable year. If any portion of the money credited to such an account during a pass-through entity's taxable year is not used for qualified reinvestment expenses within the two-year period prescribed under this division, each pass-through entity investor on whose behalf a credit amount was credited during that taxable year shall, for the pass-through entity investor's taxable year that includes the last day of the two-year period prescribed under this division, add one of the following amounts to the taxes imposed by section 5747.02 of the Revised Code for that taxable year:

(1) If none of the money credited to the account during the pass-through entity's taxable year was used for qualified reinvestment expenses within the two-year period, the full amount credited on behalf of the pass-through entity investor shall be added to the taxes imposed by section 5747.02 of the Revised Code.

(2) If only a portion of the money credited to the account during the pass-through entity's taxable year was used for qualified reinvestment expenses within the two-year period, a portion of the amount credited on behalf of the pass-through entity investor shall be added to the taxes imposed by section 5747.02 of the Revised Code. The portion of the credited amount to be added to the taxes imposed by section 5747.02 of the Revised Code shall be the same proportion that the total amount of money credited to the account during the pass-through entity's taxable year on behalf of all pass-through entity investors and not used for qualified reinvestment expenses bears to the total amount of money credited to the account during that taxable year."

In line 71033, after "Code" insert ";

(38) The refundable credit for qualified reinvestment expenses under section 5747.81 of the Revised Code"

In line 71035, delete "(37)" and insert "(38)"

In line 89707, after "5747.80," insert "5747.81,"



In line 203 of the title, after "5747.056," insert "5747.81,"

In line 349, after "5747.05," insert "5747.054,"

Between lines 70515 and 70516, insert:

**"Sec. 5747.054.** As used in this section, "adjusted gross income" means adjusted gross income as defined in section 5747.01 of the Revised Code.

For taxable years ~~ending~~beginning on or after January 1, ~~1988~~2005, in addition to all other credits allowed by this chapter, a credit shall be allowed against the tax imposed by section 5747.02 of the Revised Code for taxpayers with adjusted gross income of less than ~~thirty~~thirty-five thousand dollars; ~~and, for taxable years beginning on or after January 1, 1993, for taxpayers with adjusted gross income of less than forty thousand dollars.~~ The amount of the credit shall equal ~~twenty-five~~thirty-five per cent of the federal dependent care credit for which the taxpayer is eligible for the taxable year under section 21 of the Internal Revenue Code, 26 U.S.C.A. 21; except that, ~~for taxable years beginning on or after January 1, 1997,~~ the amount of the credit for a taxpayer with adjusted gross income of less than ~~twenty~~twenty-five thousand dollars shall equal the federal credit for which the taxpayer is eligible, in any case without regard to any limitation imposed by section 26 of the Internal Revenue Code, 26 U.S.C.A. 26.

The credit allowed by this section shall be claimed in the order required under section 5747.98 of the Revised Code."

In line 74289, after "5747.05," insert "5747.054,"

In line 89706, after "5747.05," insert "5747.054,"

In line 135 of the title, after "5747.05," insert "5747.054,"

In line 77175, delete "\$5,587,820,663 \$5,698,271,366" and insert "\$5,654,220,663 \$5,815,071,366"

In lines 77181 and 77250, add \$66,400,000 to fiscal year 2006 and \$116,800,000 to fiscal year 2007

Delete lines 78339 through 78347 and insert:

"In fiscal year 2006, the Department shall pay transitional aid to a city, local, or exempted village school district if the district's SF-3 funding plus charge-off supplement for fiscal year 2006 is less than 102.27 per cent of its SF-3 funding plus charge-off supplement for fiscal year 2005. The amount of the transitional aid payment shall equal the difference between the district's SF-3 funding plus charge-off supplement for fiscal year 2006 and 102.27 per cent of its SF-3 funding plus charge-off supplement for fiscal year 2005.

In fiscal year 2007, the Department shall pay transitional aid to a city, local, or exempted village school district if the district's SF-3 funding plus charge-off supplement for fiscal year 2007 is less than 102.01 per cent of its SF-3 funding plus charge-off supplement for fiscal year 2006. The amount of the transitional aid payment shall equal the difference between the district's SF-3

funding plus charge-off supplement for fiscal year 2007 and 102.01 per cent of its SF-3 funding plus charge-off supplement for fiscal year 2006."

In line 78432, after the second "each" insert "qualifying"; after "district" insert a period

Delete lines 78433 through 78438 and insert:

"In fiscal year 2006, the Department shall pay transitional aid to a joint vocational school district if the district's joint vocational funding for fiscal year 2006 is less than 102.27 per cent of its joint vocational funding for fiscal year 2005. The amount of the transitional aid payment shall equal the difference between the district's joint vocational funding for fiscal year 2006 and 102.27 per cent of its joint vocational funding for fiscal year 2005.

In fiscal year 2007, the Department shall pay transitional aid to a joint vocational school district if the district's joint vocational funding for fiscal year 2007 is less than 102.01 per cent of its joint vocational funding for fiscal year 2006. The amount of the transitional aid payment shall equal the difference between the district's joint vocational funding for fiscal year 2007 and 102.01 per cent of its joint vocational funding for fiscal year 2006."

In line 84075, delete "\$73,513,302 \$73,004,671" and insert "\$63,340,676 \$63,340,676"

In line 84084, delete "\$1,559,096,031 \$1,559,096,031" and insert "\$1,601,096,031 \$1,643,096,031"

Between lines 84092a and 84093, insert:

"GRF 235-514    Central State Supplement            \$11,039,203            \$11,039,203"

In line 84095, delete "\$1,918,830 \$1,822,889" and insert "\$2,082,289 \$2,082,289"

In lines 84123 and 84151, add \$43,030,036 to fiscal year 2006 and \$85,634,608 to fiscal year 2007

Delete lines 84302 through 84308

In line 84,789, after "no" insert "state university shall receive a state share of instruction allocation that is less than 103 per cent of the prior year's state share of instruction amount, and no other"

Between lines 85033 and 85034, insert:

"Section \_\_\_\_\_. CENTRAL STATE SUPPLEMENT

The foregoing appropriation item 235-514, Central State Supplement, shall be used by Central State University to keep undergraduate fees below the statewide average, consistent with its mission of service to many first-generation college students from groups historically underrepresented in higher education and from families with limited incomes."

In line 9362a, strike through "\$23,000" and insert "\$100,000"

In line 9363, strike through "\$23,000" and insert "\$100,000"

In line 9364, after "year" insert ", beginning in 2006"

In line 9119, delete "and" and insert "as follows:"

(1) For property"

In line 9123, delete ", to provide a"

In line 9124, delete "partial exemption for that parcel or home" and insert  
":

(2) For property classified for that tax year as nonqualifying property under division (A) of this section, by five per cent"; strike through "Except" and insert:

"(C) Except"

In line 9147, delete "(C)" and insert "(D)"

In line 9150, delete "(D)" and insert "(E)"

In line 69544, delete "but not for any taxable"

In line 69545, delete "year beginning after December 31, 2005"

Delete line 70185

Delete lines 70201 through 70280a

In line 70281, reinsert "2005"; delete "2010"

In line 9123, strike through "for the current tax year, by ten per cent"; after the underlined comma insert "to the extent required by the exemptions provided in division (B)(1), (2), or (3) of this section"

In line 9124, after the period insert "The exemption shall be effected by the county auditor reducing the sums remaining to be levied against property not intended primarily for use in a business activity by the amounts prescribed in those divisions after the reduction under section 319.301 of the Revised Code:

(1) Ten per cent of the remaining sums in the case of a tract or parcel of real property used for agricultural purposes.

(2) Ten per cent of the remaining sums in the case of a tract or parcel of real property used for residential purposes and on which is situated a single-family, two-family, or three-family dwelling. If the dwelling qualifies for the reduction in taxes under division (B) of section 323.152 of the Revised Code for the current tax year or would qualify if an application for the reduction had been filed, the ten per cent reduction shall apply only to the extent of the remaining sums to be levied on the first five hundred thousand dollars in true value of those tracts, including the true value of the dwelling.

(3) Ten per cent of the remaining sums in the case of a manufactured or mobile home. If the manufactured or mobile home qualifies for the reduction in

taxes under division (B) of section 323.152 of the Revised Code for the current tax year or would qualify if an application for the reduction had been filed, the ten per cent reduction shall apply to the home and the tract or parcel of land on which the home is situated only to the extent of the remaining sums to be levied on the first five hundred thousand dollars in true value of the tract or parcel and the home. The reduction shall be applied first to the sums to be levied against the tract or parcel of land if owned by the owner of the home and then, if the maximum reduction is not exceeded after such application, to the sums to be levied against the manufactured or mobile home.

(C)"

In line 9127, after "reduction" insert "is applied under this section"

In line 9147, delete "(C)" and insert "(D)"

In line 9150, delete "(D)" and insert "(E)"

In line 9404, after "Code" insert ", but the reduction shall apply only to the amount of taxes to be levied on the first five hundred thousand dollars of the homestead's or home's true value"

In line 404, after "5747.056," insert "5747.073,"

Between lines 70528 and 70529, insert:

**"Sec. 5747.073. (A) As used in this section:**

(1) "Professional sports franchise" means a taxpayer or corporation subject to the tax imposed under section 5733.06 of the Revised Code that owns in whole or in part a major or minor league professional athletic or sports team.

(2) "Qualifying compensation" means the total amount of compensation paid by a professional sports franchise to one of its employees during the annual reporting period divided by the apportionment factor specified in division (A)(3) of this section for that employee.

(3) "Apportionment factor" means the total number of days during the annual reporting period that an employee of a professional sports franchise performs activities in this state divided by the total number of days in the annual reporting period.

(4) "Annual reporting period" means the period covered by the annual report required under section 5747.07 of the Revised Code.

(B) For the same purposes for which the tax is levied under section 5747.02 of the Revised Code, there is hereby levied a tax on every professional sports franchise conducting activities in this state. The tax is imposed on the sum of the qualifying compensation paid by the professional sports franchise to all of its employees during the annual reporting period, at the rate of two per cent of that sum.

(C) Beginning with the annual return required to be filed under division

(D)(1) of section 5747.07 of the Revised Code on or before January 1, 2006, a taxpayer subject to the tax imposed under this section shall include with that annual return required under that section an additional return for the tax imposed under this section along with payment of the tax due.

(D) All amounts of taxes required to be paid under this section and remaining unpaid after the day the amounts are required to be paid shall bear interest from the date prescribed for payment at the rate per annum prescribed by section 5703.47 of the Revised Code until paid or until the day an assessment is issued under section 5747.13 of the Revised Code, whichever occurs first.

(E) An employee of a corporation, limited liability company, or business trust having control or supervision of or charged with the responsibility of filing the return and making payment, or an officer, member, manager, or trustee of a corporation, limited liability company, or business trust who is responsible for the execution of the corporation's, limited liability company's, or business trust's fiscal responsibilities, is personally liable for failure to file the report or pay the tax due as required by this section. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust does not discharge a responsible officer's, member's, manager's, employee's, or trustee's liability for failure of the corporation, limited liability company, or business trust to file the returns or pay tax due."

In line 89706, after "5747.056," insert "5747.073,"

In line 203 of the title, after "5747.056," insert "5747.073,"

In line 69544, delete "but not for any taxable"

In line 69545, delete "year beginning after December 31, 2005"

Delete line 70185

Delete lines 70201 through 70280a

In line 70281, reinsert "2005"; delete "2010"

In line 85938, delete "\$83,754,100 \$77,384,100" and insert "\$94,597,556 \$94,597,556"

In line 85939, delete "\$444,372,980 \$435,584,650" and insert "\$458,510,155 \$458,510,155"

In line 85942, delete "\$615,354,000 \$586,855,299" and insert "\$662,184,888 \$662,184,888"

In lines 85947 and 85948, add \$71,811,519 to fiscal year 2006 and \$115,468,550 to fiscal year 2007

Delete lines 88908 through 89432 and insert:

"The amounts credited to the Local Government Fund, Local Government Revenue Assistance Fund, and Library and Local Government Support Fund from each respective revenue source in each month of fiscal years

2006 and 2007 shall equal the amounts credited to those funds from each such source in each of the same months of fiscal year 2005. The Tax Commissioner shall determine the procedures for monthly crediting to and distribution from the Local Government Fund, Local Government Revenue Assistance Fund, and Library and Local Government Support Fund pursuant to this section. Under the distribution, each subdivision shall receive in each month of fiscal years 2006 and 2007 an amount originating from those funds equal to the amount it received in each of the same months in fiscal year 2005."

In line 252, delete "9.24,"

In line 259, delete "131.23,"

In line 263, delete "323.01,"

In line 264, delete "329.051,"

In line 272, delete "2305.234,"

In line 273, delete "2744.05,"

In line 275, delete "3111.04, 3119.54,"

In line 285, delete "3317.10,"

In line 294, delete "3702.74,"

In line 307, delete "4123.27,"

In line 312, delete "4731.65, 4731.71,"

In line 315, delete "5101.181,,"; delete "5101.26, 5101.31,,"; delete "5101.36,"

In line 318, delete "5110.01, 5110.05,"

In line 326, delete "5112.03, 5112.08,"

In line 327, delete "5112.17,,"; delete "5115.20, 5115.22, 5115.23,"

In line 391, delete "5111.027,"

Delete lines 412 through 552

In line 6449, reinsert "or payments or provider agreements under"

Reinsert line 6450

In line 6451, reinsert "Chapter 5115. of the Revised Code"

Delete lines 6680 through 6796

Delete lines 9279 through 9334

In line 9528, reinsert "Administer disability medical assistance, as required by"

Reinsert lines 9529 and 9530

In line 9531, reinsert "(4)"

In line 9534, reinsert "(5)" and delete "(4)"

In line 9537, reinsert "(6)" and delete "(5)"

In line 9540, reinsert "(7)" and delete "(6)"

In line 9546, reinsert "(8)" and delete "(7)"

In line 9548, reinsert "(9)" and delete "(8)"

In line 9552, reinsert "(10)" and delete "(9)"

In line 9560, reinsert "(11)" and delete "(10)"

In line 9564, reinsert "(12)" and delete "(11)"

Delete lines 9578 through 9592

Delete lines 14504 through 14773

Delete lines 15285 through 15371

Delete lines 17196 through 17251

Delete lines 30803 through 30861

Delete lines 40018 through 40083

Delete lines 43451 through 43574

Delete lines 44679 through 44750

Delete lines 45147 through 45185

Delete lines 45315 through 45336

Delete lines 46941 through 47055

In line 47288, reinsert "~~one~~"

In line 47289, reinsert "~~hundred~~"; delete "ninety"

Delete lines 47582 through 47585

Delete lines 52909 through 53084

Delete lines 53133 through 53308

In line 74192, delete "9.24,"

In line 74199, delete "131.23,"

In line 74203, delete "323.01,"

In line 74204, delete "329.051,"

In line 74213, delete "2305.234, "; delete "2744.05"

In line 74215, delete "3111.04, 3119.54,"

In line 74225, delete "3317.10,"

In line 74235, delete "3702.74,"

In line 74248, delete "4123.27,"

In line 74252, delete "4731.65, 4731.71,"

In line 74255, delete "5101.181,"; delete "5101.26,"

In line 74256, delete "5101.31,"; delete "5101.36,"

In line 74258, delete "5110.01, 5110.05,"

In line 74266, delete "5112.03, 5112.08, 5112.17,"

In line 74267, delete "5112.08, 5112.17,"; delete "5115.20, 5115.22, 5115.23,"

In line 74300, delete "5115.10, 5115.11, 5115.12, 5115.13,

In line 74301, delete "5115.14,"

Delete lines 81219 through 81282

In line 81283, after "VISION" insert "AND DENTAL"

In line 81285, after "vision" insert "and dental"

In line 80606, delete "\$3,777,442,629 \$3,795,940,675" and insert "\$3,847,504,479 \$3,935,930,014"

In line 80607, delete "\$5,652,650,287 \$5,731,692,576" and insert "\$5,672,680,907 \$5,816,607,978"

In line 80608, delete "\$9,430,092,916 \$9,527,633,251" and insert "\$9,520,185,386 \$9,752,537,992"

In line 80615, add \$70,061,850 to fiscal year 2006 and \$139,989,339 to fiscal year 2007

In line 80616, add \$20,030,620 to fiscal year 2006 and \$84,915,402 to fiscal year 2007

In lines 80617 and 80689, add \$90,092,470 to fiscal year 2006 and \$224,904,741 to fiscal year 2007

In line 88253, delete "5112.03,"

In line 89577, delete "9.24,"; delete "131.23,"

In line 89578, delete "323.01, 329.051,"

In line 89579, delete "2305.234, 2744.05, 3111.04, 3119.54,"; delete "3702.74,"

In line 89580, delete "4123.27,"; delete "4731.65, 4731.71,"; delete "5101.181,"



In line 89581, delete "5101.26, 5101.31, 5101.36,"; delete "5110.01, 5110.05,"

In line 89585, delete "5112.03, 5112.08,"

In line 89586, delete "5112.17, 5115.10, 5115.11,"

In line 89587, delete "5115.22, 5115.23,"

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

In line 10 of the title, delete "131.23,"

In line 16 of the title, delete "323.01,"; delete "329.051,"

In line 29 of the title, delete "2305.234," delete "2744.05,"

In line 32 of the title, delete "3111.04, 3119.54,"

In line 45 of the title, delete "3317.10,"

In line 58 of the title, delete "3702.74,"

In line 76 of the title, delete "4123.27,"

In line 83 of the title, delete "4731.65, 4731.71,"

In line 87 of the title, delete "5101.181,"; delete "5101.26,"

In line 88 of the title, delete "5101.31,"; delete "5101.36,"

In line 91 of the title, delete "5110.01,"

In line 92 of the title, delete "5110.05,"

In line 103 of the title, delete "5112.03, 5112.08, 5112.17,"

In line 104 of the title, delete "5115.20, 5115.22, 5115.23,"

In line 186 of the title, delete "5111.027,"

In line 219 of the title, delete "5115.10, 5115.11, 5115.12, 5115.13,"

In line 220 of the title, delete "5115.14,"

In line 70181, after "Code" insert ". provided that the tax imposed under this section shall not apply to an individual whose Ohio adjusted gross income less exemptions is ten thousand dollars or less"

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

Senator Hottinger moved that the amendment be laid on the table.

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

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 21, nays 11, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Grendell	Hottinger	Jacobson
Jordan	Mumper	Niehaus	Padgett
Schuler	Schuring	Spada	Wachtmann
			Harris-21.

Those who voted in the negative were: Senators

Brady	Dann	Fedor	Fingerhut
Hagan	Mallory	Miller	Prentiss
Roberts	Wilson		Zurz-11.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 66**, pass?"

Senator Hottinger demanded the previous question, and the demand was duly supported by a second and a third.

The question being, "Shall the debate now be closed?"

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 19, nays 13, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Grendell	Hottinger	Jacobson
Mumper	Niehaus	Padgett	Schuler
Schuring	Spada		Harris-19.

Those who voted in the negative were: Senators

Brady	Dann	Fedor	Fingerhut
Hagan	Jordan	Mallory	Miller
Prentiss	Roberts	Wachtmann	Wilson
			Zurz-13.

The motion was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 66**, pass?"

The yeas and nays were taken and resulted - yeas 19, nays 13, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Grendell	Hottinger	Jacobson
Mumper	Niehaus	Padgett	Schuler
Schuring	Spada		Harris-19.

Those who voted in the negative were: Senators

Brady  
Hagan  
Prentiss

Dann  
Jordan  
Roberts

Fedor  
Mallory  
Wachtmann

Fingerhut  
Miller  
Wilson  
Zurz-13.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Carey moved to amend the title as follows:

Add the names: "Carey, Jacobson, Harris."

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

The motion was agreed to.

The question recurred, "Shall the title be agreed to?"

Senator Gardner moved to amend as follows:

In line 241 of the title, after "5731.20," insert "and"; delete ", and"

In line 242 of the title, delete "6111.028"

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

The motion was agreed to and the title so amended.

On the motion of Senator Jacobson, the Senate recessed.

The Senate met pursuant to the recess

**Sub. S. B. No. 7**-Senators Cates, Spada.

To amend sections 2913.48, 3121.034, 3121.037, 4121.10, 4121.44, 4121.441, 4123.01, 4123.32, 4123.35, 4123.512, 4123.52, 4123.54, 4123.56, 4123.57, 4123.58, 4123.61, 4123.65, 4123.88, 5703.21, and 5747.18, to enact sections 3121.0311, 4121.131, 4121.444, 4123.271, and 4123.311 of the Revised Code to make various changes to the Workers' Compensation Law, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 7**, pass?"

Senator Cates moved to amend as follows:

In line 1078, delete "(4)" and insert "(5)"

In line 2053, strike through "(3)" and insert "(1)(c)"

In line 2342, strike through "forty" and insert "twenty-six"

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

The motion was agreed to.

The question recurred, "Shall the bill, **Sub. S. B. No. 7**, pass?"

Senator Fingerhut moved to amend as follows:

In line 9, after "sections" insert "113.051,"; after "3121.037," insert "4121.03,"

In line 10, after "4121.10," insert "4121.12, 4121.121, 4121.37,"; after "4123.01," insert "4123.30,"; after "4123.32," insert "4123.342,"; after "4123.35," insert "4123.351, 4123.44,"

In line 12, after "4123.88," insert "4131.03, 4131.13,"

Between lines 14 and 15, insert:

**"Sec. 113.051.** (A) The treasurer of state or the officer who performs the duties of the office of treasurer of state is the custodian of the funds required by law to be kept in the custody of the treasurer of state. The custodial duties of the treasurer of state include safekeeping the custodial funds and investment assets of an owner; collecting principal, dividends, distributions, and interest on custodial funds and investments of an owner; and paying for, transferring, and collecting the purchase or sale price of investments. The Except for section 4123.44 of the Revised Code, the duties of the treasurer of state do not include making investment decisions of an owner or its authorized agents or monitoring compliance with an owner's internal investment policies. The treasurer of state is not responsible for the investment decisions of an owner or agent, compliance with the owner's internal investment policies, or any unlawful activities of an owner or its authorized agents.

(B) The treasurer of state may enter into a sub-custody or other agency agreement with a trustee who meets the requirements of section 135.18 of the Revised Code to execute the custodial duties required by law. The agreement shall apply to the custodial funds and investment assets of an owner. The agreement may provide that the trustee has primary responsibility for custody of the funds and investments in order to execute an owner's instructions. The treasurer of state or the treasurer's authorized agent may enter into additional agreements as necessary to facilitate an owner's transactions."

Between lines 309 and 310, insert:

**"Sec. 4121.03.** (A) The governor shall appoint from among the members of the industrial commission the chairperson of the industrial commission. The chairperson shall serve as chairperson at the pleasure of the governor. The chairperson is the head of the commission and its chief executive officer.

(B) The chairperson shall appoint, after consultation with other commission members and obtaining the approval of at least one other

commission member, an executive director of the commission. The executive director shall serve at the pleasure of the chairperson. The executive director, under the direction of the chairperson, shall perform all of the following duties:

- (1) Act as chief administrative officer for the commission;
- (2) Ensure that all commission personnel follow the rules of the commission;
- (3) Ensure that all orders, awards, and determinations are properly heard and signed, prior to attesting to the documents;
- (4) Coordinate, to the fullest extent possible, commission activities with the bureau of workers' compensation activities;
- (5) Do all things necessary for the efficient and effective implementation of the duties of the commission.

The responsibilities assigned to the executive director of the commission do not relieve the chairperson from final responsibility for the proper performance of the acts specified in this division.

(C) The chairperson shall do all of the following:

(1) Except as otherwise provided in this division, employ, promote, supervise, remove, and establish the compensation of all employees as needed in connection with the performance of the commission's duties under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code and may assign to them their duties to the extent necessary to achieve the most efficient performance of its functions, and to that end may establish, change, or abolish positions, and assign and reassign duties and responsibilities of every employee of the commission. The civil service status of any person employed by the commission prior to November 3, 1989, is not affected by this section. Personnel employed by the bureau or the commission who are subject to Chapter 4117. of the Revised Code shall retain all of their rights and benefits conferred pursuant to that chapter as it presently exists or is hereafter amended and nothing in this chapter or Chapter 4123. of the Revised Code shall be construed as eliminating or interfering with Chapter 4117. of the Revised Code or the rights and benefits conferred under that chapter to public employees or to any bargaining unit.

(2) Hire district and staff hearing officers after consultation with other commission members and obtaining the approval of at least one other commission member;

(3) Fire staff and district hearing officers when the chairperson finds appropriate after obtaining the approval of at least one other commission member;

(4) Maintain the office for the commission in Columbus;

(5) To the maximum extent possible, use electronic data processing equipment for the issuance of orders immediately following a hearing,

scheduling of hearings and medical examinations, tracking of claims, retrieval of information, and any other matter within the commission's jurisdiction, and shall provide and input information into the electronic data processing equipment as necessary to effect the success of the claims tracking system established pursuant to division (B)(15)(14) of section 4121.121 of the Revised Code;

(6) Exercise all administrative and nonadjudicatory powers and duties conferred upon the commission by Chapters 4121., 4123., 4127., and 4131. of the Revised Code;

(7) Approve all contracts for special services.

(D) The chairperson is responsible for all administrative matters and may secure for the commission facilities, equipment, and supplies necessary to house the commission, any employees, and files and records under the commission's control and to discharge any duty imposed upon the commission by law, the expense thereof to be audited and paid in the same manner as other state expenses. For that purpose, the chairperson, separately from the budget prepared by the administrator of workers' compensation, shall prepare and submit to the office of budget and management a budget for each biennium according to sections 101.532 and 107.03 of the Revised Code. The budget submitted shall cover the costs of the commission and staff and district hearing officers in the discharge of any duty imposed upon the chairperson, the commission, and hearing officers by law.

(E) A majority of the commission constitutes a quorum to transact business. No vacancy impairs the rights of the remaining members to exercise all of the powers of the commission, so long as a majority remains. Any investigation, inquiry, or hearing that the commission may hold or undertake may be held or undertaken by or before any one member of the commission, or before one of the deputies of the commission, except as otherwise provided in this chapter and Chapters 4123., 4127., and 4131. of the Revised Code. Every order made by a member, or by a deputy, when approved and confirmed by a majority of the members, and so shown on its record of proceedings, is the order of the commission. The commission may hold sessions at any place within the state. The commission is responsible for all of the following:

(1) Establishing the overall adjudicatory policy and management of the commission under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code, except for those administrative matters within the jurisdiction of the chairperson, bureau of workers' compensation, and the administrator of workers' compensation under those chapters;

(2) Hearing appeals and reconsiderations under this chapter and ~~chapters~~ Chapters 4123., 4127., and 4131. of the Revised Code;

(3) Engaging in rulemaking where required by this chapter or Chapter 4123., 4127., or 4131. of the Revised Code."

Between lines 326 and 327, insert:

**"Sec. 4121.12.** (A) There is hereby created the workers' compensation oversight commission consisting of nine members, of which members the governor shall appoint five with the advice and consent of the senate. Of the five members the governor appoints, two shall be individuals who, on account of their previous vocation, employment, or affiliations, can be classed as representative of employees, at least one of whom is representative of employees who are members of an employee organization; two shall be individuals who, on account of their previous vocation, employment, or affiliations, can be classed as representative of employers, one of whom represents self-insuring employers and one of whom has experience as an employer in compliance with section 4123.35 of the Revised Code other than a self-insuring employer, and one of those two representatives also shall represent employers whose employees are not members of an employee organization; and one shall represent the public and also be an individual who, on account of the individual's previous vocation, employment, or affiliations, cannot be classed as either predominantly representative of employees or of employers. The governor shall select the chairperson of the commission who shall serve as chairperson at the pleasure of the governor. No more than three members appointed by the governor shall belong to or be affiliated with the same political party.

Each of these five members shall have at least three years' experience in the field of insurance, finance, workers' compensation, law, accounting, actuarial, personnel, investments, or data processing, or in the management of an organization whose size is commensurate with that of the bureau of workers' compensation. At least one of these five members shall be an attorney licensed under Chapter 4705. of the Revised Code to practice law in this state.

(B) Of the initial appointments made to the commission, the governor shall appoint one member who represents employees to a term ending one year after September 1, 1995, one member who represents employers to a term ending two years after September 1, 1995, the member who represents the public to a term ending three years after September 1, 1995, one member who represents employees to a term ending four years after September 1, 1995, and one member who represents employers to a term ending five years after September 1, 1995. Thereafter, terms of office shall be for five years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed.

The governor shall not appoint any person to more than two full terms of office on the commission. This restriction does not prevent the governor from appointing a person to fill a vacancy caused by the death, resignation, or removal of a commission member and also appointing that person twice to full terms on the commission, or from appointing a person previously appointed to fill less than a full term twice to full terms on the commission. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term. A member shall continue in office subsequent to the

expiration date of the member's term until a successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(C) In making appointments to the commission, the governor shall select the members from the list of names submitted by the workers' compensation oversight commission nominating committee pursuant to this division. Within fourteen days after the governor calls the initial meeting of the nominating committee pursuant to division (C) of section 4121.123 of the Revised Code, the nominating committee shall submit to the governor, for the initial appointments, a list containing four separate names for each of the members on the commission. Within fourteen days after the submission of the list, the governor shall appoint individuals from the list.

For the appointment of the member who is representative of employees who are members of an employee organization, both for initial appointments and for the filling of vacancies, the list of four names submitted by the nominating committee shall be comprised of four individuals who are members of the executive committee of the largest statewide labor federation.

Thereafter, within sixty days after a vacancy occurring as a result of the expiration of a term and within thirty days after other vacancies occurring on the commission, the nominating committee shall submit a list containing four names for each vacancy. Within fourteen days after the submission of the list, the governor shall appoint individuals from the list. With respect to the filling of vacancies, the nominating committee shall provide the governor with a list of four individuals who are, in the judgment of the nominating committee, the most fully qualified to accede to membership on the commission. The nominating committee shall not include the name of an individual upon the list for the filling of vacancies if the appointment of that individual by the governor would result in more than three members of the commission belonging to or being affiliated with the same political party. The committee shall include on the list for the filling of vacancies only the names of attorneys admitted to practice law in this state if, to fulfill the requirement of division (A) of section 4121.12 of the Revised Code, the vacancy must be filled by an attorney.

In order for the name of an individual to be submitted to the governor under this division, the nominating committee shall approve the individual by an affirmative vote of a majority of its members.

(D) The remaining four members of the commission shall be the chairperson and ranking minority member of the standing committees of the house of representatives and of the senate to which legislation concerning this chapter and Chapters 4123., 4127., and 4131. of the Revised Code normally are referred, or a designee of the chairperson or ranking minority member, provided that the designee is a member of the standing committee. Legislative members shall serve during the session of the general assembly to which they are elected and for as long as they are members of the general assembly. Legislative members shall serve in an advisory capacity to the commission and shall have no voting rights on matters coming before the commission. Membership on the



commission by legislative members shall not be deemed as holding a public office.

(E) All members of the commission shall receive their reasonable and necessary expenses pursuant to section 126.31 of the Revised Code while engaged in the performance of their duties as members. Legislative members also shall receive fifty dollars per meeting that they attend. Members appointed by the governor also shall receive an annual salary as follows:

(1) On and before August 31, 1998, not to exceed six thousand dollars payable at the rate of five hundred dollars per month. A member shall receive the monthly five hundred dollar salary only if the member has attended at least one meeting of the commission during that month. A member may receive no more than the monthly five hundred dollar salary regardless of the number of meetings held by the commission during a month or the number of meetings in excess of one within a month that the member attends.

(2) After August 31, 1998, not to exceed eighteen thousand dollars payable on the following basis:

(a) Except as provided in division (E)(2)(b) of this section, a member shall receive two thousand dollars during a month in which the member attends one or more meetings of the commission and shall receive no payment during a month in which the member attends no meeting of the commission.

(b) A member may receive no more than the annual eighteen thousand dollar salary regardless of the number of meetings held by the commission during a year or the number of meetings in excess of nine within a year that the member attends.

The chairperson of the commission shall set the meeting dates of the commission as necessary to perform the duties of the commission under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code. The commission shall meet at least nine times during the period commencing on the first day of September and ending on the thirty-first day of August of the following year. The administrator of workers' compensation shall provide professional and clerical assistance to the commission, as the commission considers appropriate.

(F) The commission shall:

(1) Review progress of the bureau in meeting its cost and quality objectives and in complying with this chapter and Chapters 4123., 4127., and 4131. of the Revised Code;

(2) Issue an annual report on the cost and quality objectives of the bureau to the president of the senate, the speaker of the house of representatives, and the governor;

(3) Review all independent financial audits of the bureau. The administrator shall provide access to records of the bureau to facilitate the

review required under this division.

(4) Study issues as requested by the administrator or the governor;

(5) Contract with an independent actuarial firm to assist the commission in making recommendations to the administrator regarding premium rates;

~~(6) Establish objectives, policies, and criteria for the administration of the investment program that include asset allocation targets and ranges, risk factors, asset class benchmarks, time horizons, total return objectives, and performance evaluation guidelines, and monitor the administrator's progress in implementing the objectives, policies, and criteria on a quarterly basis. The commission shall publish the objectives, policies, and criteria no less than annually and shall make copies available to interested parties. The commission shall prohibit, on a prospective basis, specific investment activity it finds to be contrary to its investment objectives, policies, and criteria.~~

~~The investment policy in existence on March 7, 1997, shall continue until the commission approves objectives, policies, and criteria for the administration of the investment program pursuant to this section.~~

(7) Advise and consent on all of the following:

(a) Administrative rules the administrator submits to it pursuant to division (B)(5) of section 4121.121 of the Revised Code for the classification of occupations or industries, for premium rates and contributions, for the amount to be credited to the surplus fund, for rules and systems of rating, rate revisions, and merit rating;

(b) The overall policy of the bureau of workers' compensation as set by the administrator;

(c) The duties and authority conferred upon the administrator pursuant to section 4121.37 of the Revised Code;

(d) Rules the administrator adopts for the health partnership program and the qualified health plan system, as provided in sections 4121.44, 4121.441, and 4121.442 of the Revised Code;

(e) Rules the administrator submits to it pursuant to Chapter 4167. of the Revised Code regarding the public employment risk reduction program and the protection of public health care workers from exposure incidents.

As used in this division, "public health care worker" and "exposure incident" have the same meanings as in section 4167.25 of the Revised Code.

(8) Perform all duties required under section 4121.125 of the Revised Code.

(G) As used in this section, "employee organization" means any labor or bona fide organization in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, hours, terms and other conditions of employment.

**Sec. 4121.121.** (A) There is hereby created the bureau of workers' compensation, which shall be administered by the administrator of workers' compensation. A person appointed to the position of administrator shall possess significant management experience in effectively managing an organization or organizations of substantial size and complexity. The governor shall appoint the administrator as provided in section 121.03 of the Revised Code, and the administrator shall serve at the pleasure of the governor. The governor shall fix the administrator's salary on the basis of the administrator's experience and the administrator's responsibilities and duties under this chapter and Chapters 4123., 4127., 4131., and 4167. of the Revised Code. The governor shall not appoint to the position of administrator any person who has, or whose spouse has, given a contribution to the campaign committee of the governor in an amount greater than one thousand dollars during the two-year period immediately preceding the date of the appointment of the administrator.

The administrator shall hold no other public office and shall devote full time to the duties of administrator. Before entering upon the duties of the office, the administrator shall take an oath of office as required by sections 3.22 and 3.23 of the Revised Code, and shall file in the office of the secretary of state, a bond signed by the administrator and by surety approved by the governor, for the sum of fifty thousand dollars payable to the state, conditioned upon the faithful performance of the administrator's duties.

(B) The administrator is responsible for the management of the bureau of workers' compensation and for the discharge of all administrative duties imposed upon the administrator in this chapter and Chapters 4123., 4127., 4131., and 4167. of the Revised Code, and in the discharge thereof shall do all of the following:

(1) Establish the overall administrative policy of the bureau for the purposes of this chapter and Chapters 4123., 4127., 4131., and 4167. of the Revised Code, and perform all acts and exercise all authorities and powers, discretionary and otherwise that are required of or vested in the bureau or any of its employees in this chapter and Chapters 4123., 4127., 4131., and 4167. of the Revised Code, except the acts and the exercise of authority and power that is required of and vested in the oversight commission or the industrial commission pursuant to those chapters. The treasurer of state shall honor all warrants signed by the administrator, or by one or more of the administrator's employees, authorized by the administrator in writing, or bearing the facsimile signature of the administrator or such employee under ~~sections~~section 4123.42 and ~~4123.44~~ of the Revised Code.

(2) Employ, direct, and supervise all employees required in connection with the performance of the duties assigned to the bureau by this chapter and Chapters 4123., 4127., 4131., and 4167. of the Revised Code, and may establish job classification plans and compensation for all employees of the bureau provided that this grant of authority shall not be construed as affecting any employee for whom the state employment relations board has established an

appropriate bargaining unit under section 4117.06 of the Revised Code. All positions of employment in the bureau are in the classified civil service except those employees the administrator may appoint to serve at the administrator's pleasure in the unclassified civil service pursuant to section 124.11 of the Revised Code. The administrator shall fix the salaries of employees the administrator appoints to serve at the administrator's pleasure, including the chief operating officer, staff physicians, and other senior management personnel of the bureau and shall establish the compensation of staff attorneys of the bureau's legal section and their immediate supervisors, and take whatever steps are necessary to provide adequate compensation for other staff attorneys.

The administrator may appoint a person holding a certified position in the classified service to any state position in the unclassified service of the bureau of workers' compensation. A person so appointed shall retain the right to resume the position and status held by the person in the classified service immediately prior to the person's appointment in the unclassified service. If the position the person previously held has been filled or placed in the unclassified service, or is otherwise unavailable, the person shall be appointed to a position in the classified service within the bureau that the department of administrative services certifies is comparable in compensation to the position the person previously held. Reinstatement to a position in the classified service shall be to a position substantially equal to that held previously, as certified by the department of administrative services. Service in the position in the unclassified service shall be counted as service in the position in the classified service held by the person immediately prior to the person's appointment in the unclassified service. When a person is reinstated to a position in the classified service as provided in this section, the person is entitled to all rights, status, and benefits accruing to the position during the person's time of service in the position in the unclassified service.

(3) Reorganize the work of the bureau, its sections, departments, and offices to the extent necessary to achieve the most efficient performance of its functions and to that end may establish, change, or abolish positions and assign and reassign duties and responsibilities of every employee of the bureau. All persons employed by the commission in positions that, after November 3, 1989, are supervised and directed by the administrator under this section are transferred to the bureau in their respective classifications but subject to reassignment and reclassification of position and compensation as the administrator determines to be in the interest of efficient administration. The civil service status of any person employed by the commission is not affected by this section. Personnel employed by the bureau or the commission who are subject to Chapter 4117. of the Revised Code shall retain all of their rights and benefits conferred pursuant to that chapter as it presently exists or is hereafter amended and nothing in this chapter or Chapter 4123. of the Revised Code shall be construed as eliminating or interfering with Chapter 4117. of the Revised Code or the rights and benefits conferred under that chapter to public employees or to any bargaining unit.

(4) Provide offices, equipment, supplies, and other facilities for the bureau.

(5) Prepare and submit to the oversight commission information the administrator considers pertinent or the oversight commission requires, together with the administrator's recommendations, in the form of administrative rules, for the advice and consent of the oversight commission, for classifications of occupations or industries, for premium rates and contributions, for the amount to be credited to the surplus fund, for rules and systems of rating, rate revisions, and merit rating. The administrator shall obtain, prepare, and submit any other information the oversight commission requires for the prompt and efficient discharge of its duties.

(6) Keep the accounts required by division (A) of section 4123.34 of the Revised Code and all other accounts and records necessary to the collection, administration, and distribution of the workers' compensation funds and shall obtain the statistical and other information required by section 4123.19 of the Revised Code.

~~(7) Exercise the investment powers vested in the administrator by section 4123.44 of the Revised Code in accordance with the investment objectives, policies, and criteria established by the oversight commission pursuant to section 4121.12 of the Revised Code. The administrator shall not engage in any prohibited investment activity specified by the oversight commission pursuant to division (F)(6) of section 4121.12 of the Revised Code. All business shall be transacted, all funds invested, all warrants for money drawn and payments made, and all cash and securities and other property held, in the name of the bureau, or in the name of its nominee, provided that nominees are authorized by the administrator solely for the purpose of facilitating the transfer of securities, and restricted to the administrator and designated employees.~~

~~(8)~~ Make contracts for and supervise the construction of any project or improvement or the construction or repair of buildings under the control of the bureau.

~~(9)~~(8) Purchase supplies, materials, equipment, and services; make contracts for, operate, and superintend the telephone, other telecommunication, and computer services for the use of the bureau; and make contracts in connection with office reproduction, forms management, printing, and other services. Notwithstanding sections 125.12 to 125.14 of the Revised Code, the administrator may transfer surplus computers and computer equipment directly to an accredited public school within the state. The computers and computer equipment may be repaired or refurbished prior to the transfer.

~~(10)~~(9) Separately from the budget the industrial commission submits, prepare and submit to the director of budget and management a budget for each biennium. The budget submitted shall include estimates of the costs and necessary expenditures of the bureau in the discharge of any duty imposed by law.

~~(11)~~(10) As promptly as possible in the course of efficient administration, decentralize and relocate such of the personnel and activities of the bureau as is appropriate to the end that the receipt, investigation, determination, and payment of claims may be undertaken at or near the place of injury or the residence of the claimant and for that purpose establish regional offices, in such places as the administrator considers proper, capable of discharging as many of the functions of the bureau as is practicable so as to promote prompt and efficient administration in the processing of claims. All active and inactive lost-time claims files shall be held at the service office responsible for the claim. A claimant, at the claimant's request, shall be provided with information by telephone as to the location of the file pertaining to the claimant's claim. The administrator shall ensure that all service office employees report directly to the director for their service office.

~~(12)~~(11) Provide a written binder on new coverage where the administrator considers it to be in the best interest of the risk. The administrator, or any other person authorized by the administrator, shall grant the binder upon submission of a request for coverage by the employer. A binder is effective for a period of thirty days from date of issuance and is nonrenewable. Payroll reports and premium charges shall coincide with the effective date of the binder.

~~(13)~~(12) Set standards for the reasonable and maximum handling time of claims payment functions, ensure, by rules, the impartial and prompt treatment of all claims and employer risk accounts, and establish a secure, accurate method of time stamping all incoming mail and documents hand delivered to bureau employees.

~~(14)~~(13) Ensure that all employees of the bureau follow the orders and rules of the commission as such orders and rules relate to the commission's overall adjudicatory policy-making and management duties under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code.

~~(15)~~(14) Manage and operate a data processing system with a common data base for the use of both the bureau and the commission and, in consultation with the commission, using electronic data processing equipment, shall develop a claims tracking system that is sufficient to monitor the status of a claim at any time and that lists appeals that have been filed and orders or determinations that have been issued pursuant to section 4123.511 or 4123.512 of the Revised Code, including the dates of such filings and issuances.

~~(16)~~(15) Establish and maintain a medical section within the bureau. The medical section shall do all of the following:

(a) Assist the administrator in establishing standard medical fees, approving medical procedures, and determining eligibility and reasonableness of the compensation payments for medical, hospital, and nursing services, and in establishing guidelines for payment policies which recognize usual, customary, and reasonable methods of payment for covered services;

(b) Provide a resource to respond to questions from claims examiners for

employees of the bureau;

(c) Audit fee bill payments;

(d) Implement a program to utilize, to the maximum extent possible, electronic data processing equipment for storage of information to facilitate authorizations of compensation payments for medical, hospital, drug, and nursing services;

(e) Perform other duties assigned to it by the administrator.

~~(17)~~(16) Appoint, as the administrator determines necessary, panels to review and advise the administrator on disputes arising over a determination that a health care service or supply provided to a claimant is not covered under this chapter or Chapter 4123. of the Revised Code or is medically unnecessary. If an individual health care provider is involved in the dispute, the panel shall consist of individuals licensed pursuant to the same section of the Revised Code as such health care provider.

~~(18)~~(17) Pursuant to section 4123.65 of the Revised Code, approve applications for the final settlement of claims for compensation or benefits under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code as the administrator determines appropriate, except in regard to the applications of self-insuring employers and their employees.

~~(19)~~(18) Comply with section 3517.13 of the Revised Code, and except in regard to contracts entered into pursuant to the authority contained in section 4121.44 of the Revised Code, comply with the competitive bidding procedures set forth in the Revised Code for all contracts into which the administrator enters provided that those contracts fall within the type of contracts and dollar amounts specified in the Revised Code for competitive bidding and further provided that those contracts are not otherwise specifically exempt from the competitive bidding procedures contained in the Revised Code.

~~(20)~~(19) Adopt, with the advice and consent of the oversight commission, rules for the operation of the bureau.

~~(21)~~(20) Prepare and submit to the oversight commission information the administrator considers pertinent or the oversight commission requires, together with the administrator's recommendations, in the form of administrative rules, for the advice and consent of the oversight commission, for the health partnership program and the qualified health plan system, as provided in sections 4121.44, 4121.441, and 4121.442 of the Revised Code.

(C) The administrator, with the advice and consent of the senate, shall appoint a chief operating officer who has significant experience in the field of workers' compensation insurance or other similar insurance industry experience if the administrator does not possess such experience. The chief operating officer shall not commence the chief operating officer's duties until after the senate consents to the chief operating officer's appointment. The chief operating officer shall serve in the unclassified civil service of the state."

Between lines 335 and 336, insert:

"**Sec. 4121.37.** The administrator of workers' compensation having, by virtue of Section 35 of Article II, Ohio Constitution, the expenditure of the fund therein created for the investigation and prevention of industrial accidents and diseases, shall, with the advice and consent of the workers' compensation oversight commission, in the exercise of the administrator's authority and in the performance of the administrator's duty, employ a superintendent and the necessary experts, engineers, investigators, clerks, and stenographers for the efficient operation of a division of safety and hygiene of the bureau of workers' compensation, which is hereby created.

The administrator of workers' compensation, with the advice and consent of the oversight commission, shall pay into the safety and hygiene fund, which is hereby created in the state treasury, the portion of the contributions paid by employers, calculated as though all employers paid premiums based upon payroll, not to exceed one per cent thereof in any year, as is necessary for the payment of the salary of the superintendent of the division of safety and hygiene and the compensation of the other employees of the division of safety and hygiene, and the expenses of investigations and researches for the prevention of industrial accidents and diseases. All investment earnings of the fund shall be credited to the fund. The ~~administrator~~ treasurer of state has the same powers to invest ~~any of~~ the funds belonging to the fund as are delegated to the ~~administrator~~ treasurer under section 4123.44 of the Revised Code with respect to the state insurance fund. The superintendent, under the direction of the administrator, with the advice and consent of the oversight commission, shall conduct investigations and researches for the prevention of industrial accidents and diseases, conduct loss prevention programs and courses for employers, establish and administrate cooperative programs with employers for the purchase of individual safety equipment for employees, and print and distribute information as may be of benefit to employers and employees. The administrator shall pay from the safety and hygiene fund the salary of the superintendent of the division of safety and hygiene, the compensation of the other employees of the division of safety and hygiene, the expenses necessary or incidental to investigations and researches for the prevention of industrial accidents and diseases, and the cost of printing and distributing such information.

The superintendent, under the direction of the administrator, shall prepare an annual report, addressed to the governor, on the amount of the expenditures and the purposes for which they have been made, and the results of the investigations and researches. The administrator shall include the administrative costs, salaries, and other expenses of the division of safety and hygiene as a part of the budget of the bureau of workers' compensation that is submitted to the director of budget and management and shall identify those expenditures separately from other bureau expenditures.

The superintendent shall be a competent person with at least five years' experience in industrial accident or disease prevention work. The superintendent



and up to six positions in the division of safety and hygiene as the administrator, with the advice and consent of the oversight commission, designates are in the unclassified civil service of the state as long as the administrator, with the advice and consent of the oversight commission, determines the positions subordinate to the superintendent are primarily and distinctively administrative, managerial, or professional in character. All other full-time employees of the division of safety and hygiene are in the classified civil service of the state."

Between lines 929 and 930, insert:

"**Sec. 4123.30.** Money contributed by the employers mentioned in division (B)(1) of section 4123.01 of the Revised Code constitutes the "public fund" and the money contributed by employers mentioned in division (B)(2) of such section constitutes the "private fund." Each such fund shall be collected, distributed, and its solvency maintained without regard to or reliance upon the other. Whenever in this chapter reference is made to the state insurance fund, the reference is to such two separate funds but such two separate funds and the net premiums contributed thereto by employers after adjustments and dividends, except for the amount thereof which is set aside for the investigation and prevention of industrial accidents and diseases pursuant to Section 35 of Article II, Ohio Constitution, any amounts set aside for actuarial services authorized or required by ~~sections 4123.44 and~~ section 4123.47 of the Revised Code, and any amounts set aside to reinsure the liability of the respective insurance funds for the following payments, constitute a trust fund for the benefit of employers and employees mentioned in sections 4123.01, 4123.03, and 4123.73 of the Revised Code for the payment of compensation, medical services, examinations, recommendations and determinations, nursing and hospital services, medicine, rehabilitation, death benefits, funeral expenses, and like benefits for loss sustained on account of injury, disease, or death provided for by this chapter, and for no other purpose. This section does not prevent the deposit or investment of all such moneys intermingled for such purpose but such funds shall be separate and distinct for all other purposes, and the rights and duties created in this chapter shall be construed to have been made with respect to two separate funds and so as to maintain and continue such funds separately except for deposit or investment. Disbursements shall not be made on account of injury, disease, or death of employees of employers who contribute to one of such funds unless the moneys to the credit of such fund are sufficient therefor and no such disbursements shall be made for moneys or credits paid or credited to the other fund."

Between lines 1095 and 1096, insert:

"**Sec. 4123.342.** (A) The administrator of workers' compensation shall allocate among counties and taxing districts therein as a class, the state and its instrumentalities as a class, private employers who are insured under the private fund as a class, and self-insuring employers as a class their fair shares of the administrative costs which are to be borne by such employers under division (D) of section 4123.341 of the Revised Code, separately allocating to each class

those costs solely attributable to the activities of the industrial commission, and those costs solely attributable to the activities of the workers' compensation oversight commission, and the bureau of workers' compensation in respect of the class, allocating to any combination of classes those costs attributable to the activities of the industrial commission, oversight commission, or bureau in respect of the classes, and allocating to all four classes those costs attributable to the activities of the industrial commission, oversight commission, and bureau in respect of all classes. The administrator shall separately calculate each employer's assessment in the class, except self-insuring employers, on the basis of the following three factors: payroll, paid compensation, and paid medical costs of the employer for those costs solely attributable to the activities of the oversight commission and the bureau. The administrator shall separately calculate each employer's assessment in the class, except self-insuring employers, on the basis of the following three factors: payroll, paid compensation, and paid medical costs of the employer for those costs solely attributable to the activities of the industrial commission. The administrator shall separately calculate each self-insuring employer's assessment in accordance with section 4123.35 of the Revised Code for those costs solely attributable to the activities of the oversight commission and the bureau. The administrator shall separately calculate each self-insuring employer's assessment in accordance with section 4123.35 of the Revised Code for those costs solely attributable to the activities of the industrial commission. In a timely manner, the industrial commission shall provide to the administrator, the information necessary for the administrator to allocate and calculate, with the approval of the chairperson of the industrial commission, for each class of employer as described in this division, the costs solely attributable to the activities of the industrial commission.

(B) The administrator shall divide the administrative cost assessments collected by the administrator into two administrative assessment accounts within the state insurance fund. One of the administrative assessment accounts shall consist of the administrative cost assessment collected by the administrator for the industrial commission. The other administrative assessment account shall consist of the administrative cost assessments collected by the administrator for the bureau and the workers' compensation oversight commission. The ~~administrator~~treasurer of state may invest the administrative cost assessments in these accounts on behalf of the bureau and the industrial commission as authorized in section 4123.44 of the Revised Code. In a timely manner, the administrator shall provide to the industrial commission the information and reports the commission deems necessary for the commission to monitor the receipts and the disbursements from the administrative assessment account for the industrial commission.

(C) The administrator or the administrator's designee shall transfer moneys as necessary from the administrative assessment account identified for the bureau and the workers' compensation oversight commission to the workers' compensation fund for the use of the bureau and the oversight commission. As necessary and upon the authorization of the industrial commission, the

administrator or the administrator's designee shall transfer moneys from the administrative assessment account identified for the industrial commission to the industrial commission operating fund created under section 4121.021 of the Revised Code. To the extent that the moneys collected by the administrator in any fiscal biennium of the state equal the sum appropriated by the general assembly for administrative costs of the industrial commission, oversight commission, and bureau for the biennium, the moneys shall be paid into the workers' compensation fund and the industrial commission operating fund of the state and any remainder shall be retained in the state insurance fund and applied to reduce the amount collected during the next biennium. Sections 4123.41, 4123.35, and 4123.37 of the Revised Code apply to the collection of assessments from public and private employers respectively, except that for boards of county hospital trustees that are self-insuring employers, only those provisions applicable to the collection of assessments for private employers apply."

Between lines 1795 and 1796, insert:

"**Sec. 4123.351.** (A) The administrator of workers' compensation shall require every self-insuring employer to pay a contribution, calculated under this section, to the self-insuring employers' guaranty fund established pursuant to this section. The fund shall provide for payment of compensation and benefits to employees of the self-insuring employer in order to cover any default in payment by that employer.

(B) The bureau of workers' compensation shall operate the self-insuring employers' guaranty fund for self-insuring employers. The administrator annually shall establish the contributions due from self-insuring employers for the fund at rates as low as possible but such as will assure sufficient moneys to guarantee the payment of any claims against the fund. The bureau's operation of the fund is not subject to sections 3929.10 to 3929.18 of the Revised Code or to regulation by the superintendent of insurance.

(C) If a self-insuring employer defaults, the bureau shall recover the amounts paid as a result of the default from the self-insuring employers' guaranty fund. If a self-insuring employer defaults and is in compliance with this section for the payment of contributions to the fund, such self-insuring employer is entitled to the immunity conferred by section 4123.74 of the Revised Code for any claim arising during any period the employer is in compliance with this section.

(D)(1) There is hereby established a self-insuring employers' guaranty fund, which shall be in the custody of the treasurer of state and which shall be separate from the other funds established and administered pursuant to this chapter. The fund shall consist of contributions and other payments made by self-insuring employers under this section. All investment earnings of the fund shall be credited to the fund. The bureau shall make disbursements from the fund pursuant to this section.

(2) The ~~administrator of workers' compensation~~ treasurer of state has the

same powers to invest ~~any of the surplus or~~ ~~and~~ reserve belonging to the fund as are delegated to ~~him~~ the treasurer of state under section 4123.44 of the Revised Code with respect to the state insurance fund. The administrator of workers' compensation shall apply interest earned solely to the reduction of assessments for contributions from self-insuring employers and to the payments required due to defaults.

(3) If the administrator determines that reinsurance of the risks of the fund is necessary to assure solvency of the fund, ~~he~~ the administrator may:

(a) Enter into contracts for the purchase of reinsurance coverage of the risks of the fund with any company or agency authorized by law to issue contracts of reinsurance;

(b) Pay the cost of reinsurance from the fund;

(c) Include the costs of reinsurance as a liability and estimated liability of the fund.

(E) The administrator, with the advice and consent of the workers' compensation oversight commission, may adopt rules pursuant to Chapter 119. of the Revised Code for the implementation of this section, including a rule, notwithstanding division (C) of this section, requiring self-insuring employers to provide security in addition to the contribution to the self-insuring employers' guaranty fund required by this section. The additional security required by the rule, as the administrator determines appropriate, shall be sufficient and adequate to provide for financial assurance to meet the obligations of self-insuring employers under this chapter and Chapter 4121. of the Revised Code.

(F) The purchase of coverage under this section by self-insuring employers is valid notwithstanding the prohibitions contained in division (A) of section 4123.82 of the Revised Code and is in addition to the indemnity contracts that self-insuring employers may purchase pursuant to division (B) of section 4123.82 of the Revised Code.

(G) The administrator, on behalf of the self-insuring employers' guaranty fund, has the rights of reimbursement and subrogation and shall collect from a defaulting self-insuring employer or other liable person all amounts ~~he~~ the administrator has paid or reasonably expects to pay from the fund on account of the defaulting self-insuring employer.

(H) The assessments for contributions, the administration of the self-insuring employers' guaranty fund, the investment of the money in the fund, and the payment of liabilities incurred by the fund do not create any liability upon the state.

Except for a gross abuse of discretion, neither the oversight commission, nor the individual members thereof, nor the administrator shall incur any obligation or liability respecting the assessments for contributions, the administration of the self-insuring employers' guaranty fund, the investment of the fund, or the payment of liabilities therefrom.

**Sec. 4123.44.** ~~The administrator of workers' compensation, in accordance with the investment objectives, policies, and criteria established by the workers' compensation oversight commission pursuant to section 4121.12 of the Revised Code, may~~ treasurer of state shall invest any of the surplus or ~~and~~ reserve belonging to the state insurance fund in accordance with Chapter 135. of the Revised Code and any other provision of law governing public moneys of the state.

The ~~administrator~~ treasurer of state and other fiduciaries shall discharge their duties with respect to the funds with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, and by diversifying the investments of the assets of the funds so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

To facilitate investment of the funds, the ~~administrator~~ treasurer of state may establish a partnership, trust, limited liability company, corporation, including a corporation exempt from taxation under the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C. 1, as amended, or any other legal entity authorized to transact business in this state.

The treasurer of state shall report the performance of investments the treasurer makes pursuant to this section to the administrator of workers' compensation and the workers' compensation oversight commission at least once per quarter, or on a more frequent basis if the administrator or the oversight commission considers it necessary.

When reporting on the performance of investments, the ~~administrator~~ treasurer of state shall comply with the performance presentation standards established by the association for investment management and research.

All investments shall be purchased at current market prices and the evidences of title to the investments shall be placed in the custody of the treasurer of state, who is hereby designated as custodian, or in the custody of the treasurer of state's authorized agent. Evidences of title of the investments so purchased may be deposited by the treasurer of state for safekeeping with an authorized agent selected by the treasurer of state who is a qualified trustee under section 135.18 of the Revised Code. The treasurer of state or the agent shall collect the principal, dividends, distributions, and interest as they become due and payable and place them when collected into the state insurance fund.

The treasurer of state shall pay for investments purchased by the ~~administrator on receipt of written or electronic instructions from the administrator or the administrator's designated agent authorizing the purchase, and pending receipt of the evidence of title of the investment by the treasurer of state or the treasurer of state's authorized agent.~~ The administrator ~~treasurer of state~~ may sell investments held by the administrator ~~treasurer of state~~, and the

treasurer of state or the treasurer of state's authorized agent shall accept payment from the purchaser and deliver evidence of title of the investment to the purchaser, ~~on receipt of written or electronic instructions from the administrator or the administrator's designated agent authorizing the sale, and pending receipt of the moneys for the investments.~~ The amount received shall be placed in the state insurance fund. ~~The administrator and the treasurer of state may enter into agreements to establish procedures for the purchase and sale of investments under this division and the custody of the investments.~~

No purchase or sale of any investment shall be made under this section, except as authorized by the ~~administrator~~ treasurer of state.

Any statement of financial position distributed by the ~~administrator~~ treasurer of state shall include the fair value, as of the statement date, of all investments held by the ~~administrator~~ treasurer of state under this section.

When in the judgment of the administrator and upon approval of the treasurer of state it is necessary to provide available funds for the payment of compensation or benefits under this chapter, the administrator, with the approval of the treasurer of state, may borrow money from any available source and pledge as security a sufficient amount of bonds or other securities in which the state insurance fund is invested. The aggregate unpaid amount of loans existing at any one time for money so borrowed shall not exceed ten million dollars. The bonds or other securities so pledged as security for such loans to the administrator shall be the sole security for the payment of the principal and interest of any such loan. The administrator shall not be personally liable for the payment of the principal or the interest of any such loan. No such loan shall be made for a longer period of time than one year. Such loans may be renewed but no one renewal shall be for a period in excess of one year. Such loans shall bear such rate of interest as the administrator determines and in negotiating the loans, the administrator shall endeavor to secure as favorable interest rates and terms as circumstances will permit.

The treasurer of state may deliver to the person or governmental agency making such loan, the bonds or other securities which are to be pledged by the administrator, with the approval of the treasurer of state, as security for such loan, ~~upon receipt by the treasurer of state of an order of the administrator authorizing such loan.~~ Upon payment of any such loan by the administrator, with the approval of the treasurer of state, the bonds or other securities pledged as security therefor shall be returned to the treasurer of state as custodian of such bonds.

~~The administrator may pledge with the treasurer of state such amount of bonds or other securities in which the state insurance fund is invested as is reasonably necessary as security for any certificates issued, or paid out, by the treasurer of state upon any warrants drawn by the administrator.~~

The ~~administrator~~ treasurer of state may secure investment information services, consulting services, and other like services to facilitate investment of

the surplus and reserve belonging to the state insurance fund. The ~~administrator~~ treasurer of state shall pay the expense of securing such services from the state insurance fund."

Between lines 2908 and 2909, insert:

"**Sec. 4131.03.** (A) For the relief of persons who are entitled to receive benefits by virtue of the federal act, there is hereby established a coal-workers pneumoconiosis fund, which shall be separate from the funds established and administered pursuant to Chapter 4123. of the Revised Code. The fund shall consist of premiums and other payments thereto by subscribers who elect to subscribe to the fund to insure the payment of benefits required by the federal act.

(B) The coal-workers pneumoconiosis fund shall be in the custody of the treasurer of state. The bureau of workers' compensation shall make disbursements from the fund to those persons entitled to payment therefrom and in the amounts required pursuant to sections 4131.01 to 4131.06 of the Revised Code. All investment earnings of the fund shall be credited to the fund.

(C) The ~~administrator of workers' compensation~~ treasurer of state shall have the same powers to invest ~~any of the surplus or~~ and reserve belonging to the coal-workers pneumoconiosis fund as are delegated to ~~him~~ the treasurer of state under section 4123.44 of the Revised Code with respect to the state insurance fund.

(D) If the administrator of workers' compensation determines that reinsurance of the risks of the coal-workers pneumoconiosis fund is necessary to assure solvency of the fund, ~~he~~ the administrator may:

(1) Enter into contracts for the purchase of reinsurance coverage of the risks of the fund with any company or agency authorized by law to issue contracts of reinsurance;

(2) Pay the cost of reinsurance from the fund;

(3) Include the costs of reinsurance as a liability and estimated liability of the fund.

**Sec. 4131.13.** (A) For the relief of persons who are entitled to receive benefits by virtue of the federal act, there is hereby established a marine industry fund, which shall be separate from the funds established and administered pursuant to Chapter 4123. of the Revised Code. The marine industry fund shall consist of premiums and other payments thereto by marine industry employers who apply to the bureau of workers' compensation for permission to subscribe to the fund to insure the payment of benefits required by the federal act.

By rule, the administrator of workers' compensation shall establish criteria for the acceptance or rejection of applications by marine industry employers who apply to subscribe to the fund.

(B) The marine industry fund shall be in the custody of the treasurer of

state. The bureau shall make disbursements from the fund to those persons entitled to payment therefrom and in the amounts required pursuant to the federal act. The auditor of state annually shall complete a fiscal audit of the fund. All investment earnings of the fund shall be credited to the fund.

(C) The ~~administrator~~treasurer of state shall have the same powers to invest ~~any of the surplus or~~and reserve belonging to the marine industry fund as are delegated to ~~him~~the treasurer under section 4123.44 of the Revised Code with respect to the state insurance fund.

(D) If the administrator determines that reinsurance of the risks of the marine industry fund is necessary to assure solvency of the fund, ~~he~~the administrator may:

(1) Enter into contracts for the purchase of reinsurance coverage of the risks of the fund with any company or agency authorized by law to issue contracts of reinsurance;

(2) Pay the cost of reinsurance from the fund;

(3) Include the costs of reinsurance as a liability and estimated liability of the fund.

(E) For the purpose of maintaining the solvency of the marine industry fund, the administrator, with the approval of the treasurer of state, may borrow money from the state insurance fund as is necessary. Money borrowed from the state insurance fund shall be repaid from the marine industry fund together with an appropriate interest rate not to exceed the average yield of fixed income investments of the state insurance fund for the six-month period ended on the last day of the month preceding the month in which the money is borrowed. Loans made pursuant to this division are a proper investment of the surplus or reserve of the state insurance fund.

(F) In no event shall any of the assets of any of the funds created and administered pursuant to Chapter 4123. of the Revised Code be disbursed in payment of any cost or obligation of or insured by the marine industry fund. This division shall not be construed to prohibit as a proper investment loans made from the state insurance fund to the marine industry fund pursuant to division (E) of this section."

In line 3008, after "sections" insert "113.051,"

In line 3009, after "3121.037," insert "4121.03,"; after "4121.10," insert "4121.12, 4121.121, 4121.37,"; after "4123.01," insert "4123.30,"; after "4123.32," insert "4123.342,"; after "4123.35," insert "4123.351, 4123.44,"

In line 3011, after "4123.88," insert "4131.03, 4131.13,"

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

Senator Hottinger moved that the amendment be laid on the table.



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

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 20, nays 12, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Hottinger	Jacobson	Jordan
Mumper	Niehaus	Padgett	Schuler
Schuring	Spada	Wachtmann	Harris-20.

Those who voted in the negative were: Senators

Brady	Dann	Fedor	Fingerhut
Grendell	Hagan	Mallory	Miller
Prentiss	Roberts	Wilson	Zurz-12.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. S. B. No. 7**, pass?"

Senator Dann moved to amend as follows:

In line 9, after "sections" insert "121.41, 121.45,"

Between lines 14 and 15, insert:

**"Sec. 121.41.** As used in sections 121.41 to 121.50 of the Revised Code:

(A) "Appropriate ethics commission" has the same meaning as in section 102.01 of the Revised Code.

(B) "Appropriate licensing agency" means a public or private entity that is responsible for licensing, certifying, or registering persons who are engaged in a particular vocation.

(C) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes any officer or employee of the state or any political subdivision of the state.

(D) "State agency" has the same meaning as in section 1.60 of the Revised Code but does not include any of the following:

(1) The general assembly;

(2) Any court;

(3) The secretary of state, auditor of state, ~~treasurer of state~~, or attorney general and their respective offices and, except as provided in divisions (H) to (J) of this section and division (B)(2) of section 121.45 of the Revised Code, the treasurer of state and the office of the treasurer of state.

(E) "State employee" means any person who is an employee of a state agency or any person who does business with the state.

(F) "State officer" means any person who is elected or appointed to a public office in a state agency.

(G) "Wrongful act or omission" means an act or omission, committed in the course of office holding or employment, that is not in accordance with the requirements of law or such standards of proper governmental conduct as are commonly accepted in the community and thereby subverts, or tends to subvert, the process of government.

(H) "Investment" means any investment of any funds or moneys for, or by, any state agency, including, but not limited to, the bureau of workers' compensation, the Ohio police and fire pension fund, the public employees retirement system, the school employees retirement system, the state highway patrol retirement system, the state teachers retirement system, the volunteer fire fighters' dependents fund, and the treasurer of state.

(I) "Manager or recipient of a state agency investment" means any public or private entity or person that manages any investment of any funds or moneys for any state agency, or any public or private entity or person with which any state agency has made any investment of any funds or moneys under the control of the state agency.

(J) "Unregulated investment" means any investment of any funds or moneys to which both of the following apply:

(1) It is not an investment in a company that is publicly traded in any United States market.

(2) It is an investment in an unregulated product that is not commonly part of an institutional portfolio and that lacks liquidity, including, but not limited to, coins, artwork, horses, jewelry, gems, stamps, antiques, artifacts, collectibles, or other memorabilia.

**Sec. 121.45. (A)** Each state agency, and every state officer and state employee, shall cooperate with, and provide assistance to, the inspector general and any deputy inspector general in the performance of any investigation. In particular, each state agency shall make its premises, equipment, personnel, books, records, and papers readily available to the inspector general or a deputy inspector general.

**(B)(1)** The inspector general and any deputy inspector general may enter upon the premises of any state agency at any time, without prior announcement, if necessary to the successful completion of an investigation. In the course of an investigation, the inspector general and any deputy inspector general may question any state officer or state employee serving in, and any other person transacting business with, the state agency, and may inspect and copy any books, records, or papers in the possession of the state agency, taking care to preserve the confidentiality of information contained in responses to questions or the

books, records, or papers that is made confidential by law.

In performing any investigation, the inspector general and any deputy inspector general shall avoid interfering with the ongoing operations of the state agency being investigated, except insofar as is reasonably necessary to the successful completion of the investigation.

(2)(a) Any manager or recipient of a state agency investment shall be deemed to have given consent to an entry, questioning, inspection, copying, or viewing of a type described in division (B)(2) of this section as a condition of managing the investment of funds or moneys for the state agency that made the investment or as a condition of receiving the investment of funds or moneys under the control of the state agency that made the investment. Division (B)(2) of this section applies to, and the consent described in this division shall be deemed to have been given regarding, any investment of any funds or moneys for any state agency that was made for or by, or that is made for or by, any state agency prior to, on, or after the effective date of this amendment.

(b) The inspector general and any deputy inspector general may enter upon the premises of any manager or recipient of a state agency investment at any time, without prior announcement, if necessary to the successful completion of an investigation that involves the state agency that made the investment or any official or employee of that state agency and the agency's investment that is managed by or made with the manager or recipient of the state agency investment. In the course of an investigation, the inspector general and any deputy inspector general may question any manager or recipient of a state agency investment regarding the agency's investment that is managed by or made with the manager or recipient, and may inspect and copy any books, records, or papers in the possession of the state agency investment manager or recipient that pertains to that investment, taking care to preserve the confidentiality of information contained in responses to questions or the books, records, or papers that is made confidential by law. In addition, if the investment that is managed by or made with the manager or recipient of the state agency investment is an unregulated investment, in the course of an investigation, the inspector general and any deputy inspector general may view and inspect the product or products that constitute the investment. The inspector general and deputy inspector generals may engage in, and conduct, the entry, questioning, inspection, copying, and viewing described in this division without a warrant.

In performing any entry, questioning, inspection, copying, or viewing of a type described in division (B)(2) of this section, the inspector general and any deputy inspector general shall avoid interfering with the ongoing operations of the state agency being investigated or the ongoing operations of any manager or recipient of the state agency investment, except insofar as is reasonably necessary to the successful completion of the investigation.

The authority granted to the inspector general and deputy inspector generals under division (B)(2) of this section is independent of, and in addition to, the authority granted to the inspector general and deputy inspector generals

pursuant to other provisions of this chapter regarding investigations of state agencies.

(C) Each state agency shall develop, implement, and enforce policies and procedures that prevent or reduce the risk of wrongful acts and omissions by its state officers or state employees.

(D) Other state agencies that also are responsible for investigating, auditing, reviewing, or evaluating the management and operation of state agencies shall negotiate and enter into agreements with the office of the inspector general for the purpose of sharing information and avoiding duplication of effort."

In line 3008, after "sections" insert "121.41, 121.45,"

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

Senator Wachtmann moved that the amendment be laid on the table.

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

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 20, nays 12, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Hottinger	Jacobson	Jordan
Mumper	Niehaus	Padgett	Schuler
Schuring	Spada	Wachtmann	Harris-20.

Those who voted in the negative were: Senators

Brady	Dann	Fedor	Fingerhut
Grendell	Hagan	Mallory	Miller
Prentiss	Roberts	Wilson	Zurz-12.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. S. B. No. 7**, pass?"

Senator Fedor moved to amend as follows:

Following line 3027, insert:

"**Section 5.** There is hereby created the Joint Legislative Committee to Study the Bureau of Workers' Compensation. The purpose and charge of the committee are to review the laws and operations of the Bureau of Workers' Compensation in order to determine whether any changes in law or operations are desirable as a matter of public policy.

The committee shall consist of sixteen members appointed with the unanimous consent of the President and Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives as follows:

Six members of the Senate;

Six members of the House of Representatives;

Two persons not members of the General Assembly who by background, vocation, or affiliation are representatives of the Ohio business community;

Two persons not members of the General Assembly who by background, vocation, or affiliation are representative of Ohio organized labor.

Members of the committee who are members of the General Assembly shall serve for as long as they are members of the General Assembly. Vacancies shall be filled in the same manner as original appointments.

The four leaders of the General Assembly unanimously shall determine the schedule for the committee study, the manner in which the committee submits its findings and recommendations, staff support, payment of committee expenses, the deadline for any interim or final report, and the termination of the committee's existence."

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

Senator Wachtmann moved that the amendment be laid on the table.

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

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 21, nays 11, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Grendell	Hottinger	Jacobson
Jordan	Mumper	Niehaus	Padgett
Schuler	Schuring	Spada	Wachtmann
			Harris-21.

Those who voted in the negative were: Senators

Brady	Dann	Fedor	Fingerhut
Hagan	Mallory	Miller	Prentiss
Roberts	Wilson		Zurz-11.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. S. B. No. 7**, pass?"

Senator Dann moved to amend as follows:

In line 9, after "3121.037," insert "3517.13, 3517.151, 3517.992,"

In line 12, after "4123.88," insert "4123.99,"; after "3121.0311," insert "3517.093,"

In line 13, delete "and"; after "4123.311" insert ", and 4123.441"

Between lines 309 and 310, insert:

**Sec. 3517.093.** (A) No investment manager or business entity shall make a contribution to a state elected officer or an individual who is a candidate for a state elective office, to the campaign committee of the officer or the individual, or to any state political party state candidate fund or county political party state candidate fund on behalf of, or for the benefit of, the officer or individual.

(B) No state elected officer and no individual who is a candidate for a state elective office shall accept a contribution from an investment manager or business entity.

(C) As used in this section:

(1) "State elected officer" and "state elective office" have the same meanings as in section 3517.092 of the Revised Code.

(2) "Investment manager" means any person with whom the administrator of workers' compensation contracts pursuant to section 4123.44 of the Revised Code to facilitate the investment of bureau of workers' compensation funds.

(3) "Business entity" means any person with whom an investment manager contracts for the investment of bureau of workers' compensation funds.

**Sec. 3517.13.** (A)(1) No campaign committee of a statewide candidate shall fail to file a complete and accurate statement required under division (A)(1) of section 3517.10 of the Revised Code.

(2) No campaign committee of a statewide candidate shall fail to file a complete and accurate monthly statement, and no campaign committee of a statewide candidate or a candidate for the office of chief justice or justice of the supreme court shall fail to file a complete and accurate two-business-day statement, as required under section 3517.10 of the Revised Code.

As used in this division, "statewide candidate" has the same meaning as in division (F)(2) of section 3517.10 of the Revised Code.

(B) No campaign committee shall fail to file a complete and accurate statement required under division (A)(1) of section 3517.10 of the Revised Code.

(C) No campaign committee shall fail to file a complete and accurate statement required under division (A)(2) of section 3517.10 of the Revised Code.

(D) No campaign committee shall fail to file a complete and accurate statement required under division (A)(3) or (4) of section 3517.10 of the Revised Code.

(E) No person other than a campaign committee shall knowingly fail to file a statement required under section 3517.10 or 3517.107 of the Revised Code.

(F) No person shall make cash contributions to any person totaling more than one hundred dollars in each primary, special, or general election.

(G)(1) No person shall knowingly conceal or misrepresent contributions given or received, expenditures made, or any other information required to be reported by a provision in sections 3517.08 to 3517.13 and 3517.17 of the Revised Code.

(2)(a) No person shall make a contribution to a campaign committee, political action committee, political contributing entity, legislative campaign fund, political party, or person making disbursements to pay the direct costs of producing or airing electioneering communications in the name of another person.

(b) A person does not make a contribution in the name of another when either of the following applies:

(i) An individual makes a contribution from a partnership or other unincorporated business account, if the contribution is reported by listing both the name of the partnership or other unincorporated business and the name of the partner or owner making the contribution as required under division (I) of section 3517.10 of the Revised Code.

(ii) A person makes a contribution in that person's spouse's name or in both of their names.

(H) No person within this state, publishing a newspaper or other periodical, shall charge a campaign committee for political advertising a rate in excess of the rate such person would charge if the campaign committee were a general rate advertiser whose advertising was directed to promoting its business within the same area as that encompassed by the particular office that the candidate of the campaign committee is seeking. The rate shall take into account the amount of space used, as well as the type of advertising copy submitted by or on behalf of the campaign committee. All discount privileges otherwise offered by a newspaper or periodical to general rate advertisers shall be available upon equal terms to all campaign committees.

No person within this state, operating a radio or television station or network of stations in this state, shall charge a campaign committee for political broadcasts a rate that exceeds:

(1) During the forty-five days preceding the date of a primary election and during the sixty days preceding the date of a general or special election in which the candidate of the campaign committee is seeking office, the lowest unit

charge of the station for the same class and amount of time for the same period;

(2) At any other time, the charges made for comparable use of that station by its other users.

(I) Subject to divisions (K), (L), (M), and (N) of this section, no agency or department of this state or any political subdivision shall award any contract, other than one let by competitive bidding or a contract incidental to such contract or which is by force account, for the purchase of goods costing more than five hundred dollars or services costing more than five hundred dollars to any individual, partnership, association, including, without limitation, a professional association organized under Chapter 1785. of the Revised Code, estate, or trust if the individual has made or the individual's spouse has made, or any partner, shareholder, administrator, executor, or trustee or the spouse of any of them has made, as an individual, within the two previous calendar years, one or more contributions totaling in excess of one thousand dollars to the holder of the public office having ultimate responsibility for the award of the contract or to the public officer's campaign committee.

(J) Subject to divisions (K), (L), (M), and (N) of this section, no agency or department of this state or any political subdivision shall award any contract, other than one let by competitive bidding or a contract incidental to such contract or which is by force account, for the purchase of goods costing more than five hundred dollars or services costing more than five hundred dollars to a corporation or business trust, except a professional association organized under Chapter 1785. of the Revised Code, if an owner of more than twenty per cent of the corporation or business trust or the spouse of that person has made, as an individual, within the two previous calendar years, taking into consideration only owners for all of that period, one or more contributions totaling in excess of one thousand dollars to the holder of a public office having ultimate responsibility for the award of the contract or to the public officer's campaign committee.

(K) For purposes of divisions (I) and (J) of this section, if a public officer who is responsible for the award of a contract is appointed by the governor, whether or not the appointment is subject to the advice and consent of the senate, excluding members of boards, commissions, committees, authorities, councils, boards of trustees, task forces, and other such entities appointed by the governor, the office of the governor is considered to have ultimate responsibility for the award of the contract.

(L) For purposes of divisions (I) and (J) of this section, if a public officer who is responsible for the award of a contract is appointed by the elected chief executive officer of a municipal corporation, or appointed by the elected chief executive officer of a county operating under an alternative form of county government or county charter, excluding members of boards, commissions, committees, authorities, councils, boards of trustees, task forces, and other such entities appointed by the chief executive officer, the office of the chief executive officer is considered to have ultimate responsibility for the award of the contract.



(M)(1) Divisions (I) and (J) of this section do not apply to contracts awarded by the board of commissioners of the sinking fund, municipal legislative authorities, boards of education, boards of county commissioners, boards of township trustees, or other boards, commissions, committees, authorities, councils, boards of trustees, task forces, and other such entities created by law, by the supreme court or courts of appeals, by county courts consisting of more than one judge, courts of common pleas consisting of more than one judge, or municipal courts consisting of more than one judge, or by a division of any court if the division consists of more than one judge. This division shall apply to the specified entity only if the members of the entity act collectively in the award of a contract for goods or services.

(2) Divisions (I) and (J) of this section do not apply to actions of the controlling board.

(N)(1) Divisions (I) and (J) of this section apply to contributions made to the holder of a public office having ultimate responsibility for the award of a contract, or to the public officer's campaign committee, during the time the person holds the office and during any time such person was a candidate for the office. Those divisions do not apply to contributions made to, or to the campaign committee of, a candidate for or holder of the office other than the holder of the office at the time of the award of the contract.

(2) Divisions (I) and (J) of this section do not apply to contributions of a partner, shareholder, administrator, executor, trustee, or owner of more than twenty per cent of a corporation or business trust made before the person held any of those positions or after the person ceased to hold any of those positions in the partnership, association, estate, trust, corporation, or business trust whose eligibility to be awarded a contract is being determined, nor to contributions of the person's spouse made before the person held any of those positions, after the person ceased to hold any of those positions, before the two were married, after the granting of a decree of divorce, dissolution of marriage, or annulment, or after the granting of an order in an action brought solely for legal separation. Those divisions do not apply to contributions of the spouse of an individual whose eligibility to be awarded a contract is being determined made before the two were married, after the granting of a decree of divorce, dissolution of marriage, or annulment, or after the granting of an order in an action brought solely for legal separation.

(O) No beneficiary of a campaign fund or other person shall convert for personal use, and no person shall knowingly give to a beneficiary of a campaign fund or any other person, for the beneficiary's or any other person's personal use, anything of value from the beneficiary's campaign fund, including, without limitation, payments to a beneficiary for services the beneficiary personally performs, except as reimbursement for any of the following:

(1) Legitimate and verifiable prior campaign expenses incurred by the beneficiary;

(2) Legitimate and verifiable ordinary and necessary prior expenses incurred by the beneficiary in connection with duties as the holder of a public office, including, without limitation, expenses incurred through participation in nonpartisan or bipartisan events if the participation of the holder of a public office would normally be expected;

(3) Legitimate and verifiable ordinary and necessary prior expenses incurred by the beneficiary while doing any of the following:

(a) Engaging in activities in support of or opposition to a candidate other than the beneficiary, political party, or ballot issue;

(b) Raising funds for a political party, political action committee, political contributing entity, legislative campaign fund, campaign committee, or other candidate;

(c) Participating in the activities of a political party, political action committee, political contributing entity, legislative campaign fund, or campaign committee;

(d) Attending a political party convention or other political meeting.

For purposes of this division, an expense is incurred whenever a beneficiary has either made payment or is obligated to make payment, as by the use of a credit card or other credit procedure or by the use of goods or services received on account.

(P) No beneficiary of a campaign fund shall knowingly accept, and no person shall knowingly give to the beneficiary of a campaign fund, reimbursement for an expense under division (O) of this section to the extent that the expense previously was reimbursed or paid from another source of funds. If an expense is reimbursed under division (O) of this section and is later paid or reimbursed, wholly or in part, from another source of funds, the beneficiary shall repay the reimbursement received under division (O) of this section to the extent of the payment made or reimbursement received from the other source.

(Q) No candidate or public official or employee shall accept for personal or business use anything of value from a political party, political action committee, political contributing entity, legislative campaign fund, or campaign committee other than the candidate's or public official's or employee's own campaign committee, and no person shall knowingly give to a candidate or public official or employee anything of value from a political party, political action committee, political contributing entity, legislative campaign fund, or such a campaign committee, except for the following:

(1) Reimbursement for legitimate and verifiable ordinary and necessary prior expenses not otherwise prohibited by law incurred by the candidate or public official or employee while engaged in any legitimate activity of the political party, political action committee, political contributing entity, legislative campaign fund, or such campaign committee. Without limitation, reimbursable expenses under this division include those incurred while doing

any of the following:

(a) Engaging in activities in support of or opposition to another candidate, political party, or ballot issue;

(b) Raising funds for a political party, legislative campaign fund, campaign committee, or another candidate;

(c) Attending a political party convention or other political meeting.

(2) Compensation not otherwise prohibited by law for actual and valuable personal services rendered under a written contract to the political party, political action committee, political contributing entity, legislative campaign fund, or such campaign committee for any legitimate activity of the political party, political action committee, political contributing entity, legislative campaign fund, or such campaign committee.

Reimbursable expenses under this division do not include, and it is a violation of this division for a candidate or public official or employee to accept, or for any person to knowingly give to a candidate or public official or employee from a political party, political action committee, political contributing entity, legislative campaign fund, or campaign committee other than the candidate's or public official's or employee's own campaign committee, anything of value for activities primarily related to the candidate's or public official's or employee's own campaign for election, except for contributions to the candidate's or public official's or employee's campaign committee.

For purposes of this division, an expense is incurred whenever a candidate or public official or employee has either made payment or is obligated to make payment, as by the use of a credit card or other credit procedure, or by the use of goods or services on account.

(R)(1) Division (O) or (P) of this section does not prohibit a campaign committee from making direct advance or post payment from contributions to vendors for goods and services for which reimbursement is permitted under division (O) of this section, except that no campaign committee shall pay its candidate or other beneficiary for services personally performed by the candidate or other beneficiary.

(2) If any expense that may be reimbursed under division (O), (P), or (Q) of this section is part of other expenses that may not be paid or reimbursed, the separation of the two types of expenses for the purpose of allocating for payment or reimbursement those expenses that may be paid or reimbursed may be by any reasonable accounting method, considering all of the surrounding circumstances.

(3) For purposes of divisions (O), (P), and (Q) of this section, mileage allowance at a rate not greater than that allowed by the internal revenue service at the time the travel occurs may be paid instead of reimbursement for actual travel expenses allowable.

(S)(1) As used in division (S) of this section:

(a) "State elective office" has the same meaning as in section 3517.092 of the Revised Code.

(b) "Federal office" means a federal office as defined in the Federal Election Campaign Act.

(c) "Federal campaign committee" means a principal campaign committee or authorized committee as defined in the Federal Election Campaign Act.

(2) No person who is a candidate for state elective office and who previously sought nomination or election to a federal office shall transfer any funds or assets from that person's federal campaign committee for nomination or election to the federal office to that person's campaign committee as a candidate for state elective office.

(3) No campaign committee of a person who is a candidate for state elective office and who previously sought nomination or election to a federal office shall accept any funds or assets from that person's federal campaign committee for that person's nomination or election to the federal office.

(T)(1) Except as otherwise provided in division (B)(6)(c) of section 3517.102 of the Revised Code, a state or county political party shall not disburse moneys from any account other than a state candidate fund to make contributions to any of the following:

(a) A state candidate fund;

(b) A legislative campaign fund;

(c) A campaign committee of a candidate for the office of governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, member of the state board of education, or member of the general assembly.

(2) No state candidate fund, legislative campaign fund, or campaign committee of a candidate for any office described in division (T)(1)(c) of this section shall knowingly accept a contribution in violation of division (T)(1) of this section.

(U) No person shall fail to file the statement required under section 3517.12 of the Revised Code.

(V) No campaign committee shall fail to file a statement required under division (K)(3) of section 3517.10 of the Revised Code.

(W)(1) No foreign national shall, directly or indirectly through any other person or entity, make a contribution, expenditure, or independent expenditure or promise, either expressly or implicitly, to make a contribution, expenditure, or independent expenditure in support of or opposition to a candidate for any elective office in this state, including an office of a political party.

(2) No candidate, campaign committee, political action committee,

political contributing entity, legislative campaign fund, state candidate fund, political party, or separate segregated fund shall solicit or accept a contribution, expenditure, or independent expenditure from a foreign national. The secretary of state may direct any candidate, committee, entity, fund, or party that accepts a contribution, expenditure, or independent expenditure in violation of this division to return the contribution, expenditure, or independent expenditure or, if it is not possible to return the contribution, expenditure, or independent expenditure, then to return instead the value of it, to the contributor.

(3) As used in division (W) of this section, "foreign national" has the same meaning as in section 441e(b) of the Federal Election Campaign Act.

(X)(1) No state or county political party shall transfer any moneys from its restricted fund to any account of the political party into which contributions may be made or from which contributions or expenditures may be made.

(2)(a) No state or county political party shall deposit a contribution or contributions that it receives into its restricted fund.

(b) No state or county political party shall make a contribution or an expenditure from its restricted fund.

(3)(a) No corporation or labor organization shall make a gift or gifts from the corporation's or labor organization's money or property aggregating more than ten thousand dollars to any one state or county political party for the party's restricted fund in a calendar year.

(b) No state or county political party shall accept a gift or gifts for the party's restricted fund aggregating more than ten thousand dollars from any one corporation or labor organization in a calendar year.

(4) No state or county political party shall transfer any moneys in the party's restricted fund to any other state or county political party.

(5) No state or county political party shall knowingly fail to file a statement required under section 3517.1012 of the Revised Code.

(Y) The administrator of workers' compensation shall not award any contract to an investment manager or business entity who, within twenty-four months immediately preceding the awarding of the contract, made one or more contributions to the campaign committee of a state elected officer or to the campaign committee of any candidate for any state elective office.

As used in this division, "investment manager" and "business entity" have the same meanings as in section 3517.093 of the Revised Code, and "state elective office" and "state elected officer" have the same meanings as in section 3517.092 of the Revised Code.

**Sec. 3517.151.** (A) On and after January 1, 1996, complaints with respect to acts or failures to act under the sections listed in division (A) of section 3517.153 of the Revised Code shall be filed with the Ohio elections commission created under section 3517.152 of the Revised Code.

(B)(1) If a complaint filed with the Ohio elections commission created under section 3517.152 of the Revised Code alleges an act or failure to act that occurred before August 24, 1995, and the commission imposes a fine, sections 3517.99 and 3517.991 of the Revised Code, and not sections 3517.992 and 3517.993 of the Revised Code, shall apply.

(2) If a complaint filed with the Ohio elections commission created under section 3517.152 of the Revised Code alleges an act or failure to act that is a violation of section 3517.13 of the Revised Code, former divisions (A) to (R) of that section apply to the act or failure to act if it occurred before August 24, 1995, former divisions (A) to (U) of that section apply to the act or failure to act if it occurs on or after August 24, 1995, but before July 13, 1998, former divisions (A) to (V) of that section apply to the act or failure to act if it occurs on or after July 13, 1998, but before December 22, 1999, former divisions (A) to (W) of that section apply to the act or failure to act if it occurs on or after December 22, 1999, but before the ~~effective date of this amendment~~ March 31, 2005, and former divisions (A) to (X) of that section apply to the act or failure to act if it occurs on or after ~~the effective date of this amendment~~ March 31, 2005, and divisions (A) to (Y) of that section apply to the act or failure to act if it occurs on or after the effective date of this amendment.

(C) The Ohio elections commission created under section 3517.14 of the Revised Code is abolished at the close of business on December 31, 1995.

**Sec. 3517.992.** This section establishes penalties only with respect to acts or failures to act that occur on and after August 24, 1995.

(A)(1) A candidate whose campaign committee violates division (A), (B), (C), (D), or (V) of section 3517.13 of the Revised Code, or a treasurer of a campaign committee who violates any of those divisions, shall be fined not more than one hundred dollars for each day of violation.

(2) Whoever violates division (E) or (X)(5) of section 3517.13 of the Revised Code shall be fined not more than one hundred dollars for each day of violation.

(B) A political party that violates division (F)(1) of section 3517.101 of the Revised Code shall be fined not more than one hundred dollars for each day of violation.

(C) Whoever violates division (F)(2) of section 3517.101 or division (G) of section 3517.13 of the Revised Code shall be fined not more than ten thousand dollars or, if the offender is a person who was nominated or elected to public office, shall forfeit the nomination or the office to which the offender was elected, or both.

(D) Whoever violates division (F) of section 3517.13 of the Revised Code shall be fined not more than three times the amount contributed.

(E) Whoever violates division (H) of section 3517.13 of the Revised Code shall be fined not more than one hundred dollars.

(F) Whoever violates division (O), (P), or (Q) of section 3517.13 of the Revised Code is guilty of a misdemeanor of the first degree.

(G) A state or county committee of a political party that violates division (B)(1) of section 3517.18 of the Revised Code shall be fined not more than twice the amount of the improper expenditure.

(H) A state or county political party that violates division (G) of section 3517.101 of the Revised Code shall be fined not more than twice the amount of the improper expenditure or use.

(I)(1) Any individual who violates division (B)(1) of section 3517.102 of the Revised Code and knows that the contribution the individual makes violates that division shall be fined an amount equal to three times the amount contributed in excess of the amount permitted by that division.

(2) Any political action committee that violates division (B)(2) of section 3517.102 of the Revised Code shall be fined an amount equal to three times the amount contributed in excess of the amount permitted by that division.

(3) Any campaign committee that violates division (B)(3) or (5) of section 3517.102 of the Revised Code shall be fined an amount equal to three times the amount contributed in excess of the amount permitted by that division.

(4)(a) Any legislative campaign fund that violates division (B)(6) of section 3517.102 of the Revised Code shall be fined an amount equal to three times the amount transferred or contributed in excess of the amount permitted by that division, as applicable.

(b) Any state political party, county political party, or state candidate fund of a state political party or county political party that violates division (B)(6) of section 3517.102 of the Revised Code shall be fined an amount equal to three times the amount transferred or contributed in excess of the amount permitted by that division, as applicable.

(c) Any political contributing entity that violates division (B)(7) of section 3517.102 of the Revised Code shall be fined an amount equal to three times the amount contributed in excess of the amount permitted by that division.

(5) Any political party that violates division (B)(4) of section 3517.102 of the Revised Code shall be fined an amount equal to three times the amount contributed in excess of the amount permitted by that division.

(6) Notwithstanding divisions (I)(1), (2), (3), (4), and (5) of this section, no violation of division (B) of section 3517.102 of the Revised Code occurs, and the secretary of state shall not refer parties to the Ohio elections commission, if the amount transferred or contributed in excess of the amount permitted by that division meets either of the following conditions:

(a) It is completely refunded within five business days after it is accepted.

(b) It is completely refunded on or before the tenth business day after

notification to the recipient of the excess transfer or contribution by the board of elections or the secretary of state that a transfer or contribution in excess of the permitted amount has been received.

(J)(1) Any campaign committee that violates division (C)(1), (2), (3), or (6) of section 3517.102 of the Revised Code shall be fined an amount equal to three times the amount accepted in excess of the amount permitted by that division.

(2)(a) Any county political party that violates division (C)(4)(a)(ii) or (iii) of section 3517.102 of the Revised Code shall be fined an amount equal to three times the amount accepted.

(b) Any county political party that violates division (C)(4)(a)(i) of section 3517.102 of the Revised Code shall be fined an amount from its state candidate fund equal to three times the amount accepted in excess of the amount permitted by that division.

(c) Any state political party that violates division (C)(4)(b) of section 3517.102 of the Revised Code shall be fined an amount from its state candidate fund equal to three times the amount accepted in excess of the amount permitted by that division.

(3) Any legislative campaign fund that violates division (C)(5) of section 3517.102 of the Revised Code shall be fined an amount equal to three times the amount accepted in excess of the amount permitted by that division.

(4) Any political action committee or political contributing entity that violates division (C)(7) of section 3517.102 of the Revised Code shall be fined an amount equal to three times the amount accepted in excess of the amount permitted by that division.

(5) Notwithstanding divisions (J)(1), (2), (3), and (4) of this section, no violation of division (C) of section 3517.102 of the Revised Code occurs, and the secretary of state shall not refer parties to the Ohio elections commission, if the amount transferred or contributed in excess of the amount permitted to be accepted by that division meets either of the following conditions:

(a) It is completely refunded within five business days after its acceptance.

(b) It is completely refunded on or before the tenth business day after notification to the recipient of the excess transfer or contribution by the board of elections or the secretary of state that a transfer or contribution in excess of the permitted amount has been received.

(K)(1) Any legislative campaign fund that violates division (F)(1) of section 3517.102 of the Revised Code shall be fined twenty-five dollars for each day of violation.

(2) Any legislative campaign fund that violates division (F)(2) of section 3517.102 of the Revised Code shall give to the treasurer of state for deposit into



the state treasury to the credit of the Ohio elections commission fund all excess contributions not disposed of as required by division (E) of section 3517.102 of the Revised Code.

(L) Whoever violates section 3517.105 of the Revised Code shall be fined one thousand dollars.

(M)(1) Whoever solicits a contribution in violation of section 3517.092 or violates division (B) of section 3517.09 of the Revised Code is guilty of a misdemeanor of the first degree.

(2) Whoever knowingly accepts a contribution in violation of division (B) or (C) of section 3517.092 of the Revised Code shall be fined an amount equal to three times the amount accepted in violation of either of those divisions and shall return to the contributor any amount so accepted. Whoever unknowingly accepts a contribution in violation of division (B) or (C) of section 3517.092 of the Revised Code shall return to the contributor any amount so accepted.

(N) Whoever violates division (S) of section 3517.13 of the Revised Code shall be fined an amount equal to three times the amount of funds transferred or three times the value of the assets transferred in violation of that division.

(O) Any campaign committee that accepts a contribution or contributions in violation of section 3517.108 of the Revised Code, uses a contribution in violation of that section, or fails to dispose of excess contributions in violation of that section shall be fined an amount equal to three times the amount accepted, used, or kept in violation of that section.

(P) Any political party, state candidate fund, legislative candidate campaign fund, or campaign committee that violates division (T) of section 3517.13 of the Revised Code shall be fined an amount equal to three times the amount contributed or accepted in violation of that section.

(Q) A treasurer of a committee or another person who violates division (U) of section 3517.13 of the Revised Code shall be fined not more than two hundred fifty dollars.

(R) Whoever violates division (I) or (J) of section 3517.13 of the Revised Code shall be fined not more than one thousand dollars. Whenever a person is found guilty of violating division (I) or (J) of section 3517.13 of the Revised Code, the contract awarded in violation of either of those divisions shall be rescinded if its terms have not yet been performed.

(S) A candidate whose campaign committee violates or a treasurer of a campaign committee who violates section 3517.081 of the Revised Code, and a candidate whose campaign committee violates or a treasurer of a campaign committee or another person who violates division (C) of section 3517.10 of the Revised Code, shall be fined not more than five hundred dollars.

(T) A candidate whose campaign committee violates or a treasurer of a committee who violates division (B) of section 3517.09 of the Revised Code, or a candidate whose campaign committee violates or a treasurer of a campaign committee or another person who violates division (C) of section 3517.09 of the Revised Code shall be fined not more than one thousand dollars.

(U) Whoever violates section 3517.20 of the Revised Code shall be fined not more than five hundred dollars.

(V) Whoever violates section 3517.21 or 3517.22 of the Revised Code shall be imprisoned for not more than six months or fined not more than five thousand dollars, or both.

(W) A campaign committee that is required to file a declaration of no limits under division (D)(2) of section 3517.103 of the Revised Code that, before filing that declaration, accepts a contribution or contributions that exceed the limitations prescribed in section 3517.102 of the Revised Code, shall return that contribution or those contributions to the contributor.

(X) Any campaign committee that fails to file the declaration of filing-day finances required by division (F) of section 3517.109 or the declaration of primary-day finances or declaration of year-end finances required by division (E) of section 3517.1010 of the Revised Code shall be fined twenty-five dollars for each day of violation.

(Y) Any campaign committee that fails to dispose of excess funds or excess aggregate contributions under division (B) of section 3517.109 of the Revised Code in the manner required by division (C) of that section or under division (B) of section 3517.1010 of the Revised Code in the manner required by division (C) of that section shall give to the treasurer of state for deposit into the Ohio elections commission fund created under division (I) of section 3517.152 of the Revised Code all funds not disposed of pursuant to those divisions.

(Z) Any individual, campaign committee, political action committee, political contributing entity, legislative campaign fund, political party, or other entity that violates any provision of sections 3517.09 to 3517.12 of the Revised Code for which no penalty is provided for under any other division of this section shall be fined not more than one thousand dollars.

(AA)(1) Whoever knowingly violates division (W)(1) of section 3517.13 of the Revised Code shall be fined an amount equal to three times the amount contributed, expended, or promised in violation of that division or ten thousand dollars, whichever amount is greater.

(2) Whoever knowingly violates division (W)(2) of section 3517.13 of the Revised Code shall be fined an amount equal to three times the amount solicited or accepted in violation of that division or ten thousand dollars, whichever amount is greater.

(BB) Whoever knowingly violates division (C) or (D) of section 3517.1011 of the Revised Code shall be fined not more than ten thousand dollars

plus not more than one thousand dollars for each day of violation.

(CC)(1) Subject to division (CC)(2) of this section, whoever violates division (H) of section 3517.1011 of the Revised Code shall be fined an amount up to three times the amount disbursed for the direct costs of airing the communication made in violation of that division.

(2) Whoever has been ordered by the Ohio elections commission or by a court of competent jurisdiction to cease making communications in violation of division (H) of section 3517.1011 of the Revised Code who again violates that division shall be fined an amount equal to three times the amount disbursed for the direct costs of airing the communication made in violation of that division.

(DD)(1) Any corporation or labor organization that violates division (X)(3)(a) of section 3517.13 of the Revised Code shall be fined an amount equal to three times the amount given in excess of the amount permitted by that division.

(2) Any state or county political party that violates division (X)(3)(b) of section 3517.13 of the Revised Code shall be fined an amount equal to three times the amount accepted in excess of the amount permitted by that division.

(EE) Whoever violates division (A) of section 3517.093 of the Revised Code is guilty of a felony in the fifth degree."

Between lines 1795 and 1796, insert:

"Sec. 4123.441. No state elected officer or individual who is a candidate for state elective office shall solicit an investment manager or business entity for contributions for a committee proposing or opposing a ballot question or issue to be submitted to an elector or on behalf of any charity.

As used in this section, "state elected officer" and "state elective office" have the same meanings as in section 3517.093 of the Revised Code, and "business entity" and "investment manager" have the same meanings as in section 3517.093 of the Revised Code."

Between lines 2908 and 2909, insert:

"**Sec. 4123.99.** (A) Whoever violates section 4123.27 or 4123.28 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(B) Whoever violates section 4123.50 of the Revised Code is guilty of a minor misdemeanor. Whoever purposely violates such section is guilty of a misdemeanor of the second degree.

(C) Whoever violates section 4123.81 of the Revised Code is guilty of a minor misdemeanor.

(D) Whoever violates section 4123.88 of the Revised Code is guilty of a misdemeanor of the second degree.

(E) Whoever violates section 4123.417 of the Revised Code is guilty of a

misdemeanor of the second degree, and the persons who shall have paid a fee, compensation, or gratuity as prohibited by section 4123.417 of the Revised Code may recover by civil action three times the amount thereof, together with a reasonable attorney's fee, from the person to whom the sum was paid or given.

(F) Whoever violates section 4123.441 of the Revised Code is guilty of a felony in the fifth degree."

In line 3009, after "3121.037," insert "3517.13, 3517.151, 3517.992,"

In line 3011, after "4123.88," insert "4123.99,"

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

Senator Hottinger moved that the amendment be laid on the table.

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

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 20, nays 12, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Hottinger	Jacobson	Jordan
Mumper	Niehaus	Padgett	Schuler
Schuring	Spada	Wachtmann	Harris-20.

Those who voted in the negative were: Senators

Brady	Dann	Fedor	Fingerhut
Grendell	Hagan	Mallory	Miller
Prentiss	Roberts	Wilson	Zurz-12.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. S. B. No. 7**, pass?"

Senator Dann moved to amend as follows:

In line 10, after "4123.35," insert "4123.44,"

Between lines 1795 and 1796, insert:

**"Sec. 4123.44.** The administrator of workers' compensation, in accordance with the investment objectives, policies, and criteria established by the workers' compensation oversight commission pursuant to section 4121.12 of the Revised Code, may invest any of the surplus or reserve belonging to the state insurance fund.

The administrator shall not invest any money in any fund specified in this chapter and Chapters 4121., 4127., and 4131. of the Revised Code in baseball

cards, beanie babies, hummel plates, plaques, figurines, coins, stamps, holiday cards, baseballs, or other collectibles or memorabilia.

The administrator and other fiduciaries shall discharge their duties with respect to the funds with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, and by diversifying the investments of the assets of the funds so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

To facilitate investment of the funds, the administrator may establish a partnership, trust, limited liability company, corporation, including a corporation exempt from taxation under the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C. 1, as amended, or any other legal entity authorized to transact business in this state.

When reporting on the performance of investments, the administrator shall comply with the performance presentation standards established by the association for investment management and research.

All investments shall be purchased at current market prices and the evidences of title to the investments shall be placed in the custody of the treasurer of state, who is hereby designated as custodian, or in the custody of the treasurer of state's authorized agent. Evidences of title of the investments so purchased may be deposited by the treasurer of state for safekeeping with an authorized agent selected by the treasurer of state who is a qualified trustee under section 135.18 of the Revised Code. The treasurer of state or the agent shall collect the principal, dividends, distributions, and interest as they become due and payable and place them when collected into the state insurance fund.

The treasurer of state shall pay for investments purchased by the administrator on receipt of written or electronic instructions from the administrator or the administrator's designated agent authorizing the purchase, and pending receipt of the evidence of title of the investment by the treasurer of state or the treasurer of state's authorized agent. The administrator may sell investments held by the administrator, and the treasurer of state or the treasurer of state's authorized agent shall accept payment from the purchaser and deliver evidence of title of the investment to the purchaser, on receipt of written or electronic instructions from the administrator or the administrator's designated agent authorizing the sale, and pending receipt of the moneys for the investments. The amount received shall be placed in the state insurance fund. The administrator and the treasurer of state may enter into agreements to establish procedures for the purchase and sale of investments under this division and the custody of the investments.

No purchase or sale of any investment shall be made under this section, except as authorized by the administrator.

Any statement of financial position distributed by the administrator shall

include the fair value, as of the statement date, of all investments held by the administrator under this section.

When in the judgment of the administrator it is necessary to provide available funds for the payment of compensation or benefits under this chapter, the administrator may borrow money from any available source and pledge as security a sufficient amount of bonds or other securities in which the state insurance fund is invested. The aggregate unpaid amount of loans existing at any one time for money so borrowed shall not exceed ten million dollars. The bonds or other securities so pledged as security for such loans to the administrator shall be the sole security for the payment of the principal and interest of any such loan. The administrator shall not be personally liable for the payment of the principal or the interest of any such loan. No such loan shall be made for a longer period of time than one year. Such loans may be renewed but no one renewal shall be for a period in excess of one year. Such loans shall bear such rate of interest as the administrator determines and in negotiating the loans, the administrator shall endeavor to secure as favorable interest rates and terms as circumstances will permit.

The treasurer of state may deliver to the person or governmental agency making such loan, the bonds or other securities which are to be pledged by the administrator as security for such loan, upon receipt by the treasurer of state of an order of the administrator authorizing such loan. Upon payment of any such loan by the administrator, the bonds or other securities pledged as security therefor shall be returned to the treasurer of state as custodian of such bonds.

The administrator may pledge with the treasurer of state such amount of bonds or other securities in which the state insurance fund is invested as is reasonably necessary as security for any certificates issued, or paid out, by the treasurer of state upon any warrants drawn by the administrator.

The administrator may secure investment information services, consulting services, and other like services to facilitate investment of the surplus and reserve belonging to the state insurance fund. The administrator shall pay the expense of securing such services from the state insurance fund."

In line 3009, after "4123.35," insert "4123.44,"

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

Senator Jacobson moved that the amendment be laid on the table.

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

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 21, nays 11, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner

Goodman	Grendell	Hottinger	Jacobson
Jordan	Mumper	Niehaus	Padgett
Schuler	Schuring	Spada	Wachtmann
			Harris-21.

Those who voted in the negative were: Senators

Brady	Dann	Fedor	Fingerhut
Hagan	Mallory	Miller	Prentiss
Roberts	Wilson		Zurz-11.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. S. B. No. 7**, pass?"

Senator Fedor moved to amend as follows:

In line 12, after "3121.0311," insert "3517.093,"

Between lines 309 and 310, insert:

"Sec. 3517.093. (A) Whenever the inspector general, the attorney general, the auditor of state, the treasurer of state, the secretary of state, or any duly constituted court of the state of Ohio, pursuant to its investigative or adjudicative powers, makes a final determination in any proceeding that a state elected officer or candidate for state elective office or a campaign committee on behalf of the officer or candidate receives a contribution that is determined to have as its source the state insurance fund or any other fund under the direct or indirect control of the administrator of workers' compensation, the officer or candidate, promptly shall return to the administrator for deposit in the state insurance fund or other fund the contribution that is the subject of the determination.

(B) As used in this section:

(1) "State elected officer," "state elective office," and "contribution" have the same meanings as in section 3517.092 of the Revised Code.

(2) "Candidate" and "campaign committee" have same meanings as in section 3517.01 of the Revised Code."

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

Senator Hottinger moved that the amendment be laid on the table.

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

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 20, nays 12, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Hottinger	Jacobson	Jordan
Mumper	Niehaus	Padgett	Schuler
Schuring	Spada	Wachtmann	Harris-20.

Those who voted in the negative were: Senators

Brady	Dann	Fedor	Fingerhut
Grendell	Hagan	Mallory	Miller
Prentiss	Roberts	Wilson	Zurz-12.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. S. B. No. 7**, pass?"

The yeas and nays were taken and resulted - yeas 21, nays 11, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Grendell	Hottinger	Jacobson
Jordan	Mumper	Niehaus	Padgett
Schuler	Schuring	Spada	Wachtmann
			Harris-21.

Those who voted in the negative were: Senators

Brady	Dann	Fedor	Fingerhut
Hagan	Mallory	Miller	Prentiss
Roberts	Wilson		Zurz-11.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Cates moved to amend the title as follows:

Add the names: "Austria, Mumper, Wachtmann, Schuler, Padgett, Clancy, Niehaus, Coughlin, Hottinger, Armbruster, Jacobson, Harris."

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

The motion was agreed to and the title so amended.

### MOTIONS

Senator Hottinger moved that Senators absent the week of Sunday, May 29, 2005, be excused, so long as a written explanation is on file with the Clerk pursuant to Senate Rule No. 17.

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

The motion was agreed to.



### OFFERING OF RESOLUTIONS

Senator Jacobson offered the following concurrent resolution:

**S. C. R. No. 17**-Senators Jacobson, Coughlin, Dann, Fingerhut, Goodman, Jordan, Miller, Mumper, Prentiss, Schuler, Wachtmann, Padgett.

To focus on the Darfur genocide, which the United States Department of State has concluded is genocide, occurring in the Darfur region of Sudan, to encourage the United States to continue its support of humanitarian efforts in and contributions of humanitarian aid to the region, to encourage the United States to lead multilateral efforts to bring those responsible for the egregious human rights violations to justice, and to encourage Ohio companies and institutions, multinational corporations operating in Ohio, and agencies and political subdivisions of the state to divest themselves of interests in any companies that conduct business in Sudan.

The question being, "Shall the concurrent resolution, **S. C. R. No. 17**, be adopted?"

On the motion of Senator Jacobson, **S. C. R. No. 17**, was referred to the Committee on Reference.

### CLERK'S NOTATION

Pursuant to section 10, Article II of the Constitution of the State of Ohio, the following protest was filed by Senator Marc E. Dann on June 1, 2005:

We oppose the abuse of process surrounding the passage of Amended Substitute House Bill 66, the biennial operating budget for the State of Ohio.

There are many reasons we all voted against HB 66. We believe HB 66 will negatively impact Ohio's businesses, working families, seniors, children, people with disabilities, primary and secondary schools, and colleges and universities.

We further believe the budget plan proposed by the Senate Democratic Caucus is a fair and balanced budget that would offer more opportunity for Ohio's businesses and working families than HB 66. That plan has been largely ignored and shutout of the Senate's deliberations on HB 66.

Much of the deliberation of HB 66 has taken place behind closed doors. The bill itself was literally voted on in the dark of night. The most egregious example of this stealth legislation is the inclusion in HB 66 of provisions intended to address the rare coin investment scandal that has engulfed state government.

As we voted on HB 66 in the middle of the night, Ohio and national newspapers are filled with reports about the Ohio Bureau of Workers' Compensation investment of over \$50 million in a rare coin fund managed by

Thomas Noe, a major campaign contributor to Republican candidates and office holders.

It is now reported that at least \$10 to \$13 million of the state's money is missing. It is also being reported that the state's investment may include baseball cards, beanie babies, comic books, autographed baseballs, and other collectibles and memorabilia.

It also appears the scandal has reached into the Governor's office, with reports that high ranking staff members received discounted vacation stays in Mr. Noe's Florida condominium.

This scandal is being investigated by United States Department of Justice, the Ohio Ethics Commission, the Ohio Inspector General, the Ohio Attorney General, the Ohio Auditor of State, the Ohio Secretary of State, the Franklin County Prosecutor, and the Lucas County Prosecutor. Investment, ethics and campaign reform as it relates to this scandal is certainly necessary. In no way may our vote be construed as opposing meaningful reform of investments made by the Bureau of Workers' Compensation. We do, however, very much object to the manner in which the attempted BWC reforms were adopted in HB 66.

These attempts at reform were drafted behind closed doors without bipartisan dialogue and without public scrutiny. No member of the public had an opportunity to testify in support of or in opposition to these attempted reforms.

Additionally, the provisions of HB 66 related to the BWC scandal almost certainly violate the Ohio Constitution. Frequently referred to as the "single subject rule, Article II, Section 15(D) provides, in pertinent part, "No bill shall contain more than one subject." Just last year, the Supreme Court of Ohio reiterated its articulation of the single subject rule:

. . . this holding provides a sufficient guard against logrolling and stealth and fraud in legislation by stating that a manifestly gross and fraudulent violation of the one-subject provision will render an enactment invalid. For, when there is an absence of common purpose or relationship between specific topics in an act and when there are no discernible practical, rational or legitimate reasons for combining the provisions in one act, there is a strong suggestion that the provisions were combined for tactical reasons, i.e., logrolling. Inasmuch as this was the very evil the one-subject rule was designed to prevent, an act which contains such unrelated provisions must necessarily be held to be invalid in order to effectuate the purposes of the rule." In re Nowak, 104 Ohio St. 3d 466, 475 (2004) (citing State ex rel. Dix v. Celeste, 11 Ohio St. 3d 141 (1984)).

The Senate Republican Caucus has included investment, campaign, and ethics reforms in HB 66. There is simply no discernible practical, rational or legitimate reason for logrolling campaign finance measures, investment oversight, and ethics revisions into Ohio's \$50 billion dollar annual budget.

While the strength of the BWC-related reforms in HB 66 may be debated, the need for reform is unquestioned. Standing alone, the proposed BWC reforms would almost certainly receive bipartisan support. Logrolling a popular measure into a controversial budget such as HB 66 forces Senators into choosing whether to vote for an unpopular 3,000 page bill.

Accordingly, the only discernable purpose for including BWC reforms in the budget appears to be tactical, i.e. logrolling-particularly when an indisputably germane BWC reform bill like SB 7 was voted on the same night as HB 66.

Including BWC reforms in HB 66, rather than SB 7, is a manifestly gross and fraudulent violation of the single subject rule. As a result the reforms enacted in HB 66 will be vulnerable to constitutional challenge, putting into serious doubt whether the reforms will ever actually go into effect.

For the aforementioned reasons, we protest the passage of HB 66 in its current form and the inclusion of BWC in HB 66.

/s/ C.J. PRENTISS

/s/ MARK MALLORY

/s/ RAY MILLER

/s/ TERESA FEDOR

/s/ DANIEL BRADY

/s/ MARC E. DANN

/s/ KIMBERLY A. ZURZ

/s/ ROBERT F. HAGAN

/s/ CHARLES A. WILSON, JR.

/s/ ERIC FINGERHUT

/s/ TOM ROBERTS

On the motion of Senator Jacobson, the Senate adjourned until Thursday, June 2, 2005 at 11:00 o'clock a.m.

Attest:

MATTHEW T. SCHULER,  
Clerk.