

**OHIO**

**House**

**of**

**Representatives**

**JOURNAL**

THURSDAY, MAY 25, 2006

ONE HUNDRED EIGHTIETH DAY  
Hall of the House of Representatives, Columbus, Ohio  
**Thursday, May 25, 2006 at 11:00 o'clock a.m.**

The House met pursuant to adjournment.

Prayer was offered by Pastor Dan Whisner of the Colonial Baptist Church in Mount Vernon, Ohio, followed by the Pledge of Allegiance to the Flag.

The journal of yesterday was read and approved.

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

Dr. Reginald A. Wilkinson received House Resolution No. 201, presented by Speaker Husted-37th district.

Kevin Miles, Tony Luzio, and Randy Shaffer, guests of Representative Hughes-22nd district.

Al Rom, a guest of Representative Gibbs-97th district.

Representative Blasdel moved that the House advance to the sixth order of business, being motions and resolutions.

The motion was agreed to.

#### MOTIONS AND RESOLUTIONS

Representative Blasdel moved that the following resolution be brought up for immediate adoption, read by title only, and spread upon the pages of the journal.

The motion was agreed to.

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

**H. R. No. 213**-Representative Beatty.

Relative to the election of Mike Foley to fill the vacancy in the membership of the House of Representatives created by the resignation of Dale Miller of the 14th House District.

WHEREAS, Section 11 of Article II, Ohio Constitution provides for the filling of a vacancy in the membership of the House of Representatives by election by the members of the House of Representatives who are affiliated with the same political party as the person last elected to the seat which has become vacant; and

WHEREAS, Dale Miller of the 14th House District has resigned as a

member of the House of Representatives of the 126th General Assembly effective February 28, 2006, thus creating a vacancy in the House of Representatives; therefore be it

RESOLVED, By the members of the House of Representatives who are affiliated with the Democrat party that Mike Foley, Democrat, having the qualifications set forth in the Ohio Constitution and the laws of Ohio to be a member of the House of Representatives from the 14th House District, is hereby elected, effective May 25, 2006, pursuant to Section 11 of Article II, Ohio Constitution, as a member of the House of Representatives from the 14th House District, to fill the vacancy created by the unexpired portion of the term of said Dale Miller, ending on December 31, 2006; and be it further

RESOLVED, That a copy of this resolution be spread upon the pages of the Journal of the House of Representatives together with the yeas and nays of the members of the House of Representatives affiliated with the Democrat party voting on the resolution, and that the Clerk of the House of Representatives shall certify the resolution and vote on its adoption to the Secretary of State.

The yeas and nays were taken and resulted - yeas 36, nays 0, as follows:

Those who voted in the affirmative were: Representatives

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

The resolution was adopted.

Mr. Foley was escorted to bar of the House by Representatives Beatty, Book, Distel, Driehaus, Fende, Skindell, S. Smith, and Strahorn, took the oath of office administered by The Honorable Jon A. Husted, Speaker of the Ohio House of Representatives, and entered upon the discharge of his duties.

State of Ohio

County of Franklin

I, Mike Foley, do solemnly swear to support the Constitution of the United States and the Constitution of the State of Ohio, and faithfully to discharge and perform all duties incumbent upon me as a member of the Ohio House of Representatives, according to the best of my ability and understanding; and this I do as I shall answer unto God.

/s/ MICHAEL FOLEY

Sworn to and subscribed before me this 25th day of May, 2006.

/s/ JON A. HUSTED  
Jon A. Husted  
Speaker  
Ohio House of Representatives

Representative Blasdel moved that the House revert to the second order of business, being introduction of bills.

The motion was agreed to.

### INTRODUCTION OF BILLS

The following bills were introduced:

**H. B. No. 603**-Representative Yates.

To amend section 5120.163 of the Revised Code to require the Department of Rehabilitation and Correction to test each inmate for HIV or a sexually transmitted disease prior to release from a state correctional institution or other facility under the Department's control.

**H. B. No. 604**-Representative Wagoner.

To amend section 4905.302 of the Revised Code to prohibit cost recovery by a natural gas company, through a purchased gas adjustment clause, for failure to follow prudent and reasonable supply diversification policies and practices.

Said bills were considered the first time.

### CONSIDERATION OF SENATE AMENDMENTS

The Senate amendments to **Sub. H. B. No. 115**-Representative Setzer, et al., were taken up for consideration.

**Sub. H. B. No. 115**-Representatives Setzer, Reinhard, Webster, Carano, C. Evans, Chandler, Calvert, Combs, DeBose, Domenick, Fende, Flowers, Gibbs, Key, Law, Martin, McGregor, J., Otterman, Patton, T., Schlichter, Schneider, Seitz, Smith, S., Stewart, D., Strahorn, Williams, Yuko. -Senators Cates, Padgett, Gardner, Mumper, Niehaus, Harris.

To amend sections 3301.075, 3310.08, 3313.843, 3314.014, 3319.01, and 3319.17 and to enact sections 3301.0713, 3312.01 to 3312.13, and 3313.845 of the Revised Code to establish the Educational Regional Service System and the EMIS Advisory Board, to revise the financing of Educational Choice Scholarships for kindergartners, to permit the governing authority of a start-up community school that meets certain conditions to establish another

community school above the cap on the number of community schools, to permit school districts to establish residency requirements for superintendents, and to make an appropriation.

The question being, "Shall the Senate amendments be concurred in?"

The yeas and nays were taken and resulted - yeas 83, nays 12, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Barrett	Beatty	Blasdel
Blessing	Brown	Bubp	Carano
Carmichael	Cassell	Chandler	Coley
Collier	Combs	Core	Daniels
DeBose	DeGeeter	DeWine	Distel
Dolan	Domenick	Driehaus	Evans C.
Evans D.	Faber	Fende	Foley
Garrison	Gibbs	Hagan	Harwood
Healy	Hoops	Hughes	Key
Kilbane	Koziura	Latta	Law
Martin	Mason	McGregor J.	McGregor R.
Mitchell	Oelslager	Otterman	Patton S.
Patton T.	Perry	Peterson	Raga
Reed	Reidelbach	Reinhard	Sayre
Schaffer	Schlichter	Schneider	Seaver
Seitz	Setzer	Skindell	Smith G.
Smith S.	Stewart D.	Stewart J.	Strahorn
Sykes	Taylor	Trakas	Ujvagi
Wagoner	Webster	White	Widener
Widowfield	Willamowski	Williams	Wolpert
Woodard	Yates		Husted-83.

Those who voted in the negative were: Representatives

Allen	Book	Brinkman	Buehrer
Calvert	Fessler	Gilb	Hartnett
Rausen	Redfern	Wagner	Yuko-12.

The Senate amendments were concurred in.

Representative Setzer moved to amend the title as follows:

Remove the name: "Yuko."

The motion was agreed to and the title so amended.

The title as amended was agreed to.

The Senate amendments to **Am. Sub. H. B. No. 137**-Representative Gilb, et al., were taken up for consideration.

**Am. Sub. H. B. No. 137**-Representatives Gilb, Willamowski, Latta, Wagoner, McGregor, J., Fessler, Aslanides, Book, Combs, DeGeeter, Domenick, Evans, C., Gibbs, Key, Patton, T., Reidelbach, Seitz.

To amend sections 2151.313, 2152.72, 2929.14, 2929.19, 2930.13, 2967.28, 3301.0714, 3313.64, 3313.662, 3314.03, 3323.01, and 4301.69; to amend, for the purpose of adopting a new section number as indicated in parentheses, section 2151.357 (2151.362); to enact new sections 2151.357 and 2151.358 and sections 2151.355, 2151.356, and 2929.191; and to repeal section 2151.358 of the Revised Code to revise the procedure by which a juvenile court may seal records of alleged and adjudicated delinquent and unruly children and adjudicated juvenile traffic offenders, to make changes to the post-release control law, to amend the version of section 2929.14 of the Revised Code that is scheduled to take effect on August 3, 2006, to continue the provisions of this act on and after that effective date, and to declare an emergency.

The question being, "Shall the emergency clause stand as part of the bill?"

The yeas and nays were taken and resulted - yeas 75, nays 20, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Blasdel	Blessing
Book	Bubp	Buehrer	Calvert
Carano	Carmichael	Cassell	Chandler
Coley	Collier	Combs	Core
Daniels	DeBose	DeGeeter	DeWine
Distel	Dolan	Domenick	Evans C.
Evans D.	Faber	Fende	Fessler
Garrison	Gibbs	Gilb	Hagan
Hartnett	Harwood	Hoops	Hughes
Kilbane	Koziura	Latta	Law
Martin	McGregor J.	McGregor R.	Oelslager
Otterman	Patton T.	Perry	Peterson
Raga	Rausen	Reed	Reidelbach
Reinhard	Schaffer	Schlichter	Schneider
Seaver	Seitz	Setzer	Smith G.
Stewart J.	Taylor	Trakas	Wagner
Wagoner	Webster	White	Widener
Widowfield	Willamowski	Williams	Wolpert
Woodard	Yuko		Husted-75.

Those who voted in the negative were: Representatives

Barrett	Beatty	Brinkman	Brown
Driehaus	Foley	Healy	Key
Mason	Mitchell	Patton S.	Redfern
Sayre	Skindell	Smith S.	Stewart D.
Strahorn	Sykes	Ujvagi	Yates-20.

Having received a constitutional majority, the emergency clause stood as part of the bill.

The question being, "Shall the Senate amendments be concurred in?"

The yeas and nays were taken and resulted - yeas 91, nays 4, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Beatty	Blasdel
Blessing	Book	Brown	Bubp
Buehrer	Calvert	Carano	Carmichael
Cassell	Chandler	Coley	Collier
Combs	Core	Daniels	DeBose
DeGeeter	DeWine	Distel	Dolan
Domenick	Driehaus	Evans C.	Evans D.
Faber	Fende	Fessler	Garrison
Gibbs	Gilb	Hagan	Hartnett
Harwood	Healy	Hoops	Hughes
Key	Kilbane	Koziura	Latta
Law	Martin	Mason	McGregor J.
McGregor R.	Mitchell	Oelslager	Otterman
Patton S.	Patton T.	Perry	Peterson
Raga	Raussen	Redfern	Reed
Reidelbach	Reinhard	Sayre	Schaffer
Schlichter	Schneider	Seaver	Seitz
Setzer	Skindell	Smith G.	Smith S.
Stewart D.	Stewart J.	Strahorn	Taylor
Trakas	Ujvagi	Wagner	Wagoner
Webster	White	Widener	Widowfield
Willamowski	Williams	Wolpert	Woodard
Yates	Yuko		Husted-91.

Representatives Barrett, Brinkman, Foley, and Sykes voted in the negative-4.

The Senate amendments were concurred in.

The Senate amendments to **Sub. H. B. No. 184**-Representative Faber, et al., were taken up for consideration.

**Sub. H. B. No. 184**-Representatives Faber, Taylor, Willamowski, Wagner, Seaver, Fessler, Hoops, Webster, Flowers, Reinhard, Collier, Gibbs, Martin, Hagan, Seitz, Peterson, Reidelbach, Schlichter, Aslanides, Blasdel, Bubp, Buehrer, Calvert, Combs, Daniels, DeWine, D. Evans, Garrison, Gilb, Hood, Hughes, Latta, Law, Oelslager, T. Patton, Raga, Schaffer, Schneider, Setzer, G. Smith, Uecker, Walcher. -Senators Carey, Amstutz, Austria, Clancy, Grendell, Hottinger, Padgett, Jordan.

To amend section 3314.03 and to enact section 3313.801 of the Revised Code to require school districts and community schools that receive donated copies of the mottoes of the United States of America or the State of Ohio to display the mottoes in school buildings.

The question being, "Shall the Senate amendments be concurred in?"

The yeas and nays were taken and resulted - yeas 82, nays 13, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Blasdel	Blessing
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Book	Brinkman	Brown	Bubp
Buehrer	Calvert	Carano	Carmichael
Coley	Collier	Combs	Core
Daniels	DeBose	DeWine	Distel
Dolan	Domenick	Driehaus	Evans C.
Evans D.	Faber	Fende	Fessler
Garrison	Gibbs	Gilb	Hagan
Hartnett	Harwood	Healy	Hoops
Hughes	Kilbane	Koziura	Latta
Law	Martin	Mason	McGregor J.
McGregor R.	Oelslager	Otterman	Patton S.
Patton T.	Perry	Peterson	Raga
Raussen	Redfern	Reed	Reidelbach
Reinhard	Sayre	Schaffer	Schlichter
Schneider	Seaver	Seitz	Setzer
Smith G.	Smith S.	Stewart D.	Stewart J.
Taylor	Trakas	Ujvagi	Wagner
Wagoner	Webster	White	Widener
Widowfield	Willamowski	Williams	Wolpert
Yuko			Husted-82.

Those who voted in the negative were: Representatives

Barrett	Beatty	Cassell	Chandler
DeGeeter	Foley	Key	Mitchell
Skindell	Strahorn	Sykes	Woodard
			Yates-13.

The Senate amendments were concurred in.

The Senate amendments to **Am. H. B. No. 484**-Representative Boccieri, et al., were taken up for consideration.

**Am. H. B. No. 484**-Representatives Boccieri, McGregor, J., Raussen, Hood, Healy, Wagoner, Seitz, Hughes, Widener, Chandler, Stewart, D., Carano, Harwood, Reinhard, Flowers, Carmichael, Sykes, Buehrer, Allen, Aslanides, Barrett, Beatty, Blasdel, Blessing, Book, Brown, Bubp, Calvert, Cassell, Coley, Collier, Combs, Core, Daniels, DeBose, DeGeeter, Distel, Dolan, Domenick, Driehaus, Evans, C., Evans, D., Faber, Fende, Garrison, Gibbs, Gilb, Hagan, Hartnett, Hoops, Key, Kilbane, Koziura, Latta, Law, Martin, Mason, Mitchell, Oelslager, Otterman, Patton, S., Patton, T., Perry, Peterson, Redfern, Reed, Reidelbach, Sayre, Schaffer, Schlichter, Schneider, Setzer, Skindell, Smith, G., Smith, S., Stewart, J., Strahorn, Taylor, Uecker, Wagner, Webster, White, Widowfield, Willamowski, Williams, Wolpert, Yuko. -Senators Cates, Grendell, Mumper, Niehaus, Schuring, Fedor, Kearney, Armbruster, Austria, Carey, Clancy, Coughlin, Fingerhut, Gardner, Goodman, Harris, Jacobson, Jordan, Miller, R., Padgett, Roberts, Schuler, Spada, Stivers, Wachtmann, Wilson, Zurz.

To amend section 3767.30 of the Revised Code to prohibit protest activities within 300 feet of the site of a funeral service during and within one hour

before and after the service and to prohibit protest activities within 300 feet of a funeral procession.

The question being, "Shall the Senate amendments be concurred in?"

The yeas and nays were taken and resulted - yeas 95, nays 0, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Blessing	Book	Brinkman
Brown	Bubp	Buehrer	Calvert
Carano	Carmichael	Cassell	Chandler
Coley	Collier	Combs	Core
Daniels	DeBose	DeGeeter	DeWine
Distel	Dolan	Domenick	Driehaus
Evans C.	Evans D.	Faber	Fende
Fessler	Foley	Garrison	Gibbs
Gilb	Hagan	Hartnett	Harwood
Healy	Hoops	Hughes	Key
Kilbane	Koziura	Latta	Law
Martin	Mason	McGregor J.	McGregor R.
Mitchell	Oelslager	Otterman	Patton S.
Patton T.	Perry	Peterson	Raga
Rausen	Redfern	Reed	Reidelbach
Reinhard	Sayre	Schaffer	Schlichter
Schneider	Seaver	Seitz	Setzer
Skindell	Smith G.	Smith S.	Stewart D.
Stewart J.	Strahorn	Sykes	Taylor
Trakas	Ujvagi	Wagner	Wagoner
Webster	White	Widener	Widowfield
Willamowski	Williams	Wolpert	Woodard
Yates	Yuko		Husted-95.

The Senate amendments were concurred in.

The Senate amendments to **Sub. H. B. No. 576**-Representative McGregor, R., et al., were taken up for consideration.

**Sub. H. B. No. 576**-Representatives McGregor, R., Buehrer, Reinhard, Carmichael, Allen, Aslanides, Barrett, Beatty, Blasdel, Blessing, Boccieri, Book, Brown, Bubp, Carano, Cassell, Chandler, Coley, Collier, Combs, Core, DeBose, DeGeeter, DeWine, Distel, Dolan, Domenick, Driehaus, Evans, C., Evans, D., Faber, Fende, Fessler, Flowers, Garrison, Gibbs, Gilb, Hagan, Hartnett, Harwood, Healy, Hood, Hoops, Hughes, Key, Kilbane, Koziura, Latta, Law, Mason, McGregor, J., Mitchell, Oelslager, Otterman, Patton, S., Patton, T., Perry, Peterson, Rausen, Redfern, Reed, Reidelbach, Sayre, Schaffer, Schlichter, Schneider, Seitz, Setzer, Skindell, Smith, G., Smith, S., Stewart, D., Stewart, J., Strahorn, Sykes, Taylor, Uecker, Wagner, Wagoner, Webster, White, Widener, Widowfield, Willamowski, Williams, Wolpert, Yates, Yuko, Ujvagi. -Senators Cates, Grendell, Armbruster, Mumper,

Niehaus, Schuring, Miller, D., Fedor, Kearney, Amstutz, Carey, Clancy, Dann, Fingerhut, Gardner, Harris, Hottinger, Miller, R., Prentiss, Roberts, Schuler, Spada, Stivers, Zurz, Austria, Hagan, Jordan, Wilson.

To amend section 3333.26 of the Revised Code to provide college tuition waivers to spouses and qualifying former spouses of members of the United States armed forces killed in the line of duty in a combat zone after May 7, 1975, if the spouse or qualified former spouse was a resident at that time.

The question being, "Shall the Senate amendments be concurred in?"

The yeas and nays were taken and resulted - yeas 95, nays 0, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Blessing	Book	Brinkman
Brown	Bubp	Buehrer	Calvert
Carano	Carmichael	Cassell	Chandler
Coley	Collier	Combs	Core
Daniels	DeBose	DeGeeter	DeWine
Distel	Dolan	Domenick	Driehaus
Evans C.	Evans D.	Faber	Fende
Fessler	Foley	Garrison	Gibbs
Gilb	Hagan	Hartnett	Harwood
Healy	Hoops	Hughes	Key
Kilbane	Koziura	Latta	Law
Martin	Mason	McGregor J.	McGregor R.
Mitchell	Oelslager	Otterman	Patton S.
Patton T.	Perry	Peterson	Raga
Rausen	Redfern	Reed	Reidelbach
Reinhard	Sayre	Schaffer	Schlichter
Schneider	Seaver	Seitz	Setzer
Skindell	Smith G.	Smith S.	Stewart D.
Stewart J.	Strahorn	Sykes	Taylor
Trakas	Ujvagi	Wagner	Wagoner
Webster	White	Widener	Widowfield
Willamowski	Williams	Wolpert	Woodard
Yates	Yuko		Husted-95.

The Senate amendments were concurred in.

#### Message from the Senate

Mr. Speaker:

I am directed to inform the House of Representatives that the Senate has concurred in the passage of the following bill:

**Am. Sub. H. B. No. 150** - Representatives Gibbs, McGregor, J., Ujvagi, Evans, C., Kearns, Williams, Hagan, Reidelbach, Collier, Distel, Miller, Cassell, Schaffer, Barrett, Blessing, Chandler, Combs, Schneider, Stewart, D.,

Willamowski

To amend sections 4735.01, 4735.16, 4735.18, 4735.51, 4735.63, 4735.65, 4737.10, 4737.99, and 4738.16 and to enact sections 4735.621 and 4735.75 of the Revised Code to impose new requirements on licensed junk yard owners, to require scrap metal processors to maintain specified records regarding canceled motor vehicle titles, to add definitions to real estate broker law and to expand duties of licensees.

As a substitute bill with the following additional amendments, in which the concurrence of the House is requested:

In lines 9 and 250, after "4513.61," insert "4735.01, 4735.16, 4735.18, 4735.51, 4735.63, 4735.65,"

In line 10, after "4738.16" insert "be amended and sections 4735.621 and 4735.75"; delete "amended" and insert "enacted"

Between lines 88 and 89, insert:

**"Sec. 4735.01.** As used in this chapter:

(A) "Real estate broker" includes any person, partnership, association, limited liability company, limited liability partnership, or corporation, foreign or domestic, who for another, whether pursuant to a power of attorney or otherwise, and who for a fee, commission, or other valuable consideration, or with the intention, or in the expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration does any of the following:

(1) Sells, exchanges, purchases, rents, or leases, or negotiates the sale, exchange, purchase, rental, or leasing of any real estate;

(2) Offers, attempts, or agrees to negotiate the sale, exchange, purchase, rental, or leasing of any real estate;

(3) Lists, or offers, attempts, or agrees to list, or auctions, or offers, attempts, or agrees to auction, any real estate;

(4) Buys or offers to buy, sells or offers to sell, or otherwise deals in options on real estate;

(5) Operates, manages, or rents, or offers or attempts to operate, manage, or rent, other than as custodian, caretaker, or janitor, any building or portions of buildings to the public as tenants;

(6) Advertises or holds self out as engaged in the business of selling, exchanging, purchasing, renting, or leasing real estate;

(7) Directs or assists in the procuring of prospects or the negotiation of any transaction, other than mortgage financing, which does or is calculated to result in the sale, exchange, leasing, or renting of any real estate;

(8) Is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with any contract whereby the broker undertakes primarily to promote the sale, exchange, purchase, rental, or leasing of real estate through its listing in a publication issued primarily for such purpose, or for referral of information concerning such real estate to brokers, or both, except that this division does not apply to a publisher of listings or compilations of sales of real estate by their owners;

(9) Collects rental information for purposes of referring prospective tenants to rental units or locations of such units and charges the prospective tenants a fee.

(B) "Real estate" includes leaseholds as well as any and every interest or estate in land situated in this state, whether corporeal or incorporeal, whether freehold or nonfreehold, and the improvements on the land, but does not include cemetery interment rights.

(C) "Real estate salesperson" means any person associated with a licensed real estate broker to do or to deal in any acts or transactions set out or comprehended by the definition of a real estate broker, for compensation or otherwise.

(D) "Institution of higher education" means either of the following:

(1) A nonprofit institution as defined in section 1713.01 of the Revised Code that actually awards, rather than intends to award, degrees for fulfilling requirements of academic work beyond high school;

(2) An institution operated for profit that otherwise qualifies under the definition of an institution in section 1713.01 of the Revised Code and that actually awards, rather than intends to award, degrees for fulfilling requirements of academic work beyond high school.

(E) "Foreign real estate" means real estate not situated in this state and any interest in real estate not situated in this state.

(F) "Foreign real estate dealer" includes any person, partnership, association, limited liability company, limited liability partnership, or corporation, foreign or domestic, who for another, whether pursuant to a power of attorney or otherwise, and who for a fee, commission, or other valuable consideration, or with the intention, or in the expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration, does or deals in any act or transaction specified or comprehended in division (A) of this section with respect to foreign real estate.

(G) "Foreign real estate salesperson" means any person associated with a licensed foreign real estate dealer to do or deal in any act or transaction specified or comprehended in division (A) of this section with respect to foreign real estate, for compensation or otherwise.

(H) Any person, partnership, association, limited liability company,

limited liability partnership, or corporation, who, for another, in consideration of compensation, by fee, commission, salary, or otherwise, or with the intention, in the expectation, or upon the promise of receiving or collecting a fee, does, or offers, attempts, or agrees to engage in, any single act or transaction contained in the definition of a real estate broker, whether an act is an incidental part of a transaction, or the entire transaction, shall be constituted a real estate broker or real estate salesperson under this chapter.

(I) The terms "real estate broker," "real estate salesperson," "foreign real estate dealer," and "foreign real estate salesperson" do not include a person, partnership, association, limited liability company, limited liability partnership, or corporation, or the regular employees thereof, who perform any of the acts or transactions specified or comprehended in division (A) of this section, whether or not for, or with the intention, in expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration:

(1) With reference to real estate situated in this state or any interest in it owned by such person, partnership, association, limited liability company, limited liability partnership, or corporation, or acquired on its own account in the regular course of, or as an incident to the management of the property and the investment in it;

(2) As receiver or trustee in bankruptcy, as guardian, executor, administrator, trustee, assignee, commissioner, or any person doing the things mentioned in this section, under authority or appointment of, or incident to a proceeding in, any court, or as a public officer, or as executor, trustee, or other bona fide fiduciary under any trust agreement, deed of trust, will, or other instrument creating a like bona fide fiduciary obligation;

(3) As a public officer while performing the officer's official duties;

(4) As an attorney at law in the performance of the attorney's duties;

(5) As a person who engages in the brokering of the sale of business assets, not including the negotiation of the sale, lease, exchange, or assignment of any interest in real estate;

(6) As a person who engages in the sale of manufactured homes as defined in division (C)(4) of section 3781.06 of the Revised Code, or of mobile homes as defined in division (O) of section 4501.01 of the Revised Code, provided the sale does not include the negotiation, sale, lease, exchange, or assignment of any interest in real estate;

(7) As a person who engages in the sale of commercial real estate pursuant to the requirements of section 4735.022 of the Revised Code.

(J) "Physically handicapped licensee" means a person licensed pursuant to this chapter who is under a severe physical disability which is of such a nature as to prevent the person from being able to attend any instruction lasting at least three hours in duration.

(K) "Division of real estate" may be used interchangeably with, and for all purposes has the same meaning as, "division of real estate and professional licensing."

(L) "Superintendent" or "superintendent of real estate" means the superintendent of the division of real estate and professional licensing of this state. Whenever the division or superintendent of real estate is referred to or designated in any statute, rule, contract, or other document, the reference or designation shall be deemed to refer to the division or superintendent of real estate and professional licensing, as the case may be.

(M) "Inactive license" means the license status in which a salesperson's license is in the possession of the division, renewed as required under this chapter or rules adopted under this chapter, and not associated with a real estate broker.

(N) "Broker's license on deposit" means the license status in which a broker's license is in the possession of the division of real estate and professional licensing and renewed as required under this chapter or rules adopted under this chapter.

(O) "Suspended license" means the license status that prohibits a licensee from providing services that require a license under this chapter for a specified interval of time.

(P) "Reactivate" means the process prescribed by the superintendent of real estate and professional licensing to remove a license from an inactive, suspended, or broker's license on deposit status to allow a licensee to provide services that require a license under this chapter.

(Q) "Revoked" means the license status in which the license is void and not eligible for reactivation.

(R) "Commercial real estate" means any parcel of real estate in this state other than real estate containing one to four residential units. "Commercial real estate" does not include single-family residential units such as condominiums, townhouses, manufactured homes, or homes in a subdivision when sold, leased, or otherwise conveyed on a unit-by-unit basis, even when those units are a part of a larger building or parcel of real estate containing more than four residential units.

(S) "Out-of-state commercial broker" includes any person, partnership, association, limited liability company, limited liability partnership, or corporation that is licensed to do business as a real estate broker in a jurisdiction other than Ohio.

(T) "Out-of-state commercial salesperson" includes any person affiliated with an out-of-state commercial broker who is not licensed as a real estate salesperson in Ohio.

(U) "Exclusive right to sell or lease listing agreement" means an agency

agreement between a seller and broker that meets the requirements of section 4735.55 of the Revised Code and does both of the following:

(1) Grants the broker the exclusive right to represent the seller in the sale or lease of the seller's property;

(2) Provides the broker will be compensated if the broker, the seller, or any other person or entity produces a purchaser or tenant in accordance with the terms specified in the listing agreement or if the property is sold or leased during the term of the listing agreement to anyone other than to specifically exempted persons or entities.

(V) "Exclusive agency agreement" means an agency agreement between a seller and broker that meets the requirements of section 4735.55 of the Revised Code and does both of the following:

(1) Grants the broker the exclusive right to represent the seller in the sale or lease of the seller's property;

(2) Provides the broker will be compensated if the broker or any other person or entity produces a purchaser or tenant in accordance with the terms specified in the listing agreement or if the property is sold or leased during the term of the listing agreement, unless the property is sold or leased solely through the efforts of the seller or to the specifically exempted persons or entities.

(W) "Exclusive purchaser agency agreement" means an agency agreement between a purchaser and broker that meets the requirements of section 4735.55 of the Revised Code and does both of the following:

(1) Grants the broker the exclusive right to represent the purchaser in the purchase or lease of property;

(2) Provides the broker will be compensated in accordance with the terms specified in the exclusive agency agreement or if a property is purchased or leased by the purchaser during the term of the agency agreement unless the property is specifically exempted in the agency agreement.

The agreement may authorize the broker to receive compensation from the seller or the seller's agent and may provide that the purchaser is not obligated to compensate the broker if the property is purchased or leased solely through the efforts of the purchaser.

(X) "Seller" means a party in a real estate transaction who is the potential transferor of property. "Seller" includes an owner of property who is seeking to sell the property and a landlord who is seeking to rent or lease property to another person.

**Sec. 4735.16.** (A) Every real estate broker licensed under this chapter shall have and maintain a definite place of business in this state and shall erect or maintain a sign on the premises plainly stating that the licensee is a real estate broker. If the real estate broker maintains one or more branch offices, the real estate broker shall erect or maintain a sign at each branch office plainly stating

that the licensee is a real estate broker.

(B)(1) Any licensed real estate broker or salesperson who advertises to buy, sell, exchange, or lease real estate, or to engage in any act regulated by this chapter, including, but not limited to, any licensed real estate broker or salesperson who advertises to sell, exchange, or lease real estate that the licensee owns, shall be identified in the advertisement by name and by indicating that the licensee is a real estate broker or real estate salesperson. Except a real estate salesperson who advertises the sale, exchange, or lease of real estate that the salesperson owns and that is not listed for sale, exchange, or lease with a real estate broker, any real estate salesperson who advertises, as provided in this section, also shall indicate in the advertisement the name of the broker under whom the salesperson is licensed and the fact that the salesperson's broker is a real estate broker. The name of the broker shall be displayed in equal prominence with the name of the salesperson in the advertisement.

(2) A real estate broker who is representing a seller under an exclusive right to sell or lease listing agreement shall not advertise such property to the public as "for sale by owner" or otherwise mislead the public to believe that the seller is not represented by a real estate broker.

(3) If any real estate broker or real estate salesperson advertises in a manner other than as provided in this section or the rules adopted under this section, that advertisement is prima\_ facie evidence of a violation under division (A)(21) of section 4735.18 of the Revised Code.

When the superintendent determines that prima\_ facie evidence of a violation of division (A)(21) of section 4735.18 of the Revised Code or any of the rules adopted thereunder exists, the superintendent may do either of the following:

(a) Initiate disciplinary action under section 4735.051 of the Revised Code for a violation of division (A)(21) of section 4735.18 of the Revised Code, in accordance with Chapter 119. of the Revised Code;

(b) Personally, or by certified mail, serve a citation upon the licensee.

(C)(1) Every citation served under this section shall give notice to the licensee of the alleged violation or violations charged and inform the licensee of the opportunity to request a hearing in accordance with Chapter 119. of the Revised Code. The citation also shall contain a statement of a fine of two hundred dollars per violation, not to exceed two thousand five hundred dollars per citation. All fines collected pursuant to this section shall be credited to the real estate recovery fund, created in the state treasury under section 4735.12 of the Revised Code.

(2) If any licensee is cited three times within twelve consecutive months, the superintendent shall initiate disciplinary action pursuant to section 4735.051 of the Revised Code for any subsequent violation that occurs within the same twelve-month period.

(3) If a licensee fails to request a hearing within thirty days of the date of service of the citation, or the licensee and the superintendent fail to reach an alternative agreement, the citation shall become final.

(4) Unless otherwise indicated, the licensee named in a final citation must meet all requirements contained in the final citation within thirty days of the effective date of that citation.

(5) The superintendent shall suspend automatically a licensee's license if the licensee fails to comply with division (C)(4) of this section.

(D) A real estate broker or salesperson obtaining the signature of a party to a listing or other agreement involved in a real estate transaction shall furnish a copy of the listing or other agreement to the party immediately after obtaining the party's signature. Every broker's office shall prominently display in the same immediate area as licenses are displayed a statement that it is illegal to discriminate against any person because of race, color, religion, sex, familial status as defined in section 4112.01 of the Revised Code, national origin, disability as defined in that section, or ancestry in the sale or rental of housing or residential lots, in advertising the sale or rental of housing, in the financing of housing, or in the provision of real estate brokerage services and that blockbusting also is illegal. The statement shall bear the United States department of housing and urban development equal housing logo, shall contain the information that the broker and the broker's salespersons are licensed by the division of real estate and that the division can assist with any consumer complaints or inquiries, and shall explain the provisions of section 4735.12 of the Revised Code. The statement shall provide the division's address and telephone number. The Ohio real estate commission shall provide by rule for the wording and size of the statement. The pamphlet required under section 4735.03 of the Revised Code shall contain the same statement that is required on the statement displayed as provided in this section and shall be made available by real estate brokers and salespersons to their clients. The commission shall provide the wording and size of the pamphlet.

**Sec. 4735.18.** (A) Subject to section 4735.32 of the Revised Code, the superintendent of real estate, upon the superintendent's own motion, may investigate the conduct of any licensee. Subject to section 4735.32 of the Revised Code, the Ohio real estate commission shall, pursuant to section 4735.051 of the Revised Code, impose disciplinary sanctions upon any licensee who, whether or not acting in the licensee's capacity as a real estate broker or salesperson, or in handling the licensee's own property, is found to have been convicted of a felony or a crime of moral turpitude, and shall, pursuant to section 4735.051 of the Revised Code, impose disciplinary sanctions upon any licensee who, in the licensee's capacity as a real estate broker or salesperson, or in handling the licensee's own property, is found guilty of:

- (1) Knowingly making any misrepresentation;
- (2) Making any false promises with intent to influence, persuade, or

induce;

(3) A continued course of misrepresentation or the making of false promises through agents, salespersons, advertising, or otherwise;

(4) Acting for more than one party in a transaction except as permitted by and in compliance with section 4735.71 of the Revised Code;

(5) Failure within a reasonable time to account for or to remit any money coming into the licensee's possession which belongs to others;

(6) Dishonest or illegal dealing, gross negligence, incompetency, or misconduct;

(7)(a) By final adjudication by a court, a violation of any municipal or federal civil rights law relevant to the protection of purchasers or sellers of real estate or, by final adjudication by a court, any unlawful discriminatory practice pertaining to the purchase or sale of real estate prohibited by Chapter 4112. of the Revised Code, provided that such violation arose out of a situation wherein parties were engaged in bona fide efforts to purchase, sell, or lease real estate, in the licensee's practice as a licensed real estate broker or salesperson;

(b) A second or subsequent violation of any unlawful discriminatory practice pertaining to the purchase or sale of real estate prohibited by Chapter 4112. of the Revised Code or any second or subsequent violation of municipal or federal civil rights laws relevant to purchasing or selling real estate whether or not there has been a final adjudication by a court, provided that such violation arose out of a situation wherein parties were engaged in bona fide efforts to purchase, sell, or lease real estate. For any second offense under this division, the commission shall suspend for a minimum of two months or revoke the license of the broker or salesperson. For any subsequent offense, the commission shall revoke the license of the broker or salesperson.

(8) Procuring a license under this chapter, for the licensee or any salesperson by fraud, misrepresentation, or deceit;

(9) Having violated or failed to comply with any provision of sections 4735.51 to 4735.74 of the Revised Code or having willfully disregarded or violated any other provisions of this chapter;

(10) As a real estate broker, having demanded, without reasonable cause, other than from a broker licensed under this chapter, a commission to which the licensee is not entitled, or, as a real estate salesperson, having demanded, without reasonable cause, a commission to which the licensee is not entitled;

(11) Except as permitted under section 4735.20 of the Revised Code, having paid commissions or fees to, or divided commissions or fees with, anyone not licensed as a real estate broker or salesperson under this chapter or anyone not operating as an out-of-state commercial real estate broker or salesperson under section 4735.022 of the Revised Code;

(12) Having falsely represented membership in any real estate

professional association of which the licensee is not a member;

(13) Having accepted, given, or charged any undisclosed commission, rebate, or direct profit on expenditures made for a principal;

(14) Having offered anything of value other than the consideration recited in the sales contract as an inducement to a person to enter into a contract for the purchase or sale of real estate or having offered real estate or the improvements on real estate as a prize in a lottery or scheme of chance;

(15) Having acted in the dual capacity of real estate broker and undisclosed principal, or real estate salesperson and undisclosed principal, in any transaction;

(16) Having guaranteed, authorized, or permitted any person to guarantee future profits which may result from the resale of real property;

(17) Having placed a sign on any property offering it for sale or for rent without the consent of the owner or the owner's authorized agent;

(18) Having induced any party to a contract of sale or lease to break such contract for the purpose of substituting in lieu of it a new contract with another principal;

(19) Having negotiated the sale, exchange, or lease of any real property directly with ~~an owner~~ a seller, purchaser, lessor, or tenant knowing that such ~~ownerseller, purchaser, lessor, or tenant had a written outstanding contract granting exclusive agency in connection with such property to another real estate broker~~ is represented by another broker under a written exclusive agency agreement, exclusive right to sell or lease listing agreement, or exclusive purchaser agency agreement with respect to such property except as provided for in section 4735.75 of the Revised Code;

(20) Having offered real property for sale or for lease without the knowledge and consent of the owner or the owner's authorized agent, or on any terms other than those authorized by the owner or the owner's authorized agent;

(21) Having published advertising, whether printed, radio, display, or of any other nature, which was misleading or inaccurate in any material particular, or in any way having misrepresented any properties, terms, values, policies, or services of the business conducted;

(22) Having knowingly withheld from or inserted in any statement of account or invoice any statement that made it inaccurate in any material particular;

(23) Having published or circulated unjustified or unwarranted threats of legal proceedings which tended to or had the effect of harassing competitors or intimidating their customers;

(24) Having failed to keep complete and accurate records of all transactions for a period of three years from the date of the transaction, such

records to include copies of listing forms, earnest money receipts, offers to purchase and acceptances of them, records of receipts and disbursements of all funds received by the licensee as broker and incident to the licensee's transactions as such, and records required pursuant to divisions (C)(4) and (5) of section 4735.20 of the Revised Code, and any other instruments or papers related to the performance of any of the acts set forth in the definition of a real estate broker;

(25) Failure of a real estate broker or salesperson to furnish all parties involved in a real estate transaction true copies of all listings and other agreements to which they are a party, at the time each party signs them;

(26) Failure to maintain at all times a special or trust bank account in a depository located in this state. The account shall be noninterest-bearing, separate and distinct from any personal or other account of the broker, and, except as provided in division (A)(27) of this section, shall be used for the deposit and maintenance of all escrow funds, security deposits, and other moneys received by the broker in a fiduciary capacity. The name, account number, if any, and location of the depository wherein such special or trust account is maintained shall be submitted in writing to the superintendent. Checks drawn on such special or trust bank accounts are deemed to meet the conditions imposed by section 1349.21 of the Revised Code.

(27) Failure to maintain at all times a special or trust bank account in a depository in this state, to be used exclusively for the deposit and maintenance of all rents, security deposits, escrow funds, and other moneys received by the broker in a fiduciary capacity in the course of managing real property. This account shall be separate and distinct from any other account maintained by the broker. The name, account number, and location of the depository shall be submitted in writing to the superintendent. This account may earn interest, which shall be paid to the property owners on a pro rata basis.

Division (A)(27) of this section does not apply to brokers who are not engaged in the management of real property on behalf of real property owners.

(28) Having failed to put definite expiration dates in all written agency agreements to which the broker is a party;

(29) Having an unsatisfied final judgment in any court of record against the licensee arising out of the licensee's conduct as a licensed broker or salesperson;

(30) Failing to render promptly upon demand a full and complete statement of the expenditures by the broker or salesperson of funds advanced by or on behalf of a party to a real estate transaction to the broker or salesperson for the purpose of performing duties as a licensee under this chapter in conjunction with the real estate transaction;

(31) Failure within a reasonable time, after the receipt of the commission by the broker, to render an accounting to and pay a real estate salesperson the

salesperson's earned share of it;

(32) Performing any service for another constituting the practice of law, as determined by any court of law;

(33) Having been adjudicated incompetent for the purpose of holding the license by a court, as provided in section 5122.301 of the Revised Code. A license revoked or suspended under this division shall be reactivated upon proof to the commission of the removal of the disability.

(34) Having authorized or permitted a person to act as an agent in the capacity of a real estate broker, or a real estate salesperson, who was not then licensed as a real estate broker or real estate salesperson under this chapter or who was not then operating as an out-of-state commercial real estate broker or salesperson under section 4735.022 of the Revised Code;

(35) Having knowingly inserted or participated in inserting any materially inaccurate term in a document, including naming a false consideration;

(36) Having failed to inform the licensee's client of the existence of an offer or ~~counter offer~~ counteroffer or having failed to present an offer or ~~counter offer~~ counteroffer in a timely manner, unless otherwise instructed by the client, provided the instruction of the client does not conflict with any state or federal law.

(B) Whenever the commission, pursuant to section 4735.051 of the Revised Code, imposes disciplinary sanctions for any violation of this section, the commission also may impose such sanctions upon the broker with whom the salesperson is affiliated if the commission finds that the broker had knowledge of the salesperson's actions that violated this section.

(C) The commission shall, pursuant to section 4735.051 of the Revised Code, impose disciplinary sanctions upon any foreign real estate dealer or salesperson who, in that capacity or in handling the dealer's or salesperson's own property, is found guilty of any of the acts or omissions specified or comprehended in division (A) of this section insofar as the acts or omissions pertain to foreign real estate. If the commission imposes such sanctions upon a foreign real estate salesperson for a violation of this section, the commission also may suspend or revoke the license of the foreign real estate dealer with whom the salesperson is affiliated if the commission finds that the dealer had knowledge of the salesperson's actions that violated this section.

(D) The commission may suspend, in whole or in part, the imposition of the penalty of suspension of a license under this section.

(E) The commission immediately shall notify the real estate appraiser board of any disciplinary action taken under this section against a licensee who also is a state-certified real estate appraiser under Chapter 4763. of the Revised Code.

**Sec. 4735.51.** As used in sections 4735.51 to 4735.74 of the Revised Code:

(A) "Agency" and "Agency relationship" mean a relationship in which a licensee represents another person in a real estate transaction.

(B) "Agency agreement" means a contract between a licensee and a client in which the client promises to pay the broker a valuable consideration, or agrees that the licensee may receive a valuable consideration from another, for performing an act that requires a real estate license under this chapter.

(C) "Agent" and "real estate agent" mean a person licensed by this chapter to represent another in a real estate transaction.

(D) "Affiliated licensee" means a real estate broker or a real estate salesperson licensed by this chapter who is affiliated with a brokerage.

(E) "Brokerage" means a corporation, partnership, limited partnership, association, limited liability company, limited liability partnership, or sole proprietorship issued a broker's license. "Brokerage" includes the affiliated licensees who have been assigned management duties that include supervision of licensees whose duties may conflict with those of other affiliated licensees.

(F) "Client" means a person who has entered into an agency relationship with a licensee.

(G) "Confidential information" means all information that a client directs to be kept confidential or that if disclosed would have an adverse effect on the client's position in the real estate transaction, except to the extent the agent is required by law to disclose such information, and all information that is required by law to be kept confidential.

(H) "Dual agency relationship" means any of the dual agency relationships set forth in section 4735.70 of the Revised Code.

(I) "In-company transaction" means a real estate transaction in which the purchaser and seller are both represented by the same brokerage.

(J) "Licensee" means any individual licensed as a real estate broker or salesperson by the Ohio real estate commission pursuant to this chapter.

(K) "Management level licensee" means a licensee who is employed by or affiliated with a real estate broker and who has supervisory responsibility over other licensees employed by or affiliated with that real estate broker.

(L) "Purchaser" means a party in a real estate transaction who is the potential transferee of property. "Purchaser" includes a person seeking to buy property and a person seeking to rent property as a tenant or lessee.

(M) "Real estate transaction" means any act that is described in division (A) of section 4735.01 of the Revised Code or that is related to the execution of an act described in that section.

(N) ~~"Seller" means a party in a real estate transaction who is the potential transferor of property. "Seller" includes an owner of property who is seeking to sell the property and a landlord who is seeking to rent or lease property to another person.~~

~~(O)~~ "Subagency" and "subagency relationship" mean an agency relationship in which a licensee acts for another licensee in performing duties for the client of that licensee.

~~(P)~~(O) "Timely" means as soon as possible under the particular circumstances.

**Sec. 4735.621.** (A) The duties required of a licensee under section 4735.62 of the Revised Code may not be waived by a client.

(B) A licensee shall perform the duties required under section 4735.63 or 4735.65 of the Revised Code unless the client agrees to waive these duties, and signs a waiver of duties statement pursuant to division (C) of this section.

(C) The superintendent of real estate, with the approval of the Ohio real estate commission, shall establish by rule a waiver of duties statement that shall contain the following:

(1) The fiduciary duties required of all licensees under section 4735.62 of the Revised Code;

(2) A list of those duties contained in section 4735.63 or 4735.65 of the Revised Code, which shall be set forth in a manner that allows for the parties to indicate which of those duties are being waived;

(3) A statement that no other licensee is required to perform the waived duty on behalf of the client;

(4) A statement that legal counsel or other professionals may be hired by the client;

(5) A place for the client and licensee to sign and date the statement.

**Sec. 4735.63.** (A) In representing a seller in an agency relationship, a licensee shall promote the interest of the client by doing all of the following:

(1) ~~Seeking~~Seek a purchase offer at a price and with terms acceptable to the ~~client~~seller. Unless the ~~client~~seller so directs, the licensee is not obligated to seek additional offers if the property is subject to a contract of sale, lease, or letter of intent to lease;

(2) ~~Presenting~~Accept delivery of and ~~present~~ any purchase offer to the ~~client~~seller in a timely manner, even if the property is subject to a contract of sale, lease, or letter of intent to lease;

(3) ~~Prior to presenting the seller an offer to purchase, providing the seller with a copy of any agency disclosure form signed by the purchaser~~Within the scope of knowledge required for licensure, answer the seller's questions and

provide information to the seller regarding any offers or counteroffers:

(4) Assist the seller in developing, communicating, and presenting offers or counteroffers;

(5) Within the scope of knowledge required for licensure, answer the seller's questions regarding the steps the seller must take to fulfill the terms of any contract.

(B) A licensee does not breach any duty or obligation to a seller with whom the licensee has an agency relationship by showing alternative properties to a prospective purchaser or by acting as an agent or subagent for other sellers.

(C) Nothing in this section shall be construed as permitting a licensee to perform any act or service that constitutes the practice of law.

**Sec. 4735.65.** (A) In representing a purchaser in an agency relationship, a licensee shall ~~represent the interests of the purchaser by doing each of the following:~~

(1) ~~Seeking~~Seek a property at a price and with purchase or lease terms acceptable to the purchaser. Unless the client so directs, the licensee is not obligated to seek additional purchase or lease possibilities if the purchaser is a party to a contract to purchase property, or has entered into a lease or has extended a letter of intent to lease.

(2) ~~Presenting~~Within the scope of knowledge required for licensure, answer the purchaser's questions and provide information to the purchaser regarding any offers or counteroffers;

(3) Assist the purchaser in developing, communicating, and presenting offers or counteroffers;

(4) Present any offer to purchase or lease to the seller or the seller's agent in a timely manner, even if the property is subject to a contract of sale, lease, or letter of intent to lease, and accept delivery of and present any counteroffers to the purchaser in a timely manner;

(5) Within the scope of knowledge required for licensure, answer the purchaser's questions regarding the steps the purchaser must take to fulfill the terms of any contract.

(B) A licensee does not breach any duty or obligation to the purchaser by showing the same properties to other purchasers or by acting as an agent or subagent for other purchasers, or as an agent or subagent for sellers, except that any dual agency relationship must be disclosed to a client pursuant to section 4735.71 of the Revised Code.

(C) Nothing in this section shall be construed as permitting a licensee to perform any act or service that constitutes the practice of law.

**Sec. 4735.75.** (A) A broker who has the exclusive authority to represent a client under a written exclusive agency agreement, exclusive right to sell

agreement, or exclusive purchaser agency agreement may authorize other licensees to negotiate directly with that client. The authorization shall be in writing and the broker shall comply with the requirements of section 4735.621 of the Revised Code.

(B) A licensee who negotiates directly with a seller, purchaser, lessor, or tenant pursuant to a written authorization as described in division (A) of this section does not violate division (A)(19) of section 4735.18 of the Revised Code and negotiations conducted by a licensee pursuant to the authorization shall not create or imply an agency relationship between that licensee and the client of that exclusive broker.

(C) As used in this section and division (A)(19) of section 4735.18 of the Revised Code, "negotiate" means any the following:

(1) Delivering or communicating an offer, counteroffer, or proposal;

(2) Discussing or reviewing the terms of any offer, counteroffer, or proposal;

(3) Facilitating communication regarding an offer, counteroffer, or proposal and preparing any response as directed."

In line 1 of the title, after "4513.61," insert "4735.01, 4735.16, 4735.18, 4735.51, 4735.63, 4735.65,"

In line 2 of the title, after "4738.16" insert "and to enact sections 4735.621 and 4735.75"

In line 6 of the title, delete "and"

In line 8 of the title, after "owners" insert ", to add definitions to real estate broker law and to expand duties of licensees"

Attest:

David A. Battocletti,  
Clerk.

Pursuant to Joint Rule 16, Representative Blasdel moved that the Senate amendments to **Am. Sub. H.B. No. 150** - Representative Gibbs, et al., be taken up for immediate consideration.

The motion was agreed to without objection.

The Senate amendments to **Am. Sub. H. B. No. 150**-Representative Gibbs, et al., were taken up for consideration.

**Am. Sub. H. B. No. 150**-Representatives Gibbs, McGregor, J., Ujvagi, Evans, C., Kearns, Williams, Hagan, Reidelbach, Collier, Distel, Miller, Cassell, Schaffer, Barrett, Blessing, Chandler, Combs, Schneider, Stewart, D., Willamowski.

To amend sections 4735.01, 4735.16, 4735.18, 4735.51, 4735.63, 4735.65,

4737.10, 4737.99, and 4738.16 and to enact sections 4735.621 and 4735.75 of the Revised Code to impose new requirements on licensed junk yard owners, to require scrap metal processors to maintain specified records regarding canceled motor vehicle titles, to add definitions to real estate broker law and to expand duties of licensees.

The question being, "Shall the Senate amendments be concurred in?"

The yeas and nays were taken and resulted - yeas 95, nays 0, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Blessing	Book	Brinkman
Brown	Bubp	Buehrer	Calvert
Carano	Carmichael	Cassell	Chandler
Coley	Collier	Combs	Core
Daniels	DeBose	DeGeeter	DeWine
Distel	Dolan	Domenick	Driehaus
Evans C.	Evans D.	Faber	Fende
Fessler	Foley	Garrison	Gibbs
Gilb	Hagan	Hartnett	Harwood
Healy	Hoops	Hughes	Key
Kilbane	Koziura	Latta	Law
Martin	Mason	McGregor J.	McGregor R.
Mitchell	Oelslager	Otterman	Patton S.
Patton T.	Perry	Peterson	Raga
Rausen	Redfern	Reed	Reidelbach
Reinhard	Sayre	Schaffer	Schlichter
Schneider	Seaver	Seitz	Setzer
Skindell	Smith G.	Smith S.	Stewart D.
Stewart J.	Strahorn	Sykes	Taylor
Trakas	Ujvagi	Wagner	Wagoner
Webster	White	Widener	Widowfield
Willamowski	Williams	Wolpert	Woodard
Yates	Yuko		Husted-95.

The Senate amendments were concurred in.

#### Message from the Senate

Mr. Speaker:

I am directed to inform the House of Representatives that the Senate has concurred in the passage of the following bill:

**Sub. H. B. No. 197** - Representatives Rausen, Gibbs, McGregor, J., Carmichael, Evans, C., Flowers, Evans, D., Faber, Ujvagi, Koziura, Schaffer, Blasdel, Martin, Beatty, Blessing, Cassell, Collier, DeBose, Distel, Dolan, Domenick, Fessler, Hagan, Hughes, Key, Law, Mason, Miller, Patton, S., Smith, S., Stewart, D., Sykes, Wagoner, White, Williams, Woodard, Yuko

Senators Clancy, Coughlin, Gardner, Hottinger, Kearney, Miller, D., Mumper, Niehaus, Padgett, Schuler, Stivers, Harris, Zurz, Dann, Fedor, Miller, R., Spada, Fingerhut, Hagan, Prentiss

To amend sections 111.15, 3702.11, 3702.16, 3702.18, 3727.11, 3727.12, 3727.14, and 3727.16, to amend for the purpose of adopting new section numbers as indicated in parentheses sections 3727.11 (3727.34), 3727.12 (3727.42), 3727.121 (3727.43), 3727.14 (3727.36), and 3727.16 (3727.45), to enact sections 3727.31, 3727.311, 3727.312, 3727.313, 3727.32, 3727.321, 3727.33, 3727.331, 3727.35, 3727.37, 3727.38, 3727.39, 3727.391, 3727.40, 3727.41, and 3727.44, and to repeal sections 3727.13 and 3727.15 of the Revised Code concerning the submission of information by hospitals about their performance in meeting certain measures and their charges for services.

As a substitute bill, in which the concurrence of the House is requested.

Attest:

David A. Battocletti,  
Clerk.

Pursuant to Joint Rule 16, Representative Blasdel moved that the Senate amendments to **Sub. H.B. No. 197** - Representative Raussen, et al., be taken up for immediate consideration.

The motion was agreed to without objection.

The Senate amendments to **Sub. H. B. No. 197**-Representative Raussen, et al., were taken up for consideration.

**Sub. H. B. No. 197**-Representatives Raussen, Gibbs, McGregor, J., Carmichael, Evans, C., Flowers, Evans, D., Faber, Ujvagi, Koziura, Schaffer, Blasdel, Martin, Beatty, Blessing, Cassell, Collier, DeBose, Distel, Dolan, Domenick, Fessler, Hagan, Hughes, Key, Law, Mason, Miller, Patton, S., Smith, S., Stewart, D., Sykes, Wagoner, White, Williams, Woodard, Yuko. -Senators Clancy, Coughlin, Gardner, Hottinger, Kearney, Miller, D., Mumper, Niehaus, Padgett, Schuler, Stivers, Harris, Zurz, Dann, Fedor, Miller, R., Spada, Fingerhut, Hagan, Prentiss.

To amend sections 111.15, 3702.11, 3702.16, 3702.18, 3727.11, 3727.12, 3727.14, and 3727.16, to amend for the purpose of adopting new section numbers as indicated in parentheses sections 3727.11 (3727.34), 3727.12 (3727.42), 3727.121 (3727.43), 3727.14 (3727.36), and 3727.16 (3727.45), to enact sections 3727.31, 3727.311, 3727.312, 3727.313, 3727.32, 3727.321, 3727.33, 3727.331, 3727.35, 3727.37, 3727.38, 3727.39, 3727.391, 3727.40, 3727.41, and 3727.44, and to repeal sections 3727.13 and 3727.15 of the Revised Code concerning the submission of information by hospitals about their performance in meeting certain measures and their charges for services.

The question being, "Shall the Senate amendments be concurred in?"

The yeas and nays were taken and resulted - yeas 95, nays 0, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Blessing	Book	Brinkman
Brown	Bubp	Buehrer	Calvert
Carano	Carmichael	Cassell	Chandler
Coley	Collier	Combs	Core
Daniels	DeBose	DeGeeter	DeWine
Distel	Dolan	Domenick	Driehaus
Evans C.	Evans D.	Faber	Fende
Fessler	Foley	Garrison	Gibbs
Gilb	Hagan	Hartnett	Harwood
Healy	Hoops	Hughes	Key
Kilbane	Koziura	Latta	Law
Martin	Mason	McGregor J.	McGregor R.
Mitchell	Oelslager	Otterman	Patton S.
Patton T.	Perry	Peterson	Raga
Rausen	Redfern	Reed	Reidelbach
Reinhard	Sayre	Schaffer	Schlichter
Schneider	Seaver	Seitz	Setzer
Skindell	Smith G.	Smith S.	Stewart D.
Stewart J.	Strahorn	Sykes	Taylor
Trakas	Ujvagi	Wagner	Wagoner
Webster	White	Widener	Widowfield
Willamowski	Williams	Wolpert	Woodard
Yates	Yuko		Husted-95.

The Senate amendments were concurred in.

#### Message from the Senate

Mr. Speaker:

I am directed to inform the House of Representatives that the Senate has concurred in the passage of the following bill:

**Sub. H. B. No. 298** - Representatives Peterson, Daniels, C. Evans, Carano, McGregor, Ujvagi, Combs, Aslanides, Harwood, Seaver, Miller, Latta, Oelslager, Kearns, Setzer, Perry, Seitz, Chandler, Schaffer, S. Patton, Reidelbach, Hughes, Otterman, Willamowski, Hoops, Mason, Allen, Hagan, Wagoner, Redfern, Flowers, Barrett, Book, Cassell, DeBose, Distel, Domenick, Evans, D., Hartnett, Key, Kilbane, Schlichter, Stewart, D., Stewart, J., Sykes, Williams, Yuko, Beatty Senators Miller, D., Armbruster, Austria, Carey, Clancy, Fedor, Fingerhut, Gardner, Grendell, Hagan, Harris, Hottinger, Jacobson, Kearney, Niehaus, Prentiss, Schuring, Spada, Wilson, Zurz

To amend sections 4501.21 and 4503.105 and to enact section 4503.493 of the Revised Code to establish an autism awareness license plate and to provide

that money from the contributions for the license plates be used to pay for programs and awareness efforts of the Autism Society of Ohio.

As a substitute bill, in which the concurrence of the House is requested:

Attest: David A. Battocletti,  
Clerk.

Pursuant to Joint Rule 16, Representative Blasdel moved that the Senate amendments to **Sub. H.B. No. 298** - Representative Peterson, et al., be taken up for immediate consideration.

The motion was agreed to without objection.

The Senate amendments to **Sub. H. B. No. 298**-Representative Peterson, et al., were taken up for consideration.

**Sub. H. B. No. 298**-Representatives Peterson, Daniels, C. Evans, Carano, McGregor, Ujvagi, Combs, Aslanides, Harwood, Seaver, Miller, Latta, Oelslager, Kearns, Setzer, Perry, Seitz, Chandler, Schaffer, S. Patton, Reidelbach, Hughes, Otterman, Willamowski, Hoops, Mason, Allen, Hagan, Wagoner, Redfern, Flowers, Barrett, Book, Cassell, DeBose, Distel, Domenick, Evans, D., Hartnett, Key, Kilbane, Schlichter, Stewart, D., Stewart, J., Sykes, Williams, Yuko, Beatty. -Senators Miller, D., Armbruster, Austria, Carey, Clancy, Fedor, Fingerhut, Gardner, Grendell, Hagan, Harris, Hottinger, Jacobson, Kearney, Niehaus, Prentiss, Schuring, Spada, Wilson, Zurz.

To amend sections 4501.21 and 4503.105 and to enact section 4503.493 of the Revised Code to establish an autism awareness license plate and to provide that money from the contributions for the license plates be used to pay for programs and awareness efforts of the Autism Society of Ohio.

The question being, "Shall the Senate amendments be concurred in?"

The yeas and nays were taken and resulted - yeas 95, nays 0, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Blessing	Book	Brinkman
Brown	Bubp	Buehrer	Calvert
Carano	Carmichael	Cassell	Chandler
Coley	Collier	Combs	Core
Daniels	DeBose	DeGeeter	DeWine
Distel	Dolan	Domenick	Driehaus
Evans C.	Evans D.	Faber	Fende
Fessler	Foley	Garrison	Gibbs
Gilb	Hagan	Hartnett	Harwood
Healy	Hoops	Hughes	Key
Kilbane	Koziura	Latta	Law

Martin	Mason	McGregor J.	McGregor R.
Mitchell	Oelslager	Otterman	Patton S.
Patton T.	Perry	Peterson	Raga
Rausen	Redfern	Reed	Reidelbach
Reinhard	Sayre	Schaffer	Schlichter
Schneider	Seaver	Seitz	Setzer
Skindell	Smith G.	Smith S.	Stewart D.
Stewart J.	Strahorn	Sykes	Taylor
Trakas	Ujvagi	Wagner	Wagoner
Webster	White	Widener	Widowfield
Willamowski	Williams	Wolpert	Woodard
Yates	Yuko		Husted-95.

The Senate amendments were concurred in.

#### Message from the Senate

Mr. Speaker:

I am directed to inform the House of Representatives that the Senate has concurred in the passage of the following bill:

**Sub. H. B. No. 422** - Representatives Hughes, Flowers, Reidelbach, Latta, Evans, D., Boccieri, Yuko, Chandler, Wolpert, Setzer, Barrett, Williams, Carano, Cassell, Combs, DeBose, Domenick, Evans, C., Fende, Gilb, Hagan, Harwood, Key, McGregor, J., Otterman, Patton, T., Sayre, Smith, G., Stewart, D., Widener Senators Fedor, Coughlin, Kearney, Roberts, Miller, D., Gardner

To amend sections 149.433, 3301.56, 3313.536, 3314.03, 3737.73, and 3737.99 of the Revised Code to revise and expand the application of laws governing school safety plans and school safety drills.

As a substitute bill, in which the concurrence of the House is requested:

Attest:

David A. Battocletti,  
Clerk.

Pursuant to Joint Rule 16, Representative Blasdel moved that the Senate amendments to **Sub. H.B. No. 422** - Representative Hughes, et al., be taken up for immediate consideration.

The motion was agreed to without objection.

The Senate amendments to **Sub. H. B. No. 422**-Representative Hughes, et al., were taken up for consideration.

**Sub. H. B. No. 422**-Representatives Hughes, Flowers, Reidelbach, Latta, Evans, D., Boccieri, Yuko, Chandler, Wolpert, Setzer, Barrett, Williams,

Carano, Cassell, Combs, DeBose, Domenick, Evans, C., Fende, Gilb, Hagan, Harwood, Key, McGregor, J., Otterman, Patton, T., Sayre, Smith, G., Stewart, D., Widener. -Senators Fedor, Coughlin, Kearney, Roberts, Miller, D., Gardner.

To amend sections 149.433, 3301.56, 3313.536, 3314.03, 3737.73, and 3737.99 of the Revised Code to revise and expand the application of laws governing school safety plans and school safety drills.

The question being, "Shall the Senate amendments be concurred in?"

The yeas and nays were taken and resulted - yeas 95, nays 0, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Blessing	Book	Brinkman
Brown	Bubp	Buehrer	Calvert
Carano	Carmichael	Cassell	Chandler
Coley	Collier	Combs	Core
Daniels	DeBose	DeGeeter	DeWine
Distel	Dolan	Domenick	Driehaus
Evans C.	Evans D.	Faber	Fende
Fessler	Foley	Garrison	Gibbs
Gilb	Hagan	Hartnett	Harwood
Healy	Hoops	Hughes	Key
Kilbane	Koziura	Latta	Law
Martin	Mason	McGregor J.	McGregor R.
Mitchell	Oelslager	Otterman	Patton S.
Patton T.	Perry	Peterson	Raga
Rausen	Redfern	Reed	Reidelbach
Reinhard	Sayre	Schaffer	Schlichter
Schneider	Seaver	Seitz	Setzer
Skindell	Smith G.	Smith S.	Stewart D.
Stewart J.	Strahorn	Sykes	Taylor
Trakas	Ujvagi	Wagner	Wagoner
Webster	White	Widener	Widowfield
Willamowski	Williams	Wolpert	Woodard
Yates	Yuko		Husted-95.

The Senate amendments were concurred in.

#### Message from the Senate

Mr. Speaker:

I am directed to inform the House of Representatives that the Senate has concurred in the passage of the following bill:

**Sub. H. B. No. 442** - Representatives Dolan, McGregor, J., Martin, Combs, Law, Patton, S., Miller, Chandler, Wagoner, Oelslager, Coley, Willamowski, Barrett, Beatty, Blessing, Cassell, Collier, Core, DeBose, DeGeeter, Distel,

Domenick, Evans, C., Evans, D., Flowers, Garrison, Gibbs, Hagan, Hartnett, Hughes, Key, Mason, McGregor, R., Mitchell, Otterman, Patton, T., Redfern, Reidelbach, Sayre, Schaffer, Schlichter, Schneider, Setzer, Smith, G., Stewart, D., Stewart, J., Strahorn, Taylor, Walcher, Webster, Wolpert, Woodard, Yates, Yuko Senators Stivers, Kearney, Niehaus, Schuler, Spada

To amend sections 3905.29, 3905.421, 3907.15, 3917.01, 3917.06, 3939.01, 3939.06, 3939.07, 3939.09, and 3941.27 and to enact sections 3905.423, 3905.424, and 3939.11 of the Revised Code to require warranty reimbursement insurance policies for vehicle protection product warranties and reimbursement insurance policies for certain consumer goods service contracts, to require given statements to be included in warranty reimbursement insurance policies and in reimbursement insurance policies for certain consumer goods service contracts, to add conditions related to the issuance of vehicle protection product warranties, to apply the Ohio Consumer Sales Practices Act to the issuance of vehicle protection product warranties and consumer goods service contracts, to make changes regarding the organization and determination of financial capacity of mutual protective associations dealing with property, to require the filing of group life insurance policy forms with the Superintendent of Insurance, to specify that certain waivers of customer obligations are not insurance, to lower the percentage of amounts allocated to certain accounts concerning life insurance policies or annuities that a domestic life insurance company may invest, and to apply that lower percentage for investment to securities issued or guaranteed by the United States.

As a substitute bill, in which the concurrence of the House is requested.

Attest:

David A. Battocletti,  
Clerk.

Pursuant to Joint Rule 16, Representative Blasdel moved that the Senate amendments to **Sub. H.B. No. 442** - Representative Dolan, et al., be taken up for immediate consideration.

The motion was agreed to without objection.

The Senate amendments to **Sub. H. B. No. 442**-Representative Dolan, et al., were taken up for consideration.

**Sub. H. B. No. 442**-Representatives Dolan, McGregor, J., Martin, Combs, Law, Patton, S., Miller, Chandler, Wagoner, Oelslager, Coley, Willamowski, Barrett, Beatty, Blessing, Cassell, Collier, Core, DeBose, DeGeeter, Distel, Domenick, Evans, C., Evans, D., Flowers, Garrison, Gibbs, Hagan, Hartnett, Hughes, Key, Mason, McGregor, R., Mitchell, Otterman, Patton, T., Redfern, Reidelbach, Sayre, Schaffer, Schlichter, Schneider, Setzer, Smith, G., Stewart, D., Stewart, J., Strahorn, Taylor, Walcher, Webster, Wolpert, Woodard, Yates,

Yuko. -Senators Stivers, Kearney, Niehaus, Schuler, Spada.

To amend sections 3905.29, 3905.421, 3907.15, 3917.01, 3917.06, 3939.01, 3939.06, 3939.07, 3939.09, and 3941.27 and to enact sections 3905.423, 3905.424, and 3939.11 of the Revised Code to require warranty reimbursement insurance policies for vehicle protection product warranties and reimbursement insurance policies for certain consumer goods service contracts, to require given statements to be included in warranty reimbursement insurance policies and in reimbursement insurance policies for certain consumer goods service contracts, to add conditions related to the issuance of vehicle protection product warranties, to apply the Ohio Consumer Sales Practices Act to the issuance of vehicle protection product warranties and consumer goods service contracts, to make changes regarding the organization and determination of financial capacity of mutual protective associations dealing with property, to require the filing of group life insurance policy forms with the Superintendent of Insurance, to specify that certain waivers of customer obligations are not insurance, to lower the percentage of amounts allocated to certain accounts concerning life insurance policies or annuities that a domestic life insurance company may invest, and to apply that lower percentage for investment to securities issued or guaranteed by the United States.

The question being, "Shall the Senate amendments be concurred in?"

The yeas and nays were taken and resulted - yeas 95, nays 0, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Blessing	Book	Brinkman
Brown	Bubp	Buehrer	Calvert
Carano	Carmichael	Cassell	Chandler
Coley	Collier	Combs	Core
Daniels	DeBose	DeGeeter	DeWine
Distel	Dolan	Domenick	Driehaus
Evans C.	Evans D.	Faber	Fende
Fessler	Foley	Garrison	Gibbs
Gilb	Hagan	Hartnett	Harwood
Healy	Hoops	Hughes	Key
Kilbane	Koziura	Latta	Law
Martin	Mason	McGregor J.	McGregor R.
Mitchell	Oelslager	Otterman	Patton S.
Patton T.	Perry	Peterson	Raga
Rausen	Redfern	Reed	Reidelbach
Reinhard	Sayre	Schaffer	Schlichter
Schneider	Seaver	Seitz	Setzer
Skindell	Smith G.	Smith S.	Stewart D.
Stewart J.	Strahorn	Sykes	Taylor
Trakas	Ujvagi	Wagner	Wagoner
Webster	White	Widener	Widowfield
Willamowski	Williams	Wolpert	Woodard
Yates	Yuko		Husted-95.

The Senate amendments were concurred in.

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

Representative Healy submitted the following report:

The standing committee on Rules and Reference to which was referred **H. J. R. No. 13** - Representative DeWine, having had the same under consideration, reports it back as a substitute resolution and recommends its adoption.

RE: CA - REVISE GA/CONG APPORTIONMENT PROCESS

JON A. HUSTED	CHARLES R. BLASDEL
CHARLES E. CALVERT	JIM CARMICHAEL
BILL COLEY	ANTHONY CORE
KEVIN DEWINE	TOM RAGA
LARRY L. WOLPERT	GEOFFREY C. SMITH
ARLENE J. SETZER	JOHN SCHLICHTER

The following members voted "NO"

CHRIS REDFERN	JOSEPH KOZIURA
WILLIAM J. HEALY	JOYCE BEATTY
ROBERT J. OTTERMAN	TIMOTHY J. DEGEETER

The report was agreed to.

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

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

**H.B. No. 600 - Representative Flowers, et al**

TO PROVIDE, IN CAPITAL CASES IN WHICH THE OFFENDER IS CONVICTED AND IN WHICH DEATH MAY BE IMPOSED, FOR THE PREPARATION AND CONSIDERATION AT SENTENCING OF VICTIM IMPACT STATEMENTS AND THE CONSIDERATION AT SENTENCING OF PRIOR AGGRAVATED MURDER, MURDER, AND VOLUNTARY MANSLAUGHTER CONVICTIONS.

To the committee on Criminal Justice

**H.B. No. 601 - Representative Healy, et al**

TO REQUIRE THE BOARD OF DIRECTORS OF A RECREATIONAL CONSERVANCY DISTRICT TO SUBMIT A PROPOSED ASSESSMENT TO THE VOTERS OF THE DISTRICT BEFORE THE ASSESSMENT MAY BE LEVIED.

To the committee on Agriculture and Natural Resources

JON A. HUSTED  
CHARLES E. CALVERT  
BILL COLEY  
KEVIN DEWINE  
JOHN SCHLICHTER  
GEOFFREY C. SMITH  
JOYCE BEATTY  
TIMOTHY J. DEGEETER  
JOSEPH KOZIURA  
CHRIS REDFERN

CHARLES R. BLASDEL  
JIM CARMICHAEL  
ANTHONY CORE  
TOM RAGA  
ARLENE J. SETZER  
LARRY L. WOLPERT  
KENNETH A. CARANO  
WILLIAM J. HEALY  
ROBERT J. OTTERMAN

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

The motion was agreed to without objection.

The report was agreed to.

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

#### MOTIONS AND RESOLUTIONS

Representative Healy reported for the Rules and Reference Committee recommending that the following House Concurrent Resolution be introduced and referred to the following committee for consideration:

**H.Con.R. No. 46 - Representative Flowers, J. McGregor, Wolpert, D. Evans, Skindell, Hagan, C. Evans, Beatty, Fende, Perry, Yuko, Strahon, Wagoner, Brown, Combs, Hughes, Schaffer, Chandler, Reidelbach, Law, Allen, Koziura, R. McGregor**

TO MEMORIALIZE THE CONGRESS OF THE UNITED STATES TO SUPPORT THE REQUEST OF THE OHIO RAIL DEVELOPMENT COMMISSION TO EARMARK \$5.8 MILLION IN FEDERAL FUNDS TO PAY FOR A TIER 1 ENVIRONMENT IMPACT STATEMENT ON ALL FEASIBLE PASSENGER RAIL CORRIDORS IN THIS STATE.

To the committee on Transportation, Public Safety and Homeland Security

/s/ JON A. HUSTED  
Jon A. Husted, Chair

Representative Blasdel moved that the Rules and Reference Committee Report on resolutions be agreed to and that the resolution contained therein be introduced and referred as recommended.

The motion was agreed to.

Said resolution was introduced and referred as recommended.

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

**H.R. No. 214 - Representative Carano**

HONORING TERENCE DIALS AS THE 2006 BIG TEN CONFERENCE MEN'S BASKETBALL PLAYER OF THE YEAR.

Add the names: Healy, Beatty, Otterman, G. Smith, DeGeeter

/s/ JON A. HUSTED

Jon A. Husted, Chair

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

The motion was agreed to.

Representative Carmichael moved that majority party members asking leave to be absent or absent the week of Tuesday, May 23, 2006, be excused, so long as a written request is on file in the majority leadership offices.

The motion was agreed to.

Representative Driehaus moved that minority party members asking leave to be absent or absent the week of Tuesday, May 23, 2006, be excused, so long as a written request is on file in the minority leadership offices.

The motion was agreed to.

**BILLS FOR THIRD CONSIDERATION**

**S. B. No. 227**-Senators Mumper, Brady, Clancy, Coughlin, Padgett, Armbruster, Dann, Wachtmann, Austria, Carey, Cates, Fedor, Grendell, Harris, Hottinger, Prentiss, Schuring, Spada, Stivers, Wilson, Zurz, Goodman. -Representatives Evans, D., Law, Perry, Reinhard.

To enact section 5533.331 of the Revised Code to designate a portion of State Route 423 within Marion County the "Deputy Brandy Winfield Memorial Highway," was taken up for consideration the third time.

The question being, "Shall the bill pass?"

The yeas and nays were taken and resulted - yeas 95, nays 0, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Blessing	Book	Brinkman
Brown	Bubp	Buehrer	Calvert
Carano	Carmichael	Cassell	Chandler
Coley	Collier	Combs	Core
Daniels	DeBose	DeGeeter	DeWine
Distel	Dolan	Domenick	Driehaus

Evans C.	Evans D.	Faber	Fende
Fessler	Foley	Garrison	Gibbs
Gilb	Hagan	Hartnett	Harwood
Healy	Hoops	Hughes	Key
Kilbane	Koziura	Latta	Law
Martin	Mason	McGregor J.	McGregor R.
Mitchell	Oelslager	Otterman	Patton S.
Patton T.	Perry	Peterson	Raga
Rausen	Redfern	Reed	Reidelbach
Reinhard	Sayre	Schaffer	Schlichter
Schneider	Seaver	Seitz	Setzer
Skindell	Smith G.	Smith S.	Stewart D.
Stewart J.	Strahorn	Sykes	Taylor
Trakas	Ujvagi	Wagner	Wagoner
Webster	White	Widener	Widowfield
Williamowski	Williams	Wolpert	Woodard
Yates	Yuko		Husted-95.

The bill passed.

Representative Core moved to amend the title as follows:

Add the names: "Allen, Barrett, Beatty, Blessing, Book, Bulp, Carano, Carmichael, Cassell, Chandler, Coley, Collier, Combs, Core, Daniels, DeWine, Distel, Dolan, Domenick, Driehaus, Evans, C., Faber, Fende, Gibbs, Gilb, Hagan, Hartnett, Harwood, Hoops, Hughes, Key, Latta, Mason, McGregor, J., Otterman, Patton, S., Patton, T., Redfern, Reed, Reidelbach, Schaffer, Schlichter, Schneider, Seaver, Seitz, Skindell, Smith, G., Smith, S., Stewart, D., Stewart, J., Strahorn, Sykes, Taylor, Wagner, Wagoner, White, Widener, Widowfield, Wolpert, Yuko."

The motion was agreed to and the title so amended.

The title as amended was agreed to.

**S. C. R. No. 16**-Senators Spada, Armbruster, Coughlin, Schuler, Dann, Fingerhut, Zurz, Grendell, Gardner, Fedor. -Representative Sykes.

To recognize June 26, 2006, as "Viktor Schreckengost Day," was taken up for consideration the third time.

The question being, "Shall the concurrent resolution be adopted?"

Representative Patton, T. moved to amend the title as follows:

Add the names: "Allen, Barrett, Blessing, Brown, Calvert, Chandler, Coley, Collier, Combs, Daniels, DeBose, DeGeeter, DeWine, Dolan, Domenick, Evans, C., Evans, D., Hagan, Harwood, Hoops, Hughes, Kilbane, Law, McGregor, J., McGregor, R., Patton, S., Raga, Reed, Sayre, Schaffer, Schlichter, Schneider, Skindell, Smith, G., Stewart, D., Taylor, Trakas, Yuko."

The motion was agreed to and the title so amended.

The title as amended was agreed to.

The question recurring, "Shall the concurrent resolution be adopted?"

The yeas and nays were taken and resulted - yeas 95, nays 0, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Blessing	Book	Brinkman
Brown	Bubp	Buehrer	Calvert
Carano	Carmichael	Cassell	Chandler
Coley	Collier	Combs	Core
Daniels	DeBose	DeGeeter	DeWine
Distel	Dolan	Domenick	Driehaus
Evans C.	Evans D.	Faber	Fende
Fessler	Foley	Garrison	Gibbs
Gilb	Hagan	Hartnett	Harwood
Healy	Hoops	Hughes	Key
Kilbane	Koziura	Latta	Law
Martin	Mason	McGregor J.	McGregor R.
Mitchell	Oelslager	Otterman	Patton S.
Patton T.	Perry	Peterson	Raga
Rausen	Redfern	Reed	Reidelbach
Reinhard	Sayre	Schaffer	Schlichter
Schneider	Seaver	Seitz	Setzer
Skindell	Smith G.	Smith S.	Stewart D.
Stewart J.	Strahorn	Sykes	Taylor
Trakas	Ujvagi	Wagner	Wagoner
Webster	White	Widener	Widowfield
Williamowski	Williams	Wolpert	Woodard
Yates	Yuko		Husted-95.

The concurrent resolution was adopted.

Representative Blasdel moved that House Rule 66, pertaining to bills being placed on the calendar, be suspended and that **H. B. No. 571**-Representative Hughes, et al. be taken up for immediate consideration the third time.

The motion was agreed to without objection.

**H. B. No. 571**-Representatives Hughes, Collier, Evans, C., Evans, D., Widener, Latta, Gilb, Mason, Yuko, Key, Seitz.

To amend sections 109.741 and 313.08 and to enact sections 2901.41 and 2901.42 of the Revised Code relative to missing persons in Ohio, was taken up for consideration the third time.

The question being, "Shall the bill pass?"

The yeas and nays were taken and resulted - yeas 95, nays 0, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
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Blasdel	Blessing	Book	Brinkman
Brown	Bubp	Buehrer	Calvert
Carano	Carmichael	Cassell	Chandler
Coley	Collier	Combs	Core
Daniels	DeBose	DeGeeter	DeWine
Distel	Dolan	Domenick	Driehaus
Evans C.	Evans D.	Faber	Fende
Fessler	Foley	Garrison	Gibbs
Gilb	Hagan	Hartnett	Harwood
Healy	Hoops	Hughes	Key
Kilbane	Koziura	Latta	Law
Martin	Mason	McGregor J.	McGregor R.
Mitchell	Oelslager	Otterman	Patton S.
Patton T.	Perry	Peterson	Raga
Rausen	Redfern	Reed	Reidelbach
Reinhard	Sayre	Schaffer	Schlichter
Schneider	Seaver	Seitz	Setzer
Skindell	Smith G.	Smith S.	Stewart D.
Stewart J.	Strahorn	Sykes	Taylor
Trakas	Ujvagi	Wagner	Wagoner
Webster	White	Widener	Widowfield
Willamowski	Williams	Wolpert	Woodard
Yates	Yuko		Husted-95.

The bill passed.

Representative Hughes moved to amend the title as follows:

Add the names: "Allen, Barrett, Beatty, Book, Brown, Bubp, Buehrer, Carano, Chandler, Combs, Daniels, DeBose, Dolan, Domenick, Driehaus, Faber, Fende, Garrison, Gibbs, Hartnett, Harwood, Hoops, Law, McGregor, J., Otterman, Patton, S., Patton, T., Perry, Reed, Reidelbach, Schaffer, Schlichter, Schneider, Seaver, Setzer, Smith, G., Stewart, D., Stewart, J., Strahorn, Wagoner."

The motion was agreed to and the title so amended.

The title as amended was agreed to.

On motion of Representative Blasdel, the House recessed.

The House met pursuant to recess.

**Sub. H. J. R. No. 13**-Representative DeWine.

Proposing to amend Sections 1, 2, 3, 5, 6, 7, 8, 10, 11, 12, 13, and 15 of Article XI, to amend, for the purpose of adopting new Section numbers as indicated in parentheses, Sections 5 (4), 6 (5), 7 (6), 8 (7), 10 (8), 11 (9), 12 (11), 13 (12), and 15 (13) of Article XI, to enact new Section 10 of Article XI, and to repeal Sections 4, 9, and 14 of Article XI of the Constitution of Ohio to revise the redistricting process for General Assembly and Congressional districts, was taken up for consideration the third time.

The question being, "Shall the joint resolution be adopted?"

Representative DeWine moved to amend the title as follows:

Add the names: "Aslanides, Blessing, Calvert, Coley, Collier, Combs, Daniels, Dolan, Evans, C., Evans, D., Faber, Fessler, Gibbs, Gilb, Hagan, Hoops, Hughes, Kilbane, Latta, Law, McGregor, J., McGregor, R., Oelslager, Patton, T., Peterson, Reed, Schaffer, Schlichter, Seitz, Setzer, Smith, G., Taylor, Wagoner, Webster, White, Willamowski, Wolpert, Husted."

The question recurring, "Shall the joint resolution be adopted?"

Representative DeWine moved to amend as follows:

In line 86, delete "division" and insert "divisions"

In line 156, strike through "governor"

In line 166, after the first "the" insert "Constitution of the"; delete "Constitution"

In line 391, delete "Ohio"

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

The motion was agreed to without objection.

The question being, "Shall the joint resolution as amended be adopted?"

The yeas and nays were taken and resulted - yeas 53, nays 42, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Blessing	Brinkman
Bubp	Buehrer	Calvert	Coley
Collier	Combs	Core	Daniels
Dolan	Evans C.	Evans D.	Faber
Fessler	Gibbs	Gilb	Hagan
Hoops	Hughes	Kilbane	Latta
Law	Martin	McGregor J.	McGregor R.
Oelslager	Patton T.	Peterson	Raga
Raussen	Reed	Reidelbach	Reinhard
Schaffer	Schlichter	Schneider	Seaver
Setzer	Smith G.	Stewart J.	Taylor
Trakas	Wagner	Wagoner	Webster
White	Widener	Widowfield	Willamowski
			Wolpert-53.

Those who voted in the negative were: Representatives

Barrett	Beatty	Blasdel	Book
Brown	Carano	Carmichael	Cassell
Chandler	DeBose	DeGeeter	DeWine
Distel	Domenick	Driehaus	Fende
Foley	Garrison	Hartnett	Harwood
Healy	Key	Koziura	Mason
Mitchell	Otterman	Patton S.	Perry
Redfern	Sayre	Seitz	Skindell
Smith S.	Stewart D.	Strahorn	Sykes

Ujvagi  
Yuko

Williams

Woodard

Yates  
Husted-42.

The joint resolution was not adopted.

Representative Blasdel having voted on the prevailing side, moved that the vote by which **Sub. H. J. R. No. 13**-Representative DeWine failed be reconsidered and that the motion be taken up for immediate consideration.

This motion under House Rule 95 is properly supported by the following members who voted on the prevailing side of the question:

CHARLES R. BLASDEL  
JIM CARMICHAEL  
JON A. HUSTED

KEVIN DEWINE  
WILLIAM J. SEITZ

The question being, "Shall the motion to reconsider the vote by which **Sub. H. J. R. No. 13** - Representative DeWine, failed be agreed to?"

The yeas and nays were taken and resulted - yeas 58, nays 37, as follows:

Those who voted in the affirmative were: Representatives

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

Those who voted in the negative were: Representatives

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

The motion was agreed to and the vote by which **Sub. H. J. R. No.**

-Representative DeWine failed was reconsidered.

The question being, "Shall the joint resolution as amended be adopted?"

Representative Skindell moved to adjourn.

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

The yeas and nays were taken and resulted - yeas 38, nays 57, as follows:

Those who voted in the affirmative were: Representatives

Barrett	Beatty	Book	Brown
Carano	Cassell	Chandler	DeBose
DeGeeter	Distel	Domenick	Driehaus
Fende	Foley	Garrison	Hartnett
Harwood	Healy	Key	Koziura
Mason	Mitchell	Otterman	Patton S.
Patton T.	Perry	Redfern	Sayre
Skindell	Smith S.	Stewart D.	Strahorn
Sykes	Ujvagi	Williams	Woodard
Yates			Yuko-38.

Those who voted in the negative were: Representatives

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

The motion was not agreed to.

The question recurring, "Shall the joint resolution as amended be adopted?"

Representative DeWine moved to amend as follows:

Delete lines 11 through 435 and insert:

"Be it resolved by the General Assembly of the State of Ohio, three-fifths of the members elected to each house concurring herein, that there shall be submitted to the electors of the state, in the manner prescribed by law at the general election to be held on November 7, 2006, a proposal to amend Sections 1, 6, and 13 of Article XI of the Constitution of the State of Ohio to read as follows:

## ARTICLE XI

**Section 1.** ~~The governor, auditor of state, secretary of state, one person chosen by the speaker of the house of representatives and the leader in the senate of the political party of which the speaker is a member, and one person chosen by the legislative leaders in the two houses of the major political party of which the speaker is not a member~~ Five members of the public shall be the persons responsible for the apportionment of this state for members of the general assembly and for representatives to Congress. Not later than January 31 in the year 2011 and every tenth year thereafter, the speaker of the house of representatives, the president of the senate, the senate minority leader, and the minority leader of the house of representatives shall each appoint one member of the public for those apportionment purposes. Within sixty days after the last of those appointments is made, those four members of the public shall elect, by majority vote, the fifth member of the public to be responsible for those apportionments.

~~Such persons~~ The five members of the public shall meet and, or by a majority of their number vote, shall meet and establish in the manner prescribed in this Article the boundaries for each of ninety-nine house of representatives districts and thirty-three senate districts of the general assembly. Such meeting ~~They also shall meet and, by a majority vote, shall establish the congressional districts of the representatives to Congress from this state in accordance with all applicable laws of the United States and this state and applicable judicial decisions. These meetings shall convene on a date designated by the governor between August 1 and October 1 in the year one thousand nine hundred seventy-one~~ 2011 and every tenth year thereafter. The governor shall give such persons the apportioning members of the public two weeks advance notice of the date, time, and place of such each meeting.

The governor shall cause both the apportionment for members of the general assembly and the apportionment for representatives to Congress to be published ~~not~~ not later than October 5 of the year in which ~~it is~~ they are made, in ~~such~~ the manner as provided by law.

**Section 6.** District boundaries established pursuant to this Article for members of the general assembly or for representatives to Congress shall not be changed until the ensuing federal decennial census and the ensuing apportionment or as provided in section 13 of this Article, notwithstanding the fact that boundaries of political subdivisions or city wards within ~~the~~ a district may be changed during that time. District boundaries for members of the general assembly shall be created by using the boundaries of political subdivisions and city wards as they exist at the time of the federal decennial census on which the apportionment is based, or such other basis as the general assembly has directed.

**Section 13.** The supreme court of Ohio shall have exclusive, original jurisdiction in all cases arising under this Article that relate to the apportionment

of this state for members of the general assembly or the district of any member of the general assembly. ~~In the event that~~ If any section of this Constitution relating to apportionment or any plan of apportionment for members of the general assembly made by the ~~persons~~ members of the public responsible for apportionment under Section 1 of this Article, by a majority of their number, is determined to be invalid by either the supreme court of Ohio, or the supreme court of the United States, then, notwithstanding any other provisions of this Constitution, the ~~persons~~ members of the public responsible for apportionment under Section 1 of this Article, by a majority of their number, shall ascertain and determine a plan of apportionment in conformity with ~~such~~ the provisions of this Constitution as are then valid, including establishing terms of office and election of members of the general assembly from districts designated in the plan, to be used until the next regular apportionment in conformity with ~~such~~ the provisions of this Constitution as are then valid.

Notwithstanding any provision of this Constitution or any law regarding the residence of ~~senators and representatives~~ members of the general assembly, a plan of apportionment made pursuant to this section shall allow thirty days for persons to change residence in order to be eligible for election.

The governor shall give the ~~persons~~ members of the public responsible for apportionment under Section 1 of this Article two weeks advance written notice of the date, time, and place of any meeting held pursuant to this section.

#### EFFECTIVE DATE AND REPEAL

If adopted by a majority of the electors voting on this amendment, the amendment shall take effect immediately, and existing Sections 1, 6, and 13 of Article XI of the Constitution of the State of Ohio shall be repealed from such effective date."

Delete lines 1 through 10 of the title and insert:

"Proposing to amend Sections 1, 6, and 13 of Article XI of the Constitution of the State of Ohio to change the composition of the Apportionment Board and to require the Apportionment Board to apportion the state for members of the General Assembly and for representatives to Congress."

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

The yeas and nays were taken and resulted - yeas 58, nays 37, as follows:

Those who voted in the affirmative were: Representatives

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

Schlichter	Schneider	Seaver	Seitz
Setzer	Smith G.	Stewart J.	Taylor
Trakas	Wagner	Wagoner	Webster
White	Widener	Widowfield	Willamowski
Wolpert			Husted-58.

Those who voted in the negative were: Representatives

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

The motion was agreed to and the joint resolution so amended.

The question recurring, "Shall the joint resolution as amended be adopted?"

The yeas and nays were taken and resulted - yeas 58, nays 37, as follows:

Those who voted in the affirmative were: Representatives

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

Those who voted in the negative were: Representatives

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

The joint resolution was not adopted.

Message from the Senate

Mr. Speaker:

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

**Sub. S. B. No. 88** - Senators Coughlin, Goodman, Amstutz, Armbruster, Grendell, Harris, Mumper, Padgett, Schuring, Spada, Jacobson

To amend section 2305.113 and to enact sections 2339.01 to 2339.16 of the Revised Code to establish a pilot program mandating arbitration for claims of medical negligence prior to the filing of a complaint, to suspend, for nine years, sections 2711.21 to 2711.24 of the Revised Code as the sections apply to medical negligence claims, and to terminate the provisions of this act ten years after the effective date of this act by repealing sections 2339.01, 2339.02, 2339.03, 2339.04, 2339.05, 2339.06, 2339.07, 2339.08, 2339.09, 2339.10, 2339.11, 2339.12, 2339.13, 2339.14, 2339.15, and 2339.16 of the Revised Code on that date.

**Sub. S. B. No. 126** - Senators Wachtmann, Stivers

To amend sections 133.07, 140.03, 140.05, 325.19, 339.01, 339.02, 339.03, 339.06, 339.09, 339.091, 339.14, 339.16, and 339.17 and to repeal section 339.092 of the Revised Code to modify the laws governing county hospitals.

**S. B. No. 290** - Senators Schuring, Jacobson, Spada, Clancy, Amstutz, Zurz, Dann, Kearney, Armbruster, Grendell, Harris, Padgett

To amend section 2913.02 of the Revised Code to authorize a definite jail term of not more than one year for petty theft if the offender, within five years of the offense, previously has been convicted of two or more offenses of theft.

**Sub. S. B. No. 305** - Senators Stivers, Goodman, Dann, Kearney, Wachtmann

To amend sections 3731.01, 3731.02, 3731.09, 3731.12, 3731.13, and 3731.21 and to enact section 3731.04 of the Revised Code to modify requirements applied to differing types of hotels and to specify duties of local boards of health regarding sanitary standards applicable to hotels.

**S. B. No. 330** - Senators Schuler, Armbruster, Austria, Cates, Clancy, Dann, Fingerhut, Miller, D., Spada, Wachtmann, Zurz, Niehaus, Schuring, Fedor, Gardner, Hagan, Kearney, Wilson, Stivers, Mumper

To enact section 5.2234 of the Revised Code to designate October as "German Heritage Month."

Attest: David A. Battocletti,  
Clerk.

Said bills were considered the first time.

Message from the Senate

Mr. Speaker:

I am directed to inform the House of Representatives that the Senate has concurred in the House amendments to:

**Sub. S. B. No. 131** - Senator Mumper- et al.

Attest: David A. Battocletti,  
Clerk.

Message from the Senate

Mr. Speaker:

I am directed to inform the House of Representatives that the Senate has agreed to the report of the Committee of Conference on matters of difference between the two houses on:

**Sub. S. B. No. 185** - Senator Padgett- et al.

Attest: David A. Battocletti,  
Clerk.

Message from the Senate

Mr. Speaker:

I am directed to inform the House of Representatives that the Senate has concurred in the passage of the following bill:

**H. B. No. 368** - Representatives Wolpert, Widowfield, Ujvagi, Miller,

Evans, D., McGregor, J., Brown, Fende, Patton, S., Flowers, Combs, Evans, C., Seaver, Webster Senators Stivers, Dann, Kearney

To amend section 4399.14 of the Revised Code to remove the prohibition against a minor being in a public dance hall unless accompanied by a parent or legal guardian.

Attest:

David A. Battocletti,  
Clerk.

Message from the Senate

Mr. Speaker:

I am directed to inform the House of Representatives that the Senate has concurred in the passage of the following bill:

**H. B. No. 389** - Representatives Setzer, Yuko, McGregor, J., Wagoner, Fende, Hartnett, Widowfield, Patton, S., Webster, Allen, DeGeeter, Law, Barrett, Brown, Collier, Combs, DeBose, Domenick, Evans, C., Evans, D., Flowers, Hughes, Key, Mason, Otterman, Reidelbach, Sayre Senators Dann, Miller, D., Hagan, Armbruster, Fingerhut, Jacobson, Kearney, Spada

To amend sections 4511.07, 4511.071, 4511.22, 4511.25, 4511.31, 4511.39, 4511.52, 4511.53, 4511.55, 4511.56, and 4511.711 of the Revised Code to revise certain laws as they relate to bicycle operation.

Attest:

David A. Battocletti,  
Clerk.

Message from the Senate

Mr. Speaker:

I am directed to inform the House of Representatives that the Senate has concurred in the passage of the following bill:

**Am. H. B. No. 393** - Representatives Patton, S., Evans, C., Schlichter, Cassell, McGregor, J., Allen, Gilb, Yuko, Combs, Beatty, Hartnett, Key, Woodard, Widowfield, Redfern, Ujvagi, Driehaus, Miller, DeBose, Flowers, Distel, Carano, Hughes, Reidelbach, Trakas, Law, Hood, Smith, S., Harwood, Strahorn, Wolpert, Boccieri, Oelslager, Willamowski, Skindell, Book, Brown,

Otterman, Stewart, D., Sykes, Mitchell, Barrett, Buehrer, Chandler, Coley, Daniels, DeGeeter, Domenick, Faber, Fende, Garrison, Healy, Hoops, Kilbane, Latta, Mason, McGregor, R., Patton, T., Perry, Peterson, Raga, Raussen, Sayre, Schaffer, Schneider, Seaver, Smith, G., Stewart, J., Taylor, Wagoner, White, Williams, Yates Senators Cates, Grendell, Armbruster, Mumper, Niehaus, Schuring, Miller, D., Fedor, Kearney, Austria, Carey, Dann, Fingerhut, Goodman, Gardner, Hagan, Harris, Jordan, Padgett, Roberts, Zurz, Clancy, Stivers, Miller, R., Jacobson, Hottinger

To enact section 5.2234 of the Revised Code to designate September 22 as "Emancipation Day."

Attest:

David A. Battocletti,  
Clerk.

Representative Blasdel moved that the House revert to the sixth order of business, being motions and resolutions.

The motion was agreed to.

## **MOTIONS AND RESOLUTIONS**

## **MESSAGE FROM THE SPEAKER**

May 15, 2006

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

Dear Speaker Husted,

Please accept this letter as my resignation as the Representative of the 58th Ohio House district, effective May 31, 2006.

It's been a great pleasure working with you and representing the citizens of my district. Thank you very much for the opportunities you have provided.

Sincerely,

/s/ KATHLEEN WALCHER REED

Kathleen Walcher Reed  
State Representative  
58th House District

## MESSAGE FROM THE SPEAKER

May 25, 2006

The Honorable Kathleen Reed  
Ohio House of Representatives  
77 South High Street  
Columbus, Ohio 43215-6111

Dear Representative Reed:

This is to acknowledge receipt and acceptance of your letter of resignation, effective Wednesday, May 31, 2006.

You have served your constituents and the state of Ohio well over the years and The Ohio House of Representatives wishes you well on your future endeavors.

Sincerely,

/s/ JON A. HUSTED

Jon A. Husted  
Speaker  
Ohio House of Representatives

Representative Blasdel moved that the following resolution be brought up for immediate adoption, read by title only, and spread upon the pages of the journal.

The motion was agreed to.

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

**H. R. No. 215**-Speaker Husted.

Relative to the election of Dan White to fill the vacancy in the membership of the House of Representatives created by the resignation of Kathy L. Reed of the 58th House District.

WHEREAS, Section 11 of Article II, Ohio Constitution provides for the filling of a vacancy in the membership of the House of Representatives by election by the members of the House of Representatives who are affiliated with the same political party as the person last elected to the seat which has become vacant; and

WHEREAS, Kathy L. Reed of the 58th House District has resigned as a member of the House of Representatives of the 126th General Assembly effective May 31, 2006, thus creating a vacancy in the House of Representatives; therefore be it

RESOLVED, By the members of the House of Representatives who are

affiliated with the Republican party that Dan White, Republican, having the qualifications set forth in the Ohio Constitution and the laws of Ohio to be a member of the House of Representatives from the 58th House District, is hereby elected, effective June 1, 2006, pursuant to Section 11 of Article II, Ohio Constitution, as a member of the House of Representatives from the 58th House District, to fill the vacancy created by the unexpired portion of the term of said Kathy L. Reed, ending on December 31, 2006; and be it further

RESOLVED, That a copy of this resolution be spread upon the pages of the Journal of the House of Representatives together with the yeas and nays of the members of the House of Representatives affiliated with the Republican party voting on the resolution, and that the Clerk of the House of Representatives shall certify the resolution and vote on its adoption to the Secretary of State.

The yeas and nays were taken and resulted - yeas 56, nays 0, as follows:

Those who voted in the affirmative were: Representatives

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

The resolution was adopted.

Mr. White was escorted to bar of the House by Representatives Blasdel, DeWine, Carmichael, Seitz, Martin, Wagner, Koziura, and Redfern, took the oath of office administered by The Honorable Jon A. Husted, Speaker of the Ohio House of Representatives, and entered upon the discharge of his duties.

State of Ohio

County of Franklin

I, Dan White, do solemnly swear to support the Constitution of the United States and the Constitution of the State of Ohio, and faithfully to discharge and perform all duties incumbent upon me as a member of the Ohio House of Representatives, according to the best of my ability and understanding; and this I do as I shall answer unto God.

/s/ DAN WHITE

Sworn to and subscribed before me this 25th day of May, 2006.

/s/ JON A. HUSTED

Jon A. Husted

Speaker

Ohio House of Representatives

On motion of Representative Blasdel, the House adjourned until Tuesday, May 30, 2006 at 11:00 o'clock a.m.

Attest:

LAURA P. CLEMENS,  
Clerk.