

**OHIO**

**House**

**of**

**Representatives**

**JOURNAL**

WEDNESDAY, OCTOBER 5, 2005

## NINETY-SIXTH DAY

Hall of the House of Representatives, Columbus, Ohio  
**Wednesday, October 5, 2005 at 1:30 o'clock p.m.**

The House met pursuant to adjournment.

Prayer was offered by Father Michael Lumpe of Christ the King Church in Columbus, 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:

Fourth grade students from Sterling School, guests of Representative Carmichael-3rd district.

Patty Flowers, wife, Representative Flowers-19th district.

Fourth grade students from 2nd Avenue Elementary School, guests of Representative Mitchell-26th district.

Sean DuBois, a guest of Representative Redfern-80th district.

Students from the Winchester Baptist Church Homeschool Group, guests of Representative Bulp-88th district.

**INTRODUCTION OF BILLS**

The following bills were introduced:

**H. B. No. 367**-Representatives Calvert, Buehrer.

To amend Section 209.18.03 of Am. Sub. H.B. 66 of the 126th General Assembly to exempt the Division of Wildlife from making payments into the Department of Natural Resources' Central Support Indirect Fund.

**H. B. No. 368**-Representatives Wolpert, Widowfield, Ujvagi, Miller, Evans, D., McGregor, J., Brown, Fende, Patton, S..

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.

**H. B. No. 369**-Representatives Driehaus, Yates.

To amend section 102.02 of the Revised Code to require that members of the board of trustees of a regional transit authority, members of a metropolitan housing authority, and the chief executive officers of both types of authorities file annual financial disclosure statements with the Ohio Ethics Commission.

**H. B. No. 370**-Representatives Skindell, Miller, Allen, Hughes, Reidelbach, Fende, Ujvagi, Driehaus, Patton, S., Fessler, Perry, Williams, Sayre, DeGeeter, Woodard, Smith, S., Chandler, Oelslager, Stewart, D., Domenick, Otterman, Carano, Yuko, Mason, Book, Beatty, Strahorn, Barrett, Key, DeBose, Harwood, McGregor, J., Koziura.

To amend section 901.99 and to enact section 901.90 of the Revised Code to require the inclusion of a bittering agent in engine coolant and antifreeze.

**H. B. No. 371**-Representatives Buehrer, Trakas, Raussen, Gibbs, McGregor, J., Uecker, Reidelbach, Brinkman, Combs, Faber, White, Schaffer, Hagan, Wagoner, Hughes, Oelslager, Hood, Fessler, Fende, Allen, Perry, Yuko, Bulp.

To create the Fuel Production Task Force to study opportunities for and barriers to increasing fuel production in this state and to declare an emergency.

Said bills were considered the first time.

### MOTIONS AND RESOLUTIONS

Representative DeWine moved that majority party members asking leave to be absent or absent the week of Wednesday, October 5, 2005, be excused, so long as a written request is on file in the majority leadership offices.

The motion was agreed to.

Representative Driehaus moved that minority party members asking leave to be absent or absent the week of Wednesday, October 5, 2005, be excused, so long as a written request is on file in the minority leadership offices.

The motion was agreed to.

### BILLS FOR THIRD CONSIDERATION

**Sub. H. B. No. 95**-Representatives Seitz, McGregor, C. Evans, Allen, Widener, Wolpert, Combs, Latta, T. Patton, Schaffer, Raussen, Wagoner, Faber, Webster, Hoops, Taylor, Gilb, Raga, Brinkman, Hagan, Reidelbach, White, Willamowski, Harwood, Uecker, G. Smith, Gibbs, Schneider, Hartnett, Carmichael, Buehrer, Seaver, Hughes, Collier, Trakas, Flowers, Oelslager, D. Evans.

To amend sections 2152.17, 2929.01, 2929.13, 2929.14, 2941.149, and 2953.08 of the Revised Code relative to the sentences imposed on repeat violent offenders and the appeal of repeat violent offender sentences, was taken up for consideration the third time.

The question being, "Shall the bill pass?"

Representative Seitz moved to amend as follows:

In line 1073, delete "(i)" and insert:

"(i)"

In line 1077, delete "(i)" and insert "(ii)"

In line 1080, delete "(ii)" and insert "(iii)"

In line 1091, delete "(iii)" and insert "(iv)"

In line 1093, delete "(iv)" and insert "(v)"

In line 1101, delete "(v)" and insert "(vi)"

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

The motion was agreed to without objection.

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

Representative Redfern moved to amend as follows:

In line 6, after "2152.17," insert "2923.32, 2923.33, 2923.36,"

Between lines 138 and 139, insert:

"**Sec. 2923.32.** (A)(1) No person employed by, or associated with, any enterprise shall conduct or participate in, directly or indirectly, the affairs of the enterprise through a pattern of corrupt activity or the collection of an unlawful debt.

(2) No person, through a pattern of corrupt activity or the collection of an unlawful debt, shall acquire or maintain, directly or indirectly, any interest in, or control of, any enterprise or real property.

(3) No person, who knowingly has received any proceeds derived, directly or indirectly, from a pattern of corrupt activity or the collection of any unlawful debt, shall use or invest, directly or indirectly, any part of those proceeds, or any proceeds derived from the use or investment of any of those proceeds, in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise.

A purchase of securities on the open market with intent to make an investment, without intent to control or participate in the control of the issuer, and without intent to assist another to do so is not a violation of this division, if the securities of the issuer held after the purchase by the purchaser, the members of the purchaser's immediate family, and the purchaser's or the immediate family members' accomplices in any pattern of corrupt activity or the collection of an unlawful debt do not aggregate one per cent of the outstanding securities of any one class of the issuer and do not confer, in law or in fact, the power to elect one or more directors of the issuer.

(B)(1) Whoever violates this section is guilty of engaging in a pattern of corrupt activity. Except as otherwise provided in this division, engaging in

corrupt activity is a felony of the second degree. If at least one of the incidents of corrupt activity is a felony of the first, second, or third degree, aggravated murder, or murder, if at least one of the incidents was a felony under the law of this state that was committed prior to ~~the effective date of this amendment~~ July 1, 1996 and that would constitute a felony of the first, second, or third degree, aggravated murder, or murder if committed on or after ~~the effective date of this amendment~~ July 1, 1996, or if at least one of the incidents of corrupt activity is a felony under the law of the United States or of another state that, if committed in this state on or after ~~the effective date of this amendment~~ July 1, 1996, would constitute a felony of the first, second, or third degree, aggravated murder, or murder under the law of this state, engaging in a pattern of corrupt activity is a felony of the first degree. Notwithstanding any other provision of law, a person may be convicted of violating the provisions of this section as well as of a conspiracy to violate one or more of those provisions under section 2923.01 of the Revised Code.

(2) Notwithstanding the financial sanctions authorized by section 2929.18 of the Revised Code, the court may do all of the following with respect to any person who derives pecuniary value or causes property damage, personal injury other than pain and suffering, or other loss through or by the violation of this section:

(a) In lieu of the fine authorized by that section, impose a fine not exceeding the greater of three times the gross value gained or three times the gross loss caused and order the clerk of the court to pay the fine into the corrupt activity investigation and prosecution fund created in section 2923.35 of the Revised Code;

(b) In addition to the fine described in division (B)(2)(a) of this section and the financial sanctions authorized by section 2929.18 of the Revised Code, order the person to pay court costs;

(c) In addition to the fine described in division (B)(2)(a) of this section and the financial sanctions authorized by section 2929.18 of the Revised Code, order the person to pay to the state, municipal, or county law enforcement agencies that handled the investigation and prosecution the costs of investigation and prosecution that are reasonably incurred.

The court shall hold a hearing to determine the amount of fine, court costs, and other costs to be imposed under this division.

(3) In addition to any other penalty or disposition authorized or required by law, the court shall order any person who is convicted of or pleads guilty to a violation of this section or who is adjudicated delinquent by reason of a violation of this section to criminally forfeit to the state any personal or real property in which the person has an interest and that was used in the course of or intended for use in the course of a violation of this section, or that was derived from or realized through conduct in violation of this section, including any property constituting an interest in, means of control over, or influence over the enterprise

involved in the violation and any property constituting proceeds derived from the violation, including all of the following:

(a) Any position, office, appointment, tenure, commission, or employment contract of any kind acquired or maintained by the person in violation of this section, through which the person, in violation of this section, conducted or participated in the conduct of an enterprise, or that afforded the person a source of influence or control over an enterprise that the person exercised in violation of this section;

(b) Any compensation, right, or benefit derived from a position, office, appointment, tenure, commission, or employment contract described in division (B)(3)(a) of this section that accrued to the person in violation of this section during the period of the pattern of corrupt activity;

(c) Any interest in, security of, claim against, or property or contractual right affording the person a source of influence or control over the affairs of an enterprise that the person exercised in violation of this section;

(d) Any amount payable or paid under any contract for goods or services that was awarded or performed in violation of this section.

(4)(a) A sentence or disposition of criminal forfeiture pursuant to division (B)(3) of this section shall not be entered unless either of the following applies:

(i) The indictment, count in the indictment, or information charging the offense, or the complaint, indictment, or information filed in juvenile court charging the violation as a delinquent act alleges the extent of the property subject to forfeiture;

(ii) The criminal sentence or delinquency disposition requires the forfeiture of property that was not reasonably foreseen to be subject to forfeiture at the time of the indictment, count in the indictment, or information charging the offense, or the complaint, indictment, or information filed in juvenile court charging the violation as a delinquent act, provided that the prosecuting attorney gave prompt notice to the defendant or the alleged or adjudicated delinquent child of such property not reasonably foreseen to be subject to forfeiture when it is discovered to be forfeitable.

(b) A special verdict shall be returned as to the extent of the property, if any, subject to forfeiture. When the special verdict is returned, a judgment of forfeiture shall be entered. The special verdict and judgment of forfeiture shall relate back to the time at which was committed the first of the incidents forming the pattern of corrupt activity and shall include all property of a type described in division (B)(3) of this section in which the person had any interest at the time at which was committed the first of those incidents or at any time prior to the issuance of the judgment and all property of a type described in division (B)(3) of this section that constitutes proceeds derived from the violation of this section.

(5) ~~¶(a)~~ Subject to division (B)(5)(b) of this section, if any property included in a special verdict of forfeiture returned pursuant to division (B)(4) of

this section cannot be located, has been sold to a bona fide purchaser for value, placed beyond the jurisdiction of the court, substantially diminished in value by the conduct of the defendant or adjudicated delinquent child, or commingled with other property that cannot be divided without difficulty or undue injury to innocent persons, or otherwise is unreachable without undue injury to innocent persons, the court shall order forfeiture of any other reachable property of the defendant or adjudicated delinquent child up to the value of the property that is unreachable.

(b) If any property included in a special verdict of forfeiture returned pursuant to division (B)(4) of this section has been sold or otherwise transferred to any person and if the prosecuting attorney proves to the court by a preponderance of the evidence that the defendant or delinquent child knowingly sold or transferred the property in an attempt to avoid potential forfeiture of the property and that, at the time of the sale or transfer, the purchaser or transferee knew, or had reasonable cause to believe, that the property might be subject to potential forfeiture or the purchaser or transferee negligently failed to take steps to determine whether the property might be subject to potential forfeiture, notwithstanding division (B)(5)(a) of this section and notwithstanding the sale or transfer, the sale or transfer is fraudulent as to the state, and the property remains criminally forfeited to the state and is subject to all provisions and procedures applicable to all other property included in the special verdict of forfeiture to the same extent as if the property had not been so sold or transferred.

(6) All property ordered forfeited pursuant to this section shall be held by the law enforcement agency that seized it for distribution or disposal pursuant to section 2923.35 of the Revised Code. The agency shall maintain an accurate record of each item of property so seized and held, which record shall include the date on which each item was seized, the manner and date of disposition by the agency, and if applicable, the name of the person who received the item; however, the record shall not identify or enable the identification of the individual officer who seized the property. The record is a public record open for inspection under section 149.43 of the Revised Code. Each law enforcement agency that seizes and holds in any calendar year any item of property that is ordered forfeited pursuant to this section shall prepare a report covering the calendar year that cumulates all of the information contained in all of the records kept by the agency pursuant to this division for that calendar year, and shall send the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the attorney general. Each such report so received by the attorney general is a public record open for inspection under section 149.43 of the Revised Code. Not later than the fifteenth day of April in the calendar year in which the reports were received, the attorney general shall send to the president of the senate and the speaker of the house of representatives a written notification that does all of the following:

(a) Indicates that the attorney general has received from law enforcement agencies reports of the type described in this division that cover the previous calendar year and indicates that the reports were received under this division;

(b) Indicates that the reports are open for inspection under section 149.43 of the Revised Code;

(c) Indicates that the attorney general will provide a copy of any or all of the reports to the president of the senate or the speaker of the house of representatives upon request.

(C) Notwithstanding the notice and procedure prescribed by division (E) of this section, an order of criminal forfeiture entered under division (B)(3) of this section shall authorize an appropriate law enforcement agency to seize the property declared forfeited under this section upon the terms and conditions, relating to the time and manner of seizure, that the court determines proper.

(D) Criminal penalties under this section are not mutually exclusive, unless otherwise provided, and do not preclude the application of any other criminal or civil remedy under this or any other section of the Revised Code. A disposition of criminal forfeiture ordered pursuant to division (B)(3) of this section in relation to a child who was adjudicated delinquent by reason of a violation of this section does not preclude the application of any other order of disposition under Chapter 2152. of the Revised Code or any other civil remedy under this or any other section of the Revised Code.

(E)(1) Upon the entry of a judgment of forfeiture pursuant to division (B)(3) of this section, the court shall cause notice of the judgment to be sent by certified mail, return receipt requested, to all persons known to have, or appearing to have, an interest in the property that was acquired prior to the filing of a corrupt activity lien notice or a lis pendens as authorized by section 2923.36 of the Revised Code. If the notices cannot be given to those persons in that manner, the court shall cause publication of the notice of the judgment of forfeiture pursuant to the Rules of Civil Procedure.

(2) Within thirty days after receipt of a notice or after the date of publication of a notice under division (E)(1) of this section, any person, other than the defendant or the adjudicated delinquent child, who claims an interest in the property that is subject to forfeiture may petition the court for a hearing to determine the validity of the claim. The petition shall be signed and sworn to by the petitioner and shall set forth the nature and extent of the petitioner's interest in the property, the date and circumstances of the petitioner's acquisition of the interest, any additional allegations supporting the claim, and the relief sought. The petitioner shall furnish the prosecuting attorney with a copy of the petition.

(3) The court, to the extent practicable and consistent with the interests of justice, shall hold the hearing described under division (E)(2) of this section within thirty days from the filing of the petition. The court may consolidate the hearings on all petitions filed by third party claimants under this section. At the hearing, the petitioner may testify and present evidence on the petitioner's own behalf and cross-examine witnesses. The prosecuting attorney may present evidence and witnesses in rebuttal and in defense of the claim of the state to the property and cross-examine witnesses. The court, in making its determination,



shall consider the testimony and evidence presented at the hearing and the relevant portions of the record of the criminal proceeding that resulted in the judgment of forfeiture.

(4) ~~If~~ Subject to division (E)(5) of this section, if, at a hearing held under division (E)(3) of this section, the court, by a preponderance of the evidence, determines either that the petitioner has a legal right, title, or interest in the property that, at the time of the commission of the acts giving rise to the forfeiture of the property, was vested in the petitioner and not in the defendant or the adjudicated delinquent child or was superior to the right, title, or interest of the defendant or the adjudicated delinquent child, or that the petitioner is a bona fide purchaser for value of the right, title, or interest in the property and was at the time of the purchase reasonably without cause to believe that the property was subject to forfeiture under this section, it shall amend, in accordance with its determination, the judgment of forfeiture to ~~protect~~ do all of the following:

(a) Protect the rights of innocent persons;

(b) If the court removes any property from the order of forfeiture to protect the rights of innocent persons as described in division (E)(4)(a) of this section, order the forfeiture of any other reachable property of the defendant or delinquent child up to the value of the property that is removed from the order of forfeiture.

(5) If, at a hearing held under division (E)(3) of this section regarding property that is subject to forfeiture under the judgment of forfeiture entered pursuant to division (B)(3) of this section and that has been sold or otherwise transferred to any person, the prosecuting attorney proves to the court by a preponderance of the evidence that the defendant or delinquent child knowingly sold or transferred the property in an attempt to avoid potential forfeiture of the property and that, at the time of the purchase or sale, the purchaser or transferee knew, or had reasonable cause to believe, that the property might be subject to potential forfeiture or the purchaser or transferee negligently failed to take steps to determine whether the property might be subject to potential forfeiture, notwithstanding division (E)(4) of this section and notwithstanding the sale or transfer, the sale or transfer is fraudulent as to the state, and the property included in the judgment of forfeiture remains criminally forfeited to the state and is subject to all provisions and procedures applicable to all other property included in the judgment of forfeiture to the same extent as if the property had not been so sold or transferred.

(F) Except as provided in division (E) of this section, no person claiming an interest in property that is subject to forfeiture under this section shall do either of the following:

(1) Intervene in a trial or appeal of a criminal case or a delinquency case that involves the forfeiture of the property;

(2) File an action against the state concerning the validity of the person's alleged interest in the property subsequent to the filing of the indictment, count

in the indictment, or information, or the filing of the complaint, indictment, or information in juvenile court, that alleges that the property is subject to forfeiture under this section.

(G) As used in this section, "law enforcement agency" includes, but is not limited to, the state board of pharmacy.

**Sec. 2923.33.** (A) At any time after an indictment is filed alleging a violation of section 2923.32 of the Revised Code or a conspiracy to violate that section or after a complaint, indictment or information is filed in juvenile court alleging a violation of that section or a conspiracy to violate that section as a delinquent act, the prosecuting attorney may file a motion requesting the court to issue an order to preserve the reachability of any property that may be subject to forfeiture. Upon the filing of the motion, the court, after giving notice to any person who will be affected by any order issued by the court pursuant to the motion, shall hold a hearing on the motion at which all affected persons have an opportunity to be heard and, upon a showing by the prosecuting attorney by a preponderance of the evidence that the particular action is necessary to preserve the reachability of any property that may be subject to forfeiture and based upon the indictment, may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other necessary action, including the appointment of a receiver. The prosecuting attorney is not required to show special or irreparable injury to obtain any court action pursuant to this division. Notwithstanding the Rules of Evidence, the court's order or injunction may be based on hearsay testimony.

(B)(1) If no indictment has been filed alleging a violation of section 2923.32 of the Revised Code or a conspiracy to violate that section and no complaint, indictment, or information has been filed in juvenile court alleging a violation of that section or a conspiracy to violate that section as a delinquent act, the court may take any action specified in division (A) of this section if the prosecuting attorney for the county, in addition to the showing that would be required pursuant to division (A) of this section, also shows both of the following by a preponderance of the evidence:

(1)(a) There is probable cause to believe that the property with respect to which the order is sought, in the event of a conviction or a delinquency adjudication, would be subject to criminal forfeiture under section 2923.32 of the Revised Code;

(1)(b) The requested order would not result in irreparable harm to the party against whom the order is to be entered that outweighs the need to preserve the reachability of the property.

No order entered pursuant to this division shall be effective for more than ninety days, unless it is extended pursuant to the procedure provided in this division by the court for good cause shown or an indictment is returned alleging that the property is subject to forfeiture.

(2) A prosecuting attorney may file a motion under division (B)(1) of this

section at any time after the commission of any of the incidents forming the pattern of corrupt activity in violation of section 2923.32 of the Revised Code or at any time after the initiation of the conspiracy to commit the violation of that section.

(C)(1) Upon application by the prosecuting attorney, the court may grant a temporary restraining order to preserve the reachability of property subject to criminal forfeiture under section 2923.32 of the Revised Code without notice to any party, if all of the following occur:

(1)(a) Either an indictment or a juvenile delinquency complaint, indictment, or information alleging that property is subject to criminal forfeiture has been filed, or the court determines that there is probable cause to believe that property with respect to which the order is sought would be subject, in the event of a conviction or a delinquency adjudication, to criminal forfeiture;

(2)(b) The property is in the possession or control of the party against whom the order is to be entered;

(3)(c) The court determines that the nature of the property is such that it can be concealed, disposed of, or placed beyond the jurisdiction of the court before any party may be heard in opposition to the order.

A temporary restraining order granted without notice to any party under this division shall expire within the time, not to exceed ten days, that the court fixes, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. If a temporary restraining order is granted under this division without notice to any party, the court shall hold a hearing concerning the entry of an order under this division at the earliest practicable time prior to the expiration of the temporary order.

(2) A prosecuting attorney may file an application under division (C)(1) of this section at any time after the filing of the indictment, complaint, or information described in division (C)(1) of this section or, if no indictment, complaint, or information has been so filed, at any time after the commission of any of the incidents forming the pattern of corrupt activity in violation of section 2923.32 of the Revised Code.

(D) Following sentencing and the entry of a judgment against an offender that includes a fine or an order of criminal forfeiture, or both, under section 2923.32 of the Revised Code, or following the entry of a judgment against a delinquent child that includes an order of criminal forfeiture under that section, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action, including the appointment of a receiver, that the court determines to be proper to protect the interests of the state or an innocent person.

(E) If a court pursuant to division (A) or (B) of this section takes any action specified in division (A) of this section, or if a court pursuant to division (C) of this section grants a temporary restraining order pursuant to that division,

the action or order shall relate back to the time at which was committed the first of the incidents forming the pattern of corrupt activity and shall include all property of a type described in division (B)(3) of section 2923.32 of the Revised Code in which the person had any interest at the time at which was committed the first of those incidents or at any time prior to the taking of the action or granting of the order and all property of a type described in division (B)(3) of section 2923.32 of the Revised Code that constitutes proceeds derived from the violation of that section.

**Sec. 2923.36.** (A) Upon the institution of any criminal proceeding charging a violation of section 2923.32 of the Revised Code, the filing of any complaint, indictment, or information in juvenile court alleging a violation of that section as a delinquent act, or the institution of any civil proceeding under section 2923.32 or 2923.34 of the Revised Code, the state, at any time during the pendency of the proceeding, may file a corrupt activity lien notice with the county recorder of any county in which property subject to forfeiture may be located. No fee shall be required for filing the notice. The recorder immediately shall record the notice pursuant to section 317.08 of the Revised Code.

(B) A corrupt activity lien notice shall be signed by the prosecuting attorney who files the lien. The notice shall set forth all of the following information:

(1) The name of the person against whom the proceeding has been brought. The prosecuting attorney may specify in the notice any aliases, names, or fictitious names under which the person may be known. The prosecuting attorney also may specify any corporation, partnership, or other entity in which the person has an interest subject to forfeiture under section 2923.32 of the Revised Code and shall describe in the notice the person's interest in the corporation, partnership, or other entity.

(2) If known to the prosecuting attorney, the present residence and business addresses of the person or names set forth in the notice;

(3) A statement that a criminal or delinquency proceeding for a violation of section 2923.32 of the Revised Code or a civil proceeding under section 2923.32 or 2923.34 of the Revised Code has been brought against the person named in the notice, the name of the county in which the proceeding has been brought, and the case number of the proceeding;

(4) A statement that the notice is being filed pursuant to this section;

(5) The name and address of the prosecuting attorney filing the notice;

(6) A description of the real or personal property subject to the notice and of the interest in that property ~~of that~~ the person named in the notice has or had and that subjects the property to forfeiture, to the extent the property and ~~the~~that interest of the person in it reasonably is known at the time the proceeding is instituted or at the time the notice is filed.

(C) A corrupt activity lien notice shall apply only to one person and, to

the extent applicable, any aliases, fictitious names, or other names, including names of corporations, partnerships, or other entities, to the extent permitted in this section. A separate corrupt activity lien notice is required to be filed for any other person.

(D) Within seven days after the filing of each corrupt activity lien notice, the prosecuting attorney who files the notice shall furnish to the person named in the notice by certified mail, return receipt requested, to the last known business or residential address of the person, a copy of the recorded notice with a notation on it of any county in which the notice has been recorded. The failure of the prosecuting attorney to furnish a copy of the notice under this section shall not invalidate or otherwise affect the corrupt activity lien notice when the prosecuting attorney did not know and could not reasonably ascertain the address of the person entitled to notice.

After receipt of a copy of the notice under this division, the person named in the notice may petition the court to authorize the person to post a surety bond in lieu of the lien or to otherwise modify the lien as the interests of justice may require. The bond shall be in an amount equal to the value of the property reasonably known to be subject to the notice and conditioned on the payment of any judgment and costs ordered in an action pursuant to section 2923.32 or 2923.34 of the Revised Code up to the value of the bond.

(E) From the date of filing of a corrupt activity lien notice, the notice creates a lien in favor of the state on any personal or real property or any beneficial interest in the property located in the county in which the notice is filed that then or subsequently is owned by the person named in the notice or under any of the names set forth in the notice.

The lien created in favor of the state is superior and prior to the interest of any other person in the personal or real property or beneficial interest in the property, if the interest is acquired subsequent to the filing of the notice.

(F)(1) Notwithstanding any law or rule to the contrary, in conjunction with any civil proceeding brought pursuant to section 2923.34 of the Revised Code, the prosecuting attorney may file in any county, without prior court order, a lis pendens pursuant to sections 2703.26 and 2703.27 of the Revised Code. In such a case, any person acquiring an interest in the subject property or beneficial interest in the property, if the property interest is acquired subsequent to the filing of the lis pendens, shall take the property or interest subject to the civil proceeding and any subsequent judgment.

(2) If a corrupt activity lien notice has been filed, the prosecuting attorney may name as a defendant in the lis pendens, in addition to the person named in the notice, any person acquiring an interest in the personal or real property or beneficial interest in the property subsequent to the filing of the notice. If a judgment of forfeiture is entered in the criminal or delinquency proceeding pursuant to section 2923.32 of the Revised Code in favor of the state, the interest of any person in the property that was acquired subsequent to the

filing of the notice shall be subject to the notice and judgment of forfeiture.

(G) Upon a final judgment of forfeiture in favor of the state pursuant to section 2923.32 of the Revised Code, title of the state to the forfeited property shall do either of the following:

(1) In the case of real property, or a beneficial interest in it, relate back to the date of filing of the corrupt activity lien notice in the county where the property or interest is located. If no corrupt activity lien notice was filed, title of the state relates back to the date of the filing of any lis pendens under division (F) of this section in the records of the county recorder of the county in which the real property or beneficial interest is located. If no corrupt activity lien notice or lis pendens was filed, title of the state relates back to the date of the recording of the final judgment of forfeiture in the records of the county recorder of the county in which the real property or beneficial interest is located.

(2) In the case of personal property or a beneficial interest in it, relate back to the date on which the property or interest was seized by the state, or the date of filing of a corrupt activity lien notice in the county in which the property or beneficial interest is located. If the property was not seized and no corrupt activity lien notice was filed, title of the state relates back to the date of the recording of the final judgment of forfeiture in the county in which the personal property or beneficial interest is located.

(H) If personal or real property, or a beneficial interest in it, that is subject to forfeiture pursuant to section 2923.32 of the Revised Code is conveyed, alienated, disposed of, or otherwise rendered unavailable for forfeiture after the filing of either a corrupt activity lien notice, or a criminal or delinquency proceeding for a violation of section 2923.32 or a civil proceeding under section 2923.32 or 2923.34 of the Revised Code, whichever is earlier, the state may bring an action in any court of common pleas against the person named in the corrupt activity lien notice or the defendant in the criminal, delinquency, or civil proceeding to recover the value of the property or interest. The court shall enter final judgment against the person named in the notice or the defendant for an amount equal to the value of the property or interest together with investigative costs and attorney's fees incurred by the state in the action. If a civil proceeding is pending, an action pursuant to this section shall be filed in the court in which the proceeding is pending.

(I)(1) If personal or real property, or a beneficial interest in it, that is subject to forfeiture pursuant to section 2923.32 of the Revised Code is alienated or otherwise transferred or disposed of after either the filing of a corrupt activity lien notice, or the filing of a criminal or delinquency proceeding for a violation of section 2923.32 or a civil proceeding under section 2923.32 or 2923.34 of the Revised Code, whichever is earlier, the transfer or disposal is fraudulent as to the state and the state shall have all the rights granted a creditor under Chapter 1336. of the Revised Code.

(2) If personal or real property, or a beneficial interest in it, that is subject

to forfeiture pursuant to section 2923.32 of the Revised Code has been sold or otherwise transferred to any person and divisions (H) and (I)(1) of this section do not apply, divisions (B)(5)(b) and (E)(5) of section 2932.32 of the Revised Code apply regarding the sale or transfer.

If personal or real property, or a beneficial interest in it, that is subject to forfeiture pursuant to section 2923.32 of the Revised Code is unreachable or is removed from an applicable order of forfeiture to protect the rights of innocent persons as described in division (B)(5)(a) or (E)(4) of that section and divisions (H) and (I)(1) of this section do not apply, other reachable property of the defendant or delinquent child shall be ordered forfeited pursuant to division (B)(5)(a) or (E)(4) of section 2923.32 of the Revised Code to replace the value of the property that is unreachable or removed from the order.

(J) No trustee, who acquires actual knowledge that a corrupt activity lien notice, a criminal or delinquency proceeding for a violation of section 2923.32 or a civil proceeding under section 2923.32 or 2923.34 of the Revised Code has been filed against any person for whom the trustee holds legal or record title to personal or real property, shall recklessly fail to furnish promptly to the prosecuting attorney all of the following:

- (1) The name and address of the person, as known to the trustee;
- (2) The name and address, as known to the trustee, of all other persons for whose benefit the trustee holds title to the property;
- (3) If requested by the prosecuting attorney, a copy of the trust agreement or other instrument under which the trustee holds title to the property.

Any trustee who fails to comply with this division is guilty of failure to provide corrupt activity lien information, a misdemeanor of the first degree.

(K) If a trustee transfers title to personal or real property after a corrupt activity lien notice is filed against the property, the lien is filed in the county in which the property is located, and the lien names a person who holds a beneficial interest in the property, the trustee, if the trustee has actual notice of the notice, shall be liable to the state for the greater of the following:

- (1) The proceeds received directly by the person named in the notice as a result of the transfer;
- (2) The proceeds received by the trustee as a result of the transfer and distributed to the person named in the notice;
- (3) The fair market value of the interest of the person named in the notice in the property transferred.

However, if the trustee transfers property for at least its fair market value and holds the proceeds that otherwise would be paid or distributed to the beneficiary, or at the direction of the beneficiary or the beneficiary's designee, the liability of the trustee shall not exceed the amount of the proceeds held by the trustee.

(L) The filing of a corrupt activity lien notice does not constitute a lien on the record title to personal or real property owned by the trustee, except to the extent the trustee is named in the notice.

The prosecuting attorney for the county may bring a civil action in any court of common pleas to recover from the trustee the amounts set forth in division (H) of this section. The county may recover investigative costs and attorney's fees incurred by the prosecuting attorney.

(M)(1) This section does not apply to any transfer by a trustee under a court order, unless the order is entered in an action between the trustee and the beneficiary.

(2) Unless the trustee has actual knowledge that a person owning a beneficial interest in the trust is named in a corrupt activity lien notice or otherwise is a defendant in a civil proceeding brought pursuant to section 2923.34 of the Revised Code, this section does not apply to either of the following:

(a) Any transfer by a trustee required under the terms of any trust agreement, if the agreement is a matter of public record before the filing of any corrupt activity lien notice;

(b) Any transfer by a trustee to all of the persons who own a beneficial interest in the trust.

(N) The filing of a corrupt activity lien notice does not affect the use to which personal or real property, or a beneficial interest in it, that is owned by the person named in the notice may be put or the right of the person to receive any proceeds resulting from the use and ownership, but not the sale, of the property, until a judgment of forfeiture is entered.

(O) The term of a corrupt activity lien notice is five years from the date the notice is filed, unless a renewal notice has been filed by the prosecuting attorney of the county in which the property or interest is located. The term of any renewal of a corrupt activity lien notice granted by the court is five years from the date of its filing. A corrupt activity lien notice may be renewed any number of times while a criminal or civil proceeding under section 2923.32 or 2923.34 of the Revised Code, or an appeal from either type of proceeding, is pending.

(P) The prosecuting attorney who files the corrupt activity lien notice may terminate, in whole or part, any corrupt activity lien notice or release any personal or real property or beneficial interest in the property upon any terms that the prosecuting attorney determines are appropriate. Any termination or release shall be filed by the prosecuting attorney with each county recorder with whom the notice was filed. No fee shall be imposed for the filing.

(Q)(1) If no civil proceeding has been brought by the prosecuting attorney pursuant to section 2923.34 of the Revised Code against the person named in the corrupt activity lien notice, the acquittal in a criminal or



delinquency proceeding for a violation of section 2923.32 of the Revised Code of the person named in the notice or the dismissal of a criminal or delinquency proceeding for such a violation against the person named in the notice terminates the notice. In such a case, the filing of the notice has no effect.

(2) If a civil proceeding has been brought pursuant to section 2923.34 of the Revised Code with respect to any property that is the subject of a corrupt activity lien notice and if the criminal or delinquency proceeding brought against the person named in the notice for a violation of section 2923.32 of the Revised Code has been dismissed or the person named in the notice has been acquitted in the criminal or delinquency proceeding for such a violation, the notice shall continue for the duration of the civil proceeding and any appeals from the civil proceeding, except that it shall not continue any longer than the term of the notice as determined pursuant to division (O) of this section.

(3) If no civil proceeding brought pursuant to section 2923.34 of the Revised Code then is pending against the person named in a corrupt activity lien notice, any person so named may bring an action against the prosecuting attorney who filed the notice, in the county where it was filed, seeking a release of the property subject to the notice or termination of the notice. In such a case, the court of common pleas promptly shall set a date for hearing, which shall be not less than five nor more than ten days after the action is filed. The order and a copy of the complaint shall be served on the prosecuting attorney within three days after the action is filed. At the hearing, the court shall take evidence as to whether any personal or real property, or beneficial interest in it, that is owned by the person bringing the action is covered by the notice or otherwise is subject to forfeiture. If the person bringing the action shows by a preponderance of the evidence that the notice does not apply to the person or that any personal or real property, or beneficial interest in it, that is owned by the person is not subject to forfeiture, the court shall enter a judgment terminating the notice or releasing the personal or real property or beneficial interest from the notice.

At a hearing, the court may release from the notice any property or beneficial interest upon the posting of security, by the person against whom the notice was filed, in an amount equal to the value of the property or beneficial interest owned by the person.

(4) The court promptly shall enter an order terminating a corrupt activity lien notice or releasing any personal or real property or beneficial interest in the property, if a sale of the property or beneficial interest is pending and the filing of the notice prevents the sale. However, the proceeds of the sale shall be deposited with the clerk of the court, subject to the further order of the court.

(R) Notwithstanding any provision of this section, any person who has perfected a security interest in personal or real property or a beneficial interest in the property for the payment of an enforceable debt or other similar obligation prior to the filing of a corrupt activity lien notice or a lis pendens in reference to the property or interest may foreclose on the property or interest as otherwise provided by law. The foreclosure, insofar as practical, shall be made so that it

otherwise will not interfere with a forfeiture under section 2923.32 of the Revised Code."

In line 1746, after "2152.17," insert "2923.32, 2923.33, 2923.36,"

After line 1748, insert:

**"Section 3.** The General Assembly hereby declares that the provisions of sections 2923.32, 2923.33, and 2923.36 of the Revised Code as they appear in Sections 1 and 2 of this act are intended to clarify the application of sections 2923.32, 2923.33, and 2923.36 of the Revised Code as they existed prior to the effective date of this act, do not substantively change those sections, do not revise the sanctions in effect prior to the effective date of this act or impose any new sanctions for a violation of section 2923.32 of the Revised Code, and are remedial in nature.

The provisions of sections 2923.32, 2923.33, and 2923.36 of the Revised Code as they appear in Sections 1 and 2 of this act shall apply to all violations of section 2923.32 of the Revised Code that are committed on or after the effective date of this act, and to all violations of that section that occur prior to the effective date of this act provided that, on or before the effective date of this act, the person who committed the violation has not been sentenced, or had an order of disposition imposed, for the violation.

**Section 4.** This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is that the clarifications to the criminal forfeiture provisions of the Corrupt Activity Law that are made by this act are crucial to the investigation and resolution of matters related to allegedly inappropriate investment policies and practices of the Bureau of Workers' Compensation. Therefore, this act shall go into immediate effect."

In line 1 of the title, after "2152.17," insert "2923.32, 2923.33, 2923.36,"

In line 5 of the title, after "sentences" insert ", to clarify the criminal forfeiture provisions of the Corrupt Activity Law regarding the time at which forfeitures attach, the forfeiture of substitute property for forfeitable property that is unreachable or removed from a forfeiture order to protect the innocent persons, the availability under a forfeiture order of certain property transferred in an attempt to avoid potential forfeiture, and the time at which an order to preserve the reachability of property that might be forfeitable under that Law may be requested and attaches, and to declare an emergency"

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

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

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

The yeas and nays were taken and resulted - yeas 50, nays 44, as follows:

Those who voted in the affirmative were: Representatives

|           |            |             |             |
|-----------|------------|-------------|-------------|
| Aslanides | Blasdel    | Blessing    | Bubp        |
| Buehrer   | Calvert    | Carmichael  | Coley       |
| Collier   | Combs      | Core        | Daniels     |
| DeWine    | Dolan      | Evans C.    | Evans D.    |
| Faber     | Flowers    | Gibbs       | Gilb        |
| Hagan     | Hoops      | Kilbane     | Latta       |
| Law       | Martin     | McGregor J. | Peterson    |
| Raga      | Rausen     | Reidelbach  | Reinhard    |
| Schaffer  | Schlichter | Schneider   | Seitz       |
| Setzer    | Smith G.   | Stewart J.  | Trakas      |
| Uecker    | Wagner     | Wagoner     | Webster     |
| White     | Widener    | Widowfield  | Willamowski |
| Wolpert   |            |             | Husted-50.  |

Those who voted in the negative were: Representatives

|           |           |           |            |
|-----------|-----------|-----------|------------|
| Allen     | Barrett   | Beatty    | Bocchieri  |
| Book      | Brinkman  | Brown     | Carano     |
| Cassell   | Chandler  | DeBose    | DeGeeter   |
| Distel    | Domenick  | Driehaus  | Fende      |
| Garrison  | Hartnett  | Harwood   | Healy      |
| Hood      | Hughes    | Key       | Mason      |
| Miller    | Mitchell  | Oelslager | Otterman   |
| Patton S. | Patton T. | Perry     | Redfern    |
| Sayre     | Skindell  | Smith S.  | Stewart D. |
| Strahorn  | Sykes     | Taylor    | Ujvagi     |
| Williams  | Woodard   | Yates     | Yuko-44.   |

The motion to amend was laid on the table.

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

Representative Redfern moved to amend as follows:

In line 6, after "sections" insert "102.021, 102.99,"

Between lines 8 and 9, insert:

**"Sec. 102.021.** (A)(1) For the twenty-four-month period immediately following the end of the former state elected officer's or staff member's service or public employment, except as provided in division (B) or (D) of this section, each former state elected officer or staff member who filed or was required to file a disclosure statement under section 102.02 of the Revised Code shall file, on or before the deadlines specified in division (D) of this section, with the joint legislative ethics committee a statement that shall include the information described in divisions (A)(2), (3), (4), and (5) of this section, as applicable. The statement shall be filed on a form and in the manner specified by the joint legislative ethics committee. This division does not apply to a state elected officer or staff member who filed or was required to file a disclosure statement under section 102.02 of the Revised Code, who leaves service or public employment, and who takes another position as a state elected officer or staff member who files or is required to file a disclosure statement under that section.

~~No person shall fail to file, on or before the deadlines specified in division (D) of this section, a statement that is required by this division.~~

(2) The statement referred to in division (A)(1) of this section shall describe the source of all income received, in the former state elected officer's or staff member's own name or by any other person for the person's use or benefit, and briefly describe the nature of the services for which the income was received if the source of the income was any of the following:

(a) An executive agency lobbyist or a legislative agent;

(b) The employer of an executive agency lobbyist or legislative agent, except that this division does not apply if the employer is any state agency or political subdivision of the state;

(c) Any entity, association, or business that, at any time during the two immediately preceding calendar years, was awarded one or more contracts by one or more state agencies that in the aggregate had a value of one hundred thousand dollars or more, or bid on one or more contracts to be awarded by one or more state agencies that in the aggregate had a value of one hundred thousand dollars or more.

(3) If the former state elected officer or staff member received no income as described in division (A)(2) of this section, the statement referred to in division (A)(1) of this section shall indicate that fact.

(4) If the former state elected officer or staff member directly or indirectly made, either separately or in combination with another, any expenditure or gift for transportation, lodging, or food or beverages to, at the request of, for the benefit of, or on behalf of any public officer or employee, and if the former state elected officer or staff member would be required to report the expenditure or gift in a statement under sections 101.70 to 101.79 or sections 121.60 to 121.69 of the Revised Code, whichever is applicable, if the former state elected officer or staff member was a legislative agent or executive agency lobbyist at the time the expenditure or gift was made, the statement referred to in division (A)(1) of this section shall include all information relative to that gift or expenditure that would be required in a statement under sections 101.70 to 101.79 or sections 121.60 to 121.69 of the Revised Code if the former state elected officer or staff member was a legislative agent or executive agency lobbyist at the time the expenditure or gift was made.

(5) If the former state elected officer or staff member made no expenditure or gift as described in division (A)(4) of this section, the statement referred to in division (A)(1) of this section shall indicate that fact.

(B) If, at any time during the twenty-four-month period immediately following the end of the former state elected officer's or staff member's service or public employment, a former state elected officer or staff member who filed or was required to file a disclosure statement under section 102.02 of the Revised Code becomes a legislative agent or an executive agency lobbyist, the

former state elected officer or staff member shall comply with all registration and filing requirements set forth in sections 101.70 to 101.79 or sections 121.60 to 121.69 of the Revised Code, whichever is applicable, and, the former state elected officer or staff member also shall file a statement under division (A)(1) of this section except that the statement filed under division (A)(1) of this section does not need to include information regarding any income source, expenditure, or gift to the extent that that information was included in any registration or statement filed under sections 101.70 to 101.79 or sections 121.60 to 121.69 of the Revised Code.

(C) Except as otherwise provided in this division, division (A)(2) of this section applies to attorneys, physicians, and other persons who engage in the practice of a profession and who, pursuant to a section of the Revised Code, the common law of this state, a code of ethics applicable to the profession, or otherwise, generally are required not to reveal, disclose, or use confidences of clients, patients, or other recipients of professional services except under specified circumstances or generally are required to maintain those types of confidences as privileged communications except under specified circumstances. Division (A)(2) of this section does not require an attorney, physician, or other professional subject to a confidentiality requirement as described in this division to disclose the name, other identity, or address of a client, patient, or other recipient of professional services if the disclosure would threaten the client, patient, or other recipient of professional services, would reveal details of the subject matter for which legal, medical, or professional advice or other services were sought, or would reveal an otherwise privileged communication involving the client, patient, or other recipient of professional services. Division (A)(2) of this section does not require an attorney, physician, or other professional subject to a confidentiality requirement as described in this division to disclose in the brief description of the nature of services required by division (A)(2) of this section any information pertaining to specific professional services rendered for a client, patient, or other recipient of professional services that would reveal details of the subject matter for which legal, medical, or professional advice was sought or would reveal an otherwise privileged communication involving the client, patient, or other recipient of professional services.

(D)(1) Each state elected officer or staff member who filed or was required to file a disclosure statement under section 102.02 of the Revised Code and who leaves public service or public employment shall file an initial statement under division (A)(1) of this section not later than the day on which the former state elected officer or staff member leaves public service or public employment. The initial statement shall specify whether the person will, or will not, receive any income from a source described in division (A)(2)(a), (b), or (c) of this section.

If a person files an initial statement under this division that states that the person will receive income from a source described in division (A)(2)(a), (b), or (c) of this section, the person is required to file statements under division (A)(2), (3), (4), or (5) of this section at the times specified in division (D)(2) of this

section.

If a person files an initial statement under this division that states that the person will not receive income from a source described in division (A)(2)(a), (b), or (c) of this section, except as otherwise provided in this division, the person is not required to file statements under division (A)(2), (4), or (5) of this section or to file subsequent statements under division (A)(3) of this section. If a person files an initial statement under this division that states that the person will not receive income from a source described in division (A)(2)(a), (b), or (c) of this section, and, subsequent to the filing of that initial statement, the person receives any income from a source described in division (A)(2)(a), (b), or (c) of this section, the person within ten days shall file a statement under division (A)(2) of this section that contains the information described in that division, and the person thereafter shall file statements under division (A)(2), (3), (4), or (5) of this section at the times specified in division (D)(2) of this section.

(2) After the filing of the initial statement under division (D)(1) of this section, each person required to file a statement under division (A)(2), (3), (4), or (5) of this section shall file it on or before the last calendar day of January, May, and September. The statements described in divisions (A)(2), (3), and (5) of this section shall relate to the sources of income the person received in the immediately preceding filing period from each source of income in each of the categories listed in division (A)(2) of this section. The statement described in division (A)(4) of this section shall include any information required to be reported regarding expenditures and gifts of the type described in division (A)(4) of this section occurring since the filing of the immediately preceding statement.

If, pursuant to this division, a person files a statement under division (A)(2) of this section, the person is required to file statements under division (A)(4) of this section, and subsequent statements under division (A)(2), (3), or (5) of this section, at the times specified in this division. In addition, if, subsequent to the filing of the statement under division (A)(2) of this section, the person receives any income from a source described in division (A)(2)(a), (b), or (c) of this section that was not listed on the statement filed under division (A)(2) of this section, the person within ten days shall file a statement under division (A)(2) of this section that contains the information described in that division regarding the new income source.

If, pursuant to this division, a person files a statement under division (A)(3) of this section, except as otherwise provided in this division, the person thereafter is not required to file statements under division (A)(2), (4), or (5) of this section, or to file subsequent statements under division (A)(3) of this section. If, subsequent to the filing of the statement under division (A)(3) of this section, the person receives any income from a source described in division (A)(2)(a), (b), or (c) of this section, the person within ten days shall file a statement under division (A)(2) of this section that contains the information described in that division regarding the new income source, and the person thereafter shall file statements under division (A)(4) of this section, and

subsequent statements under division (A)(2) or (3) of this section, at the times specified in this division.

(3) No fee shall be required for filing an initial statement under division (D)(1) of this section. The person filing a statement under division (D)(2) of this section that is required to be filed on or before the last calendar day of January, May, and September shall pay a ten dollar filing fee with each such statement not to exceed thirty dollars in any calendar year. The joint legislative ethics committee may charge late fees in the same manner as specified in division (G) of section 101.72 of the Revised Code.

(E) Any state elected officer or staff member who filed or was required to file a disclosure statement under section 102.02 of the Revised Code and who leaves public service or public employment shall provide a forwarding address to the officer's or staff member's last employer, and the employer shall provide the person's name and address to the joint legislative ethics committee. The former elected state officer or staff member shall provide updated forwarding addresses as necessary to the joint legislative ethics committee during the twenty-four-month period during which division (A)(1) of this section applies. The public agency or appointing authority that was the last employer of a person required to file a statement under division (A)(2) of this section shall furnish to the person a copy of the form needed to complete the initial statement required under division (D)(1) of this section.

(F)(1) No person shall fail to file, on or before the deadlines specified in division (D) of this section, a statement that is required to be filed by division (A)(1) of this section.

(2) No person shall knowingly file a false statement that is required to be filed by division (A)(1) of this section.

(3) During the twenty-four-month period immediately following the end of the former state elected officer's or staff member's service or public employment, no person required to file a statement under this section shall receive from a source described in division (A)(2)(a), (b), or (c) of this section, and no source described in division (A)(2)(a), (b), or (c) of this section shall pay to that person, any compensation that is contingent in any way upon the introduction, modification, passage, or defeat of any legislation or the outcome of any executive agency decision.

(G) As used in this section "state elected officer or staff member" means any elected officer of this state, any staff, as defined in section 101.70 of the Revised Code, or any staff, as defined in section 121.60 of the Revised Code.

**Sec. 102.99.** (A) Whoever violates division (C) of section 102.02 or division (C) of section 102.031 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(B) Whoever violates ~~division (D) of section 102.02 or section 102.021,~~ 102.03, 102.04, or 102.07 of the Revised Code, or any provision of section

102.021 of the Revised Code other than division (F)(2) of that section, is guilty of a misdemeanor of the first degree.

(C) Whoever violates division (D) of section 102.02 or division (F)(2) of section 102.021 of the Revised Code shall be punished as follows:

(1) Except as otherwise provided in division (C)(2) or (3) of this section, a violation of division (D) of section 102.02 or division (F)(2) of section 102.021 of the Revised Code is a misdemeanor of the first degree.

(2) If the offender previously has been convicted of or pleaded guilty to one violation of either division (D) of section 102.02 or division (F)(2) of section 102.021 of the Revised Code, a violation of division (D) of section 102.02 or division (F)(2) of section 102.021 of the Revised Code is a felony of the fifth degree.

(3) If the offender previously has been convicted of or pleaded guilty to two or more violations of division (D) of section 102.02, two or more violations of division (F)(2) of section 102.021, or one or more violations of division (D) of section 102.02 and one or more violations of division (F)(2) of section 102.021 of the Revised Code, a violation of division (D) of section 102.02 or division (F)(2) of section 102.021 of the Revised Code is a felony of the third degree."

In line 1746, after "sections" insert "102.021, 102.99,"

In line 1 of the title, after "sections" insert "102.021, 102.99,"

In line 5 of the title, after "sentences" insert "; to increase the penalty for a repeat violation of the prohibition against knowingly filing a false disclosure statement under section 102.02 of the Revised Code; to specifically prohibit knowingly filing a false statement under section 102.021 of the Revised Code; and to provide the same penalty for the new prohibition of knowingly filing a false statement as for the prohibition against knowingly filing a false disclosure statement under section 102.02 of the Revised Code"

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

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

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

The yeas and nays were taken and resulted - yeas 52, nays 42, as follows:

Those who voted in the affirmative were: Representatives

|           |          |            |             |
|-----------|----------|------------|-------------|
| Aslanides | Blasdel  | Blessing   | Bubp        |
| Buehrer   | Calvert  | Carmichael | Coley       |
| Collier   | Combs    | Core       | Daniels     |
| DeWine    | Dolan    | Evans C.   | Evans D.    |
| Faber     | Flowers  | Gibbs      | Gilb        |
| Hagan     | Hoops    | Hughes     | Kilbane     |
| Latta     | Law      | Martin     | McGregor J. |
| Peterson  | Raga     | Rausen     | Reidelbach  |
| Reinhard  | Schaffer | Schlichter | Schneider   |
| Seitz     | Setzer   | Smith G.   | Stewart J.  |
| Trakas    | Uecker   | Wagner     | Wagoner     |



|                        |                  |                  |                          |
|------------------------|------------------|------------------|--------------------------|
| Webster<br>Willamowski | White<br>Wolpert | Widener<br>Yates | Widowfield<br>Husted-52. |
|------------------------|------------------|------------------|--------------------------|

Those who voted in the negative were: Representatives

|           |           |            |           |
|-----------|-----------|------------|-----------|
| Allen     | Barrett   | Beatty     | Bocchieri |
| Book      | Brinkman  | Brown      | Carano    |
| Cassell   | Chandler  | DeBose     | DeGeeter  |
| Distel    | Domenick  | Driehaus   | Fende     |
| Garrison  | Hartnett  | Harwood    | Healy     |
| Hood      | Key       | Mason      | Miller    |
| Mitchell  | Oelslager | Otterman   | Patton S. |
| Patton T. | Perry     | Redfern    | Sayre     |
| Skindell  | Smith S.  | Stewart D. | Strahorn  |
| Sykes     | Taylor    | Ujvagi     | Williams  |
| Woodard   |           |            | Yuko-42.  |

The motion to amend was laid on the table.

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

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    |
| Bocchieri  | Book        | Brinkman   | Bubp        |
| Buehrer    | Calvert     | Carmichael | Cassell     |
| Chandler   | Coley       | Collier    | Combs       |
| Core       | Daniels     | DeGeeter   | DeWine      |
| Distel     | Dolan       | Domenick   | Driehaus    |
| Evans C.   | Evans D.    | Faber      | Fende       |
| Fessler    | Flowers     | Garrison   | Gibbs       |
| Gilb       | Hagan       | Hartnett   | Harwood     |
| Healy      | Hood        | Hoops      | Hughes      |
| Kilbane    | Latta       | Law        | Martin      |
| Mason      | McGregor J. | Oelslager  | Patton T.   |
| Perry      | Peterson    | Raga       | Raussen     |
| Reidelbach | Reinhard    | Sayre      | Schaffer    |
| Schlichter | Schneider   | Seitz      | Setzer      |
| Smith G.   | Stewart J.  | Taylor     | Trakas      |
| Uecker     | Wagner      | Wagoner    | Webster     |
| White      | Widener     | Widowfield | Willamowski |
| Williams   | Wolpert     |            | Husted-75.  |

Those who voted in the negative were: Representatives

|          |            |          |          |
|----------|------------|----------|----------|
| Barrett  | Beatty     | Brown    | Carano   |
| DeBose   | Key        | Miller   | Mitchell |
| Otterman | Patton S.  | Redfern  | Skindell |
| Smith S. | Stewart D. | Strahorn | Sykes    |
| Ujvagi   | Woodard    | Yates    | Yuko-20. |

The bill passed.

Representative Seitz moved to amend the title as follows:

Add the names: "Aslanides, Blessing, Bulp, Calvert, Daniels, Dolan, Domenick, Law, Martin, Reinhard, Setzer, Widowfield."

The motion was agreed to and the title so amended.

The title as amended was agreed to.

Representative Blasdel moved that House Rule 66, pertaining to bills being placed on the calendar, be suspended and that **Sub. H. B. No.**

**115**-Representative Setzer, et al. be taken up for immediate consideration the third time.

The motion was agreed to without objection.

**Sub. H. B. No. 115**-Representatives Setzer, Reinhard, Webster, Carano, C. Evans, Chandler.

To amend sections 3301.075, 3313.843, and 3319.17 and to enact sections 3301.0713, 3312.01 to 3312.12, and 3313.845 of the Revised Code to establish the Educational Regional Service System and the EMIS Advisory Board, was taken up for consideration the third time.

The question being, "Shall the bill pass?"

The yeas and nays were taken and resulted - yeas 93, nays 2, as follows:

Those who voted in the affirmative were: Representatives

|           |            |             |            |
|-----------|------------|-------------|------------|
| Allen     | Aslanides  | Barrett     | Beatty     |
| Blasdel   | Blessing   | Boccieri    | Book       |
| Brinkman  | Brown      | Bulp        | 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    | Flowers     | Garrison   |
| Gibbs     | Gilb       | Hagan       | Hartnett   |
| Harwood   | Healy      | Hood        | Hoops      |
| Hughes    | Key        | Kilbane     | Latta      |
| Law       | Martin     | Mason       | McGregor   |
| Miller    | Mitchell   | Oelslager   | Otterman   |
| Patton S. | Patton T.  | Perry       | Peterson   |
| Raga      | Raussen    | Redfern     | Reidelbach |
| Reinhard  | Sayre      | Schaffer    | Schlichter |
| Schneider | Seitz      | Setzer      | Skindell   |
| Smith G.  | Smith S.   | Stewart D.  | Stewart J. |
| Strahorn  | Sykes      | Taylor      | Trakas     |
| Uecker    | Wagoner    | Webster     | White      |
| Widener   | Widowfield | Willamowski | Williams   |
| Wolpert   | Woodard    | Yates       | Yuko       |
|           |            |             | Husted-93. |

Representatives Ujvagi and Wagner voted in the negative-2.

The bill passed.

Representative Setzer moved to amend the title as follows:

Add the names: "Calvert, Combs, DeBose, Domenick, Fende, Flowers, Gibbs, Key, Law, Martin, McGregor, R., Otterman, Patton, T., Schlichter, Schneider, Seitz, Smith, S., Stewart, D., Strahorn, Williams, Yuko."

The motion was agreed to and the title so amended.

The title as amended was agreed to.

Representative Blasdel moved that House Rule 66, pertaining to bills being placed on the calendar, be suspended and that **Sub. H. B. No.**

**143**-Representative Willamowski, et al. be taken up for immediate consideration the third time.

The motion was agreed to without objection.

**Sub. H. B. No. 143**-Representatives Willamowski, White, Raussen, Combs, Fessler, Kearns, Martin, Peterson, Reidelbach, Schneider, Seaver, Webster, Widowfield, Barrett, Beatty, Harwood, C. Evans, McGregor, Seitz, Gilb, Hood, Flowers, Driehaus, Blasdel, Carmichael, Brown, DeBose, Otterman, Mason.

To amend sections 2305.234, 2925.01, 3709.161, 3721.21, 4715.02, 4715.03, 4715.05, 4715.30, 4715.301, 4715.39, 4715.42, 4715.51, 4715.52, 4715.53, 4715.57, and 4715.99, to enact sections 4715.231, 4715.60, 4715.601, 4715.61, 4715.62, and 4715.63, and to repeal sections 4715.54, 4715.55, and 4715.58 of the Revised Code to make changes to the law governing dental x-ray machine operators, to provide for the registration of expanded function dental auxiliaries, to allow a dental hygienist under the supervision of a dentist to administer local anesthesia to a patient, and to make changes in the composition of the State Dental Board, 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  | Boccieri   | 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   | Flowers    | Garrison |
| Gibbs    | Gilb      | Hagan      | Hartnett |
| Harwood  | Healy     | Hood       | Hoops    |
| Hughes   | Key       | Kilbane    | Latta    |

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

The bill passed.

Representative Willamowski moved to amend the title as follows:

Add the names: "Allen, Blessing, Book, Carano, Cassell, Chandler, Core, DeGeeter, Domenick, Gibbs, Hartnett, Hughes, Key, Latta, Law, Miller, Oelslager, Sayre, Stewart, D., Taylor, Yuko."

The motion was agreed to and the title so amended.

The title as amended was agreed to.

Representative Blasdel moved that House Rule 66, pertaining to bills being placed on the calendar, be suspended and that **Sub. H. B. No. 235**-Representative Wagner, et al. be taken up for immediate consideration the third time.

The motion was agreed to without objection.

**Sub. H. B. No. 235**-Representatives Wagner, Distel, Flowers, Harwood, Kearns, McGregor, Seitz, Wolpert, Willamowski.

To amend sections 313.05, 313.08, 313.10, 325.17, 3705.16, 3705.29, 3705.99, 4705.01, and 4731.053 and to enact section 313.123 of the Revised Code to make changes to the Coroner's Law and associated provisions of the Death and Fetal Death Certificate Law, to require that the rules of the State Medical Board allow a coroner's investigator who is not a physician to recite facts permitting a physician to pronounce a person dead without a personal examination, and to allow a coroner to practice as an attorney at law in a court except under specified circumstances, was taken up for consideration the third time.

The question being, "Shall the bill pass?"

The yeas and nays were taken and resulted - yeas 89, nays 6, as follows:

Those who voted in the affirmative were: Representatives

|       |           |         |        |
|-------|-----------|---------|--------|
| Allen | Aslanides | Barrett | Beatty |
|-------|-----------|---------|--------|

|            |           |             |             |
|------------|-----------|-------------|-------------|
| Blasdel    | Blessing  | Boccieri    | Book        |
| Brinkman   | Brown     | Bubp        | Buehrer     |
| Calvert    | Carano    | Carmichael  | Cassell     |
| Chandler   | Coley     | Collier     | Combs       |
| Core       | Daniels   | DeBose      | 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   | Latta       | Law         |
| Martin     | Mason     | McGregor J. | Miller      |
| Mitchell   | Otterman  | Patton T.   | Perry       |
| Peterson   | Raga      | Raussen     | Redfern     |
| Reidelbach | Reinhard  | Sayre       | Schaffer    |
| Schlichter | Schneider | Seitz       | Setzer      |
| Smith G.   | Smith S.  | Stewart D.  | Stewart J.  |
| Strahorn   | Taylor    | Trakas      | Uecker      |
| Ujvagi     | Wagner    | Wagoner     | Webster     |
| White      | Widener   | Widowfield  | Willamowski |
| Williams   | Wolpert   | Yates       | Yuko        |
|            |           |             | Husted-89.  |

Representatives DeGeeter, Oelslager, Patton S., Skindell, Sykes, and Woodard voted in the negative-6.

The bill passed.

Representative Wagner moved to amend the title as follows:

Add the names: "Barrett, Blessing, Chandler, Coley, Collier, Combs, Domenick, Evans, D., Fende, Gibbs, Hoops, Hughes, Law, Perry, Raussen, Reidelbach, Schaffer, Schneider, Taylor, Uecker."

The motion was agreed to and the title so amended.

The title as amended was agreed to.

Representative Blasdel moved that House Rule 66, pertaining to bills being placed on the calendar, be suspended and that **Sub. H. B. No.**

**245**-Representative Reinhard, et al. be taken up for immediate consideration the third time.

The motion was agreed to without objection.

**Sub. H. B. No. 245**-Representatives Reinhard, Aslanides, Barrett, Buehrer, Core, Faber, Hagan, Hughes, Kearns, Latta, McGregor, Schlichter, Seaver, Seitz, Setzer, Ujvagi, Wagner, Webster, Widowfield, Willamowski, Fende, Perry, Key, Law, Sayre, Bubp, Uecker, Hoops.

To amend sections 125.831, 5733.98, and 5747.98 and to enact sections 122.86, 125.834, 125.835, 125.836, 901.14, 5733.47, 5733.48, 5735.40, 5747.76, and 5747.77 of the Revised Code to establish certain requirements related to the use and taxing of alternative fuels and to establish an idle reduction retrofit revolving loan program, was taken up for consideration the

third time.

The question being, "Shall the bill pass?"

Representative Skindell moved to amend as follows:

In line 8, after "125.831," insert "4928.61,"

In line 9, after "901.14," insert "4905.88,"

Between lines 243 and 244, insert:

**"Sec. 4905.88. (A) As used in this section:**

(1) "Biomass" means any organic matter, including either of the following:

(a) Any organic material from a plant that is grown exclusively to be used in the production of electricity, on land that was in crop production on the effective date of this section; or on land that is protected under the federal conservation reserve program, provided the planting does not adversely affect the water quality protection, soil erosion prevention, or wildlife habitat enhancement purposes of that program;

(b) Any solid, nonhazardous, cellulosic waste that is derived from waste pallets, crates, dunnage, or landscape or right-of-way tree trimmings, from agricultural sources including orchard tree crops, vineyards, grains, legumes, or sugar, or from any crop byproducts or residues.

"Biomass" excludes forestry resources; agricultural resource waste necessary for maintaining soil fertility or for preventing erosion; municipal or unsegregated waste or garbage that is used in combustion; or paper that is commonly recycled.

(2) "Electric services company," "electric utility," and "net metering system" have the same meanings as in section 4928.01 of the Revised Code.

(3) "Renewable energy" means energy from biomass that is available on a renewable basis; geothermal energy; energy produced by a photovoltaic technology system; wind energy; or energy from a hydroelectric facility that produces less than twenty megawatts of electricity and is certified on or after three years following the effective date of this section as a low-impact hydropower facility by the low-impact hydro institute. "Renewable energy" excludes nuclear energy and energy produced from coal, natural gas, oil, propane, or any other fossil fuel.

(4) "Renewable energy system" means any of the following:

(a) A photovoltaic technology system;

(b) A facility or energy system that both uses renewable energy to generate electricity and transmits or distributes that electricity;

(c) A net metering system that has renewable energy as its primary energy source.

(B)(1) Any electric utility that provides retail electric generation service in this state and any electric services company that provides such service shall derive at least a portion of its electricity supply from renewable energy sources as provided in divisions (B)(2) and (3) of this section.

(2) The utility or company shall comply with division (B)(1) of this section by doing one or more of the following:

(a) Acquiring its electricity supply from one or more renewable energy systems located in this state;

(b) Reducing the energy consumption of any retail electric customer in this state through energy efficiency programs or by subsidizing all or part of the acquisition or installation of one or more photovoltaic technology systems in any residence of the customer that is located in this state. In any such instance, the utility or company may count toward its compliance in each pertinent calendar year specified in division (B)(3) of this section any reduction in the number of kilowatt hours of electricity that it sells the customer in that calendar year, compared to the number of kilowatt hours it sold the customer in the calendar year prior to installation.

(c) Connecting to any net metering system located in this state that has renewable energy as its primary energy source. In any such instance, the utility or company may count toward its compliance all of the electricity generated in the pertinent calendar year by the net metering system.

(d) Using one or more, or a portion of any, renewable energy credits that it has purchased at a negotiated price or has earned or otherwise acquired, to the extent such credits are available pursuant to division (C) of this section.

(3)(a) The minimum amount of its electricity supply that a utility or company shall derive from renewable energy sources pursuant to division (B)(1) of this section shall be the following calendar year percentages of the utility's or company's total retail electric sales in this state:

| <u>Calendar year</u> | <u>Percentage</u> |
|----------------------|-------------------|
| <u>2007</u>          | <u>3%</u>         |
| <u>2008</u>          | <u>5%</u>         |
| <u>2009</u>          | <u>6%</u>         |
| <u>2010</u>          | <u>8%</u>         |
| <u>2011</u>          | <u>10%</u>        |
| <u>2012</u>          | <u>11%</u>        |
| <u>2013</u>          | <u>12%</u>        |
| <u>2014</u>          | <u>13%</u>        |
| <u>2015</u>          | <u>14%</u>        |
| <u>2016</u>          | <u>15%</u>        |
| <u>2017</u>          | <u>16%</u>        |

|   |            |
|---|------------|
| <u>2018</u>                                       | <u>17%</u> |
| <u>2019</u>                                       | <u>18%</u> |
| <u>2020</u>                                       | <u>19%</u> |
| <u>2021 and each<br/>subsequent calendar year</u> | <u>20%</u> |

(b) For the purpose of division (B)(3)(a) of this section, a utility's or company's total retail electric sales for a calendar year shall be determined by calculating, in kilowatt hours, the average of its retail electric sales in this state during each of the immediately preceding three calendar years.

(C) The public utilities commission may establish by rule a system of renewable energy credits in accordance with this section. Any such rules shall specify the amount and allowable uses of a credit and may specify the requirements and procedures for the sale of a credit. In order to encourage uniformity and assist in the development of a renewable energy credits program, the commission's rules shall follow any recognized national standard.

(D) The commission shall adopt rules requiring the filing of an annual report by each electric utility and electric services company that is subject to division (B) of this section, and may adopt such other rules as it considers necessary to promote renewable energy usage in this state by defining the duty established in that division with regard to available technologies or to ensure compliance with that division, including rules requiring the filing of additional reports. The annual report shall contain such information as the commission shall require relating to the utility's or company's compliance with division (B) of this section, and shall be in such form and filed at such time after the applicable calendar year as the commission shall prescribe. The rules may authorize the annual report to be included within the annual report filed pursuant to division (F) of section 4928.06 of the Revised Code.

(E) The commission has jurisdiction under section 4905.26 of the Revised Code, upon complaint of any person or upon complaint or initiative of the commission, to determine whether an electric utility or electric services company has failed to comply with any provision of division (B) of this section as to the amount of renewable energy required to be provided or the source of energy provided. As an exclusive remedy for such noncompliance notwithstanding any provision of law to the contrary, the commission, after reasonable notice and opportunity for hearing under section 4905.26 of the Revised Code, and upon a finding by the commission that the utility or company has failed to so comply, shall assess a forfeiture against the utility or company. The forfeiture shall be two hundred per cent of the highest trade value in the compliance period for each missing kilowatt hour.

All forfeitures the commission collects under this division shall be deposited into the state treasury and credited to the energy efficiency revolving loan fund created by section 4928.61 of the Revised Code to assist in funding the energy efficiency revolving loan program created by section 4928.62 of the Revised Code.



**Sec. 4928.61.** (A) There is hereby established in the state treasury an energy efficiency revolving loan fund, into which shall be deposited all energy efficiency revenues remitted to the director of development under division (B) of this section and all forfeitures the public utilities commission collects under division (E) of section 4905.88 of the Revised Code, for the exclusive purposes of funding the energy efficiency revolving loan program created under section 4928.62 of the Revised Code and paying the program's administrative costs. Interest on the fund shall be credited to the fund.

(B) Energy efficiency revenues shall include all of the following:

(1) Revenues remitted to the director after collection by each electric distribution utility in this state of a temporary rider on retail electric distribution service rates as such rates are determined by the public utilities commission pursuant to this chapter. The rider shall be a uniform amount statewide, determined by the director of development, after consultation with the public benefits advisory board created by section 4928.58 of the Revised Code. The amount shall be determined by dividing an aggregate revenue target for a given year as determined by the director, after consultation with the advisory board, by the number of customers of electric distribution utilities in this state in the prior year. Such aggregate revenue target shall not exceed more than fifteen million dollars in any year through 2005 and shall not exceed more than five million dollars in any year after 2005. The rider shall be imposed beginning on the starting date of competitive retail electric service and shall terminate at the end of ten years following that starting date or until the energy efficiency revolving loan fund, including interest, reaches one hundred million dollars, whichever is first.

(2) Revenues from energy efficiency revolving loan program loan repayments and payments from energy efficiency revolving loan program loan collections pursuant to section 4928.62 of the Revised Code;

(3) Adequate revenues remitted to the director after collection by a municipal electric utility or electric cooperative in this state not earlier than the starting date of competitive retail electric service upon the utility's or cooperative's decision to participate in the energy efficiency revolving loan program.

(C)(1) Each electric distribution utility in this state shall remit to the director on a quarterly basis the revenues described in divisions (B)(1) and (2) of this section. Such remittances shall begin with the first quarter following the starting date of competitive retail electric service.

(2) Each participating electric cooperative and participating municipal electric utility shall remit to the director on a quarterly basis the revenues described in division (B)(3) of this section. Such remittances shall begin with the first quarter following the participating cooperative's or utility's decision to participate.

(3) All remittances under divisions (C)(1) and (2) of this section shall

continue only until the end of ten years following that starting date or until the energy efficiency revolving loan fund, including interest, reaches one hundred million dollars, whichever is first.

(D) Any moneys collected in rates for non-low-income customer energy efficiency programs, as of the effective date of this section and not contributed to the energy efficiency revolving loan fund under division (B)(1) of this section, shall be used to continue to fund cost-effective, residential energy efficiency programs, be contributed into the universal service fund as a supplement to that required under section 4928.53 of the Revised Code, or be returned to ratepayers in the form of a rate reduction at the option of the affected electric distribution utility."

In line 586, after "125.831," insert "4928.61,"

In line 1 of the title, after "125.831," insert "4928.61,"

In line 3 of the title, after "901.14," insert "4905.88,"

In line 6 of the title, delete the second "and" and insert a comma

In line 7 of the title, after "program" insert "to establish an annual renewable energy requirement for electric utilities and electric services companies that provide retail electric generation service in Ohio, and to authorize the Public Utilities Commission to establish a system of renewable energy credits"

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

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

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

The yeas and nays were taken and resulted - yeas 52, nays 42, as follows:

Those who voted in the affirmative were: Representatives

|            |             |            |             |
|------------|-------------|------------|-------------|
| Aslanides  | Blasdel     | Blessing   | Bubp        |
| Buehrer    | Calvert     | Carmichael | Coley       |
| Collier    | Combs       | Core       | Daniels     |
| Dolan      | Evans C.    | Evans D.   | Faber       |
| Fessler    | Flowers     | Gibbs      | Gilb        |
| Hagan      | Hoops       | Hughes     | Kilbane     |
| Latta      | Law         | Martin     | McGregor J. |
| Oelslager  | Patton T.   | Peterson   | Raga        |
| Raussen    | Reinhard    | Schaffer   | Schlichter  |
| Schneider  | Seitz       | Setzer     | Smith G.    |
| Taylor     | Trakas      | Uecker     | Wagner      |
| Wagoner    | Webster     | White      | Widener     |
| Widowfield | Willamowski | Wolpert    | Husted-52.  |

Those who voted in the negative were: Representatives

|         |          |        |          |
|---------|----------|--------|----------|
| Allen   | Barrett  | Beatty | Boccieri |
| Book    | Brinkman | Brown  | Carano   |
| Cassell | Chandler | DeBose | DeGeeter |

|          |            |            |          |
|----------|------------|------------|----------|
| Distel   | Domenick   | Driehaus   | Fende    |
| Garrison | Hartnett   | Harwood    | Healy    |
| Hood     | Key        | Mason      | Miller   |
| Mitchell | Otterman   | Patton S.  | Perry    |
| Redfern  | Reidelbach | Sayre      | Skindell |
| Smith S. | Stewart D. | Stewart J. | Strahorn |
| Sykes    | Ujvagi     | Williams   | Woodard  |
| Yates    |            |            | Yuko-42. |

The motion to amend was laid on the table.

The question recurring, "Shall the bill pass?"

Representative Strahorn moved to amend as follows:

After line 625, insert:

**"Section 5.** (A) There is hereby created the Title IV-A Utility Program under which households eligible for the program receive help with home energy and weatherization costs during the winter of fiscal year 2006. The Department of Job and Family Services shall enter into an interagency agreement with the Department of Development for the Department of Development to administer the program under the Department of Job and Family Services' supervision. The program shall be administered as part of or in coordination with the low-income customer assistance programs administered under section 4928.53 of the Revised Code. Both departments shall comply with section 5101.801 of the Revised Code in administering the program.

(B) A household is eligible for the Title IV-A Utility Program if all of the following conditions are met:

(1) The household includes at least one member who is under eighteen years of age.

(2) The household does not include a member who has had participation in the Ohio Works First program terminated because of a sanction imposed under section 5107.16 of the Revised Code.

(3) The household has gross income not exceeding two hundred per cent of the federal poverty guidelines as defined in section 5101.46 of the Revised Code.

(4) In accordance with the application process established in rules adopted under division (D) of this section, the household submits a completed application for the program to a person or government entity that contracts with the Department of Development under division (C) of this section to make eligibility determinations for the program.

(5) The household meets all other eligibility requirements for the program established in rules adopted under division (D) of this section.

(C) The Department of Development shall contract with one or more

persons, government entities, or both to make eligibility determinations for the Title IV-A Utility Program. A person or government entity under contract to make the eligibility determinations shall make the determinations in accordance with rules adopted under division (D) of this section. The Directors of Development and Job and Family Services shall supervise the persons and government entities' performance of their duties under the contract.

(D) The Director of Job and Family Services shall adopt rules under division (C) of section 5101.801 of the Revised Code as necessary to implement the Title IV-A Utility Program. The rules shall establish all of the following for the program:

- (1) The application process;
- (2) The eligibility requirements;
- (3) The eligibility determination process;
- (4) The amount of help to be provided to individual households under the program;
- (5) The method by which the help is to be provided;
- (6) Anything else the Director determines necessary for the program's implementation.

**Section 6.** That Section 206.66 of Am. Sub. H.B. 66 of the 126th General Assembly be amended to read as follows:

**Sec. 206.66. JFS DEPARTMENT OF JOB AND FAMILY SERVICES**

General Revenue Fund

|             |                                 |                |                |
|-------------|---------------------------------|----------------|----------------|
| GRF 600-321 | Support Services                |                |                |
|             | State                           | \$ 63,797,907  | \$ 60,565,397  |
|             | Federal                         | \$ 8,114,493   | \$ 8,454,541   |
|             | Support Services Total          | \$ 71,912,400  | \$ 69,019,938  |
| GRF 600-410 | TANF State                      | \$ 272,619,061 | \$ 272,619,061 |
| GRF 600-413 | Child Care                      | \$ 84,120,596  | \$ 84,120,596  |
|             | Match/Maintenance of Effort     |                |                |
| GRF 600-416 | Computer Projects               |                |                |
|             | State                           | \$ 114,516,710 | \$ 117,226,021 |
|             | Federal                         | \$ 37,579,198  | \$ 34,255,465  |
|             | Computer Projects Total         | \$ 152,095,908 | \$ 151,481,486 |
| GRF 600-420 | Child Support Administration    | \$ 5,091,446   | \$ 5,091,446   |
| GRF 600-421 | Office of Family Stability      | \$ 4,864,932   | \$ 4,864,932   |
| GRF 600-423 | Office of Children and Families | \$ 5,408,020   | \$ 5,431,690   |
| GRF 600-425 | Office of Ohio Health Plans     |                |                |

|  |                                       |                   |                   |
|--|---------------------------------------|-------------------|-------------------|
|  | State                                 | \$ 24,803,631     | \$ 24,054,873     |
|  | Federal                               | \$ 26,539,544     | \$ 25,810,409     |
|  | Office of Ohio Health<br>Plans Total  | \$ 51,343,175     | \$ 49,865,282     |
| GRF 600-502                              | Child Support Match                   | \$ 16,814,103     | \$ 16,814,103     |
| GRF 600-511                              | Disability Financial<br>Assistance    | \$ 22,839,371     | \$ 22,839,371     |
| GRF 600-512                              | Non-TANF Disaster<br>Assistance       | \$ 1,000,000      | \$ 1,000,000      |
| GRF 600-513                              | Disability Medical<br>Assistance      | \$ 19,500,000     | \$ 25,500,000     |
| GRF 600-521                              | Entitlement<br>Administration - Local | \$ 151,206,401    | \$ 151,206,401    |
| GRF 600-523                              | Children and Families<br>Subsidy      | \$ 69,438,543     | \$ 69,438,543     |
| GRF 600-525                              | Health Care/Medicaid<br>State         | \$ 3,751,848,959  | \$ 3,795,940,675  |
|  | Federal                               | \$ 5,612,109,788  | \$ 5,731,692,576  |
|  | Health Care Total                     | \$ 9,363,958,747  | \$ 9,527,633,251  |
| GRF 600-526                              | Medicare Part D                       | \$ 155,349,266    | \$ 339,578,325    |
| GRF 600-528                              | Adoption Services<br>State            | \$ 33,698,298     | \$ 35,516,130     |
|  | Federal                               | \$ 40,331,807     | \$ 43,022,485     |
|  | Adoption Services Total               | \$ 74,030,105     | \$ 78,538,615     |
| TOTAL GRF General Revenue Fund           |                                       |                   |                   |
|  | State                                 | \$ 4,777,417,244  | \$ 5,006,307,564  |
|  | Federal                               | \$ 5,744,174,880  | \$ 5,868,735,476  |
|  | GRF Total                             | \$ 10,521,592,074 | \$ 10,875,043,040 |
| General Services Fund Group              |                                       |                   |                   |
| 4A8 600-658                              | Child Support Collections             | \$ 26,680,794     | \$ 26,680,794     |
| 4R4 600-665                              | BCII Services/Fees                    | \$ 36,974         | \$ 36,974         |
| 5C9 600-671                              | Medicaid Program Support              | \$ 73,015,021     | \$ 63,947,536     |
| 5N1 600-677                              | County Technologies                   | \$ 1,000,000      | \$ 1,000,000      |
| 613 600-645                              | Training Activities                   | \$ 135,000        | \$ 135,000        |
| TOTAL GSF General Services<br>Fund Group |                                       |                   |                   |
|  |                                       | \$ 100,867,789    | \$ 91,800,304     |
| Federal Special Revenue Fund Group       |                                       |                   |                   |
| 3AW 600-675                              | Faith Based Initiatives               | \$ 750,000        | \$ 750,000        |
| 3A2 600-641                              | Emergency Food<br>Distribution        | \$ 2,600,000      | \$ 2,800,000      |
| 3BB 600-635                              | Children's Hospitals -<br>Federal     | \$ 9,000,000      | \$ 9,000,000      |
| 3D3 600-648                              | Children's Trust Fund<br>Federal      | \$ 2,040,524      | \$ 2,040,524      |
| 3F0 600-623                              | Health Care Federal                   | \$ 616,011,784    | \$ 771,889,193    |
| 3F0 600-650                              | Hospital Care Assurance               | \$ 343,239,047    | \$ 343,239,047    |

|     |         |   |    |  |                  |
|-----|---------|---|----|--|------------------|
|     |         | Match   |    |  |                  |
| 3G5 | 600-655 | Interagency Reimbursement                     | \$ | 1,364,802,369                                    | \$ 1,426,954,440 |
| 3H7 | 600-617 | Child Care Federal                            | \$ | 208,000,000                                      | \$ 208,000,000   |
| 3N0 | 600-628 | IV-E Foster Care Maintenance                  | \$ | 153,963,142                                      | \$ 153,963,142   |
| 3S5 | 600-622 | Child Support Projects                        | \$ | 534,050  | \$ 534,050       |
| 3V0 | 600-688 | Workforce Investment Act                      | \$ | 208,322,037                                      | \$ 208,097,948   |
| 3V4 | 600-678 | Federal Unemployment Programs                 | \$ | 153,435,545                                      | \$ 157,202,750   |
| 3V4 | 600-679 | Unemployment Compensation Review              | \$ | 3,829,430  | \$ 3,800,573     |
| 3V6 | 600-689 | Commission - Federal TANF Block Grant         | \$ | <del>767,104,142</del><br><u>807,104,142</u>     | \$ 792,483,200   |
| 3W3 | 600-659 | TANF/Title XX Transfer                        | \$ | 8,000,000  | \$ 5,400,000     |
| 327 | 600-606 | Child Welfare                                 | \$ | 33,160,190                                       | \$ 33,090,786    |
| 331 | 600-686 | Federal Operating                             | \$ | 43,966,134                                       | \$ 44,929,546    |
| 384 | 600-610 | Food Stamps and State Administration          | \$ | 188,238,706                                      | \$ 181,250,799   |
| 385 | 600-614 | Refugee Services                              | \$ | 6,083,829  | \$ 6,542,439     |
| 395 | 600-616 | Special Activities/Child and Family Services  | \$ | 4,567,112  | \$ 4,564,877     |
| 396 | 600-620 | Social Services Block Grant                   | \$ | 120,993,012                                      | \$ 121,004,222   |
| 397 | 600-626 | Child Support                                 | \$ | 287,468,576                                      | \$ 287,468,576   |
| 398 | 600-627 | Adoption                                      | \$ | 314,639,519                                      | \$ 314,639,519   |
|     |         | Maintenance/Administration                    |    |  |                  |
|     |         | TOTAL FED Federal Special Revenue Fund Group  | \$ | <del>4,840,749,148</del><br><u>4,880,749,148</u> | \$ 5,079,645,631 |
|     |         | State Special Revenue Fund Group              |    |  |                  |
| 198 | 600-647 | Children's Trust Fund                         | \$ | 6,788,522  | \$ 6,788,522     |
| 4A9 | 600-607 | Unemployment Compensation Administration Fund | \$ | 10,811,527                                       | \$ 10,811,527    |
| 4A9 | 600-694 | Unemployment Compensation Review Commission   | \$ | 3,188,473  | \$ 3,188,473     |
| 4E3 | 600-605 | Nursing Home Assessments                      | \$ | 4,759,914  | \$ 4,759,914     |
| 4E7 | 600-604 | Child and Family Services Collections         | \$ | 1,237,500  | \$ 300,000       |
| 4F1 | 600-609 | Foundation Grants/Child and Family Services   | \$ | 61,420   | \$ 61,420        |
| 4J5 | 600-613 | Nursing Facility Bed                          | \$ | 34,613,984                                       | \$ 34,613,984    |

|   |         |   |    |  |                   |
|---|---------|---|----|--|-------------------|
|   |         | Assessments                                 |    |  |                   |
| 4J5   | 600-618 | Residential State Supplement Payments       | \$ | 15,700,000   | \$ 15,700,000     |
| 4K1   | 600-621 | ICF/MR Bed Assessments                      | \$ | 20,074,255   | \$ 20,064,131     |
| 4R3   | 600-687 | Banking Fees                                | \$ | 800,000  | \$ 800,000        |
| 4Z1   | 600-625 | HealthCare Compliance                       | \$ | 10,000,000   | \$ 10,000,000     |
| 5AA   | 600-673 | Ohio's Best Rx Administration               | \$ | 5,000,000  | \$ 5,000,000      |
| 5AX   | 600-697 | Public Assistance Reconciliation            | \$ | 60,000,000   | \$ 0              |
| 5BE   | 600-693 | Child Support Operating                     | \$ | 5,000,000  | \$ 5,000,000      |
| 5BG   | 600-653 | Managed Care Assessment                     | \$ | 18,795,483   | \$ 99,410,121     |
| 5CR   | 600-636 | Children's Hospitals - State                | \$ | 6,000,000  | \$ 6,000,000      |
| 5F2   | 600-667 | Building Consolidation                      | \$ | 250,000  | \$ 250,000        |
| 5F3   | 600-668 | Building Consolidation                      | \$ | 1,000,000  | \$ 1,000,000      |
| 5P5   | 600-692 | Health Care Services                        | \$ | 828,587,776  | \$ 538,301,761    |
| 5Q9   | 600-619 | Supplemental Inpatient Hospital Payments    | \$ | 56,125,998   | \$ 56,125,998     |
| 5R2   | 600-608 | Medicaid-Nursing Facilities                 | \$ | 160,192,055  | \$ 176,632,090    |
| 5S3   | 600-629 | MR/DD Medicaid Administration and Oversight | \$ | 1,620,960  | \$ 1,620,960      |
| 5U3   | 600-654 | Health Care Services Administration         | \$ | 10,115,870   | \$ 15,474,709     |
| 5U6   | 600-663 | Children and Family Support                 | \$ | 4,929,717  | \$ 4,929,717      |
| 5Z9   | 600-672 | TANF Quality Control Reinvestments          | \$ | 647,409  | \$ 688,421        |
| 651   | 600-649 | Hospital Care Assurance Program Fund        | \$ | 231,893,404  | \$ 231,893,404    |
| TOTAL SSR State Special Revenue Fund Group          |         |   | \$ | 1,498,194,267                                      | \$ 1,249,415,152  |
| Agency Fund Group                                   |         |   |    |  |                   |
| 192   | 600-646 | Support Intercept - Federal                 | \$ | 110,000,000  | \$ 110,000,000    |
| 5B6   | 600-601 | Food Stamp Intercept                        | \$ | 2,000,000  | \$ 2,000,000      |
| 583   | 600-642 | Support Intercept - State                   | \$ | 16,000,000   | \$ 16,000,000     |
| TOTAL AGY Agency Fund Group                         |         |   | \$ | 128,000,000  | \$ 128,000,000    |
| Holding Account Redistribution Fund Group           |         |   |    |  |                   |
| R12   | 600-643 | Refunds and Audit Settlements               | \$ | 3,600,000  | \$ 3,600,000      |
| R13   | 600-644 | Forgery Collections                         | \$ | 10,000   | \$ 10,000         |
| TOTAL 090 Holding Account Redistribution Fund Group |         |   | \$ | 3,610,000  | \$ 3,610,000      |
| TOTAL ALL BUDGET FUND GROUPS                        |         |   | \$ | <del>17,093,013,278</del><br><u>17,133,013,278</u> | \$ 17,427,514,127 |

**Section 7.** That existing Section 206.66 of Am. Sub. H.B. 66 of the 126th General Assembly is hereby repealed.

**Section 8.** The Department of Job and Family Services shall use up to \$40 million in fiscal year 2006 from the TANF Block Grant (Fund 3V6) in accordance with Section 5 of this act.

**Section 9.** Sections 5 to 9 of this act, and the items of law of which such sections are composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, such sections, and the items of law of which such sections are composed, go into immediate effect when this act becomes law."

In line 4 of the title, after "Code" insert "; to amend Section 206.66 of Am. Sub. H.B. 66 of the 126th General Assembly;"

In line 6 of the title, after "fuels" insert "; and to create the Title IV-A Utility Program under which eligible households receive help with home energy and weatherization costs during the winter of fiscal year 2006;" delete "and"

In line 7 of the title, after "program" insert "; and to make an appropriation"

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

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

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

The yeas and nays were taken and resulted - yeas 54, nays 41, as follows:

Those who voted in the affirmative were: Representatives

|             |            |            |             |
|-------------|------------|------------|-------------|
| Aslanides   | Blasdel    | Blessing   | Bubp        |
| Buehrer     | Calvert    | Carmichael | Coley       |
| Collier     | Combs      | Core       | Daniels     |
| DeWine      | Dolan      | Evans C.   | Evans D.    |
| Faber       | Fessler    | Flowers    | Gibbs       |
| Gilb        | Hagan      | Hoops      | Hughes      |
| Kilbane     | Latta      | Law        | Martin      |
| McGregor J. | Patton T.  | Peterson   | Raga        |
| Raussen     | Reidelbach | Reinhard   | Schaffer    |
| Schlichter  | Schneider  | Seitz      | Setzer      |
| Smith G.    | Stewart J. | Taylor     | Trakas      |
| Uecker      | Wagner     | Wagoner    | Webster     |
| White       | Widener    | Widowfield | Willamowski |
| Wolpert     |            |            | Husted-54.  |

Those who voted in the negative were: Representatives

|          |          |          |           |
|----------|----------|----------|-----------|
| Allen    | Barrett  | Beatty   | Bocchieri |
| Book     | Brinkman | Brown    | Carano    |
| Cassell  | Chandler | DeBose   | DeGeeter  |
| Distel   | Domenick | Driehaus | Fende     |
| Garrison | Hartnett | Harwood  | Healy     |
| Hood     | Key      | Mason    | Miller    |



|          |            |          |           |
|----------|------------|----------|-----------|
| Mitchell | Oelslager  | Otterman | Patton S. |
| Perry    | Redfern    | Sayre    | Skindell  |
| Smith S. | Stewart D. | Strahorn | Sykes     |
| Ujvagi   | Williams   | Woodard  | Yates     |
|          |            |          | Yuko-41.  |

The motion to amend was laid on the table.

The question recurring, "Shall the bill pass?"

Representative Fende moved to amend as follows:

After line 625, insert:

**"Section 5.** (A) All items in this section are hereby appropriated as designated out of any moneys in the state treasury to the credit of the General Revenue Fund. For all appropriations made in this act, those in the first column are for fiscal year 2006 and those in the second column are for fiscal year 2007. The appropriations made in this act are in addition to any other appropriations made for the 2005-2007 biennium.

#### DEV DEPARTMENT OF DEVELOPMENT

General Revenue Fund

GRF

TOTAL

TOTAL ALL BUDGET FUND GROUPS

#### HOME ENERGY ASSISTANCE PROGRAM

The foregoing appropriation item 195-518, Home Energy Assistance Program, shall be used by the Director of Development to supplement federal funds received by the state from the Home Energy Assistance Block Grant. Moneys in appropriation item 195-518, Home Energy Assistance Program, shall be used to assist eligible low-income households in paying for the cost of home energy and shall be distributed according to state and federal rules and laws for the administration of the federal Low Income Home Energy Assistance Program (LIHEAP) in effect on the effective date of this section.

(B) In addition to the appropriation made under division (A) of this section, any excess receipts from the public utility excise tax are hereby appropriated in fiscal year 2006 to appropriation item 195-518, Home Energy Assistance Program. For purposes of this section, "excess receipts" is defined as any receipts in November 2005 that exceed \$22,700,000, any receipts in February 2006 that exceed \$33,600,000, and any receipts in May 2006 that exceed \$57,900,000.

(C) Within the limits set forth in this act, the Director of Budget and Management shall establish accounts indicating the source and amount of funds for each appropriation made in this act, and shall determine the form and manner in which appropriation accounts shall be maintained. Expenditures from appropriations contained in this act shall be accounted for as though made in Am. Sub. H.B. 66 of the 126th General Assembly.

The appropriations made in this act are subject to all provisions of Am. Sub. H.B. 66 of the 126th General Assembly that are generally applicable to such appropriations.

**Section 6.** Sections 5 and 6 of this act, and the items of law of which such sections are composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, such sections, and the items of which such sections are composed, go into immediate effect when this act becomes law."

In line 6 of the title, delete the second "and" and insert a comma

In line 7 of the title, after "program" insert ", to allocate excess receipts collected from the public utility excise tax during the current fiscal year to the federal Low Income Home Energy Assistance Program, and to make an appropriation"

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

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

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

The yeas and nays were taken and resulted - yeas 52, nays 43, as follows:

Those who voted in the affirmative were: Representatives

|            |             |             |            |
|------------|-------------|-------------|------------|
| Aslanides  | Blasdel     | Blessing    | Bubp       |
| Calvert    | Carmichael  | Coley       | Collier    |
| Combs      | Core        | Daniels     | DeWine     |
| Dolan      | Evans C.    | Evans D.    | Faber      |
| Fessler    | Flowers     | Gibbs       | Gilb       |
| Hagan      | Hartnett    | Hood        | Latta      |
| Law        | Martin      | McGregor J. | Patton T.  |
| Peterson   | Raga        | Raussen     | Reidelbach |
| Reinhard   | Schaffer    | Schlichter  | Schneider  |
| Seitz      | Setzer      | Smith G.    | Stewart J. |
| Taylor     | Trakas      | Uecker      | Wagner     |
| Wagoner    | Webster     | White       | Widener    |
| Widowfield | Willamowski | Wolpert     | Husted-52. |

Those who voted in the negative were: Representatives

|          |           |          |            |
|----------|-----------|----------|------------|
| Allen    | Barrett   | Beatty   | Bocchieri  |
| Book     | Brinkman  | Brown    | Buehrer    |
| Carano   | Cassell   | Chandler | DeBose     |
| DeGeeter | Distel    | Domenick | Driehaus   |
| Fende    | Garrison  | Harwood  | Healy      |
| Hoops    | Hughes    | Key      | Kilbane    |
| Mason    | Miller    | Mitchell | Oelslager  |
| Otterman | Patton S. | Perry    | Redfern    |
| Sayre    | Skindell  | Smith S. | Stewart D. |
| Strahorn | Sykes     | Ujvagi   | Williams   |
| Woodard  | Yates     |          | Yuko-43.   |

The motion to amend was laid on the table.

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

Representative Skindell moved to amend as follows:

In line 9, after "901.14," insert "4905.89,"

Between lines 243 and 244, insert:

"Sec. 4905.89. (A)(1) The council on sustainable energy development shall monitor activity in the areas of biofuel and renewable energy for any developments that may assist in the growth in this state of companies whose business relates to biofuel and renewable energy, and shall publicize such developments. In addition, the council may submit recommendations to the president of the senate, the minority leader of the senate, the speaker of the house of representatives, and the minority leader of the house of representatives for legislation that may assist in such growth.

(2) Not later than twelve months after the effective date of this section, the council shall submit to the governor, the president of the senate, the minority leader of the senate, the speaker of the house of representatives, and the minority leader of the house of representatives a detailed analysis of a possible renewable energy standard for this state's power supply portfolio, the possible effects such a standard would have on this state, and any recommendations the council may have relative to such a standard.

(B)(1) There is hereby created the council on sustainable energy development consisting of one member of the majority party of the senate and one member of the minority party of the senate to be appointed by the president of the senate, one member of the majority party of the house of representatives and one member of the minority party of the house of representatives to be appointed by the speaker of the house of representatives, and one member to be appointed by the governor with the advice and consent of the senate to represent the general public.

The director of agriculture or the director's designee, the director of development or the director's designee, the executive director of the Ohio air quality development authority or the executive director's designee, the chairperson of the public utilities commission or the chairperson's designee, and the consumers' counsel of the office of the Ohio consumers' counsel or the consumers' counsel designee shall be nonvoting council members.

All appointments to the council shall be made not later than one hundred twenty days after the effective date of this section.

(2) The term of office for the member appointed by the governor shall be for two years. Such member shall hold office from the date of appointment until the end of the member's term, except that that member continues in office after the expiration date of that member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. A member appointed by the governor to fill a vacancy occurring prior to the

expiration date of the term for which the member was appointed shall hold office for the remainder of that term. The member appointed by the governor may be reappointed, and the governor may remove such member for misfeasance, nonfeasance, or malfeasance in office.

The members appointed by the president of the senate and the speaker of the house of representatives shall serve at the pleasure of their appointing authorities.

Vacancies shall be filled in the same manner as provided for original appointments.

(3) The council members annually shall elect from among themselves a member to serve as the chairperson of the council, a member to serve as vice-chairperson, and a member to serve as secretary to keep a record of the council's proceedings. A majority vote of a quorum of the voting members of the council is necessary to take action on any matter. The council may adopt bylaws governing its operation, including a bylaw to establish the frequency of its meetings.

(4) Members of the council on sustainable energy development shall be deemed to be public officials or officers only for the purposes of section 9.86 and Chapters 102. and 2921. of the Revised Code. Serving as a member of the council does not constitute holding a public office or position of employment so as to constitute grounds for removal of public officers or employees serving as members of the council from their offices or positions of employment. Members of the council shall file with the Ohio ethics commission the disclosure statement described in division (A) of section 102.02 of the Revised Code on the form prescribed by the commission and are subject to divisions (C) and (D) of that section. Members of the council shall serve without compensation for attending council meetings but shall receive their actual and necessary traveling and other expenses incurred in the performance of their official duties in accordance with the rules of the office of budget and management.

(C) The public utilities commission shall provide office space for the council, and the staff of the commission shall assist the council in its duties as needed."

In line 3 of the title, after "901.14," insert "4905.89,"

In line 6 of the title, delete the second "and" and insert a comma

In line 7 of the title, after "program" insert ", and to create the Council on Sustainable Energy Development"

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

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

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

The yeas and nays were taken and resulted - yeas 56, nays 39, as follows:

Those who voted in the affirmative were: Representatives

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

Those who voted in the negative were: Representatives

|          |           |          |            |
|----------|-----------|----------|------------|
| Allen    | Barrett   | Beatty   | Bocchieri  |
| Book     | Brinkman  | Brown    | Carano     |
| Cassell  | Chandler  | DeBose   | DeGeeter   |
| Distel   | Domenick  | Driehaus | Fende      |
| Garrison | Hartnett  | Harwood  | Healy      |
| Key      | Mason     | Miller   | Mitchell   |
| Otterman | Patton S. | Perry    | Redfern    |
| Sayre    | Skindell  | Smith S. | Stewart D. |
| Strahorn | Sykes     | Ujvagi   | Williams   |
| Woodard  | Yates     |          | Yuko-39.   |

The motion to amend was laid on the table.

The question recurring, "Shall the bill pass?"

Representative Skindell moved to amend as follows:

In line 9, after "901.14," insert "4905.69,"

Between lines 243 and 244, insert:

**"Sec. 4905.69. Each public utility electric light company annually shall submit a written report to the public utilities commission that contains a detailed description of that company's annual investments in renewable energy development and an inventory of that company's renewable energy assets, both in this state and in all other states in which the company does business. The report shall be submitted by such date and in such form as the commission prescribes."**

In line 3 of the title, after "901.14," insert "4905.69,"

In line 6 of the title, delete the second "and" and insert a comma

In line 7 of the title, after "program" insert ", and to require electric light companies to submit annual reports to the Public Utilities Commission containing their annual investments in renewable energy development and

inventories of their renewable energy assets"

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

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

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

The yeas and nays were taken and resulted - yeas 55, nays 39, as follows:

Those who voted in the affirmative were: Representatives

|             |            |            |            |
|-------------|------------|------------|------------|
| Aslanides   | Blasdel    | Blessing   | Bubp       |
| Buehrer     | Calvert    | Carmichael | Coley      |
| Collier     | Combs      | Core       | Daniels    |
| Dolan       | Evans C.   | Evans D.   | Faber      |
| Fessler     | Flowers    | Gibbs      | Gilb       |
| Hagan       | Hood       | Hoops      | Hughes     |
| Kilbane     | Latta      | Law        | Martin     |
| McGregor J. | Oelslager  | Patton T.  | Peterson   |
| Raga        | Rausen     | Reidelbach | Reinhard   |
| Schaffer    | Schlichter | Schneider  | Seitz      |
| Setzer      | Smith G.   | Stewart J. | Taylor     |
| Trakas      | Uecker     | Wagner     | Wagoner    |
| Webster     | White      | Widener    | Widowfield |
| Willamowski | Wolpert    |            | Husted-55. |

Those who voted in the negative were: Representatives

|          |           |          |            |
|----------|-----------|----------|------------|
| Allen    | Barrett   | Beatty   | Bocchieri  |
| Book     | Brinkman  | Brown    | Carano     |
| Cassell  | Chandler  | DeBose   | DeGeeter   |
| Distel   | Domenick  | Driehaus | Fende      |
| Garrison | Hartnett  | Harwood  | Healy      |
| Key      | Mason     | Miller   | Mitchell   |
| Otterman | Patton S. | Perry    | Redfern    |
| Sayre    | Skindell  | Smith S. | Stewart D. |
| Strahorn | Sykes     | Ujvagi   | Williams   |
| Woodard  | Yates     |          | Yuko-39.   |

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended 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  | Bocchieri  | 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   | Flowers    | Garrison |
| Gibbs    | Gilb      | Hagan      | Hartnett |

|             |           |            |             |
|-------------|-----------|------------|-------------|
| Harwood     | Healy     | Hood       | Hoops       |
| Hughes      | Key       | Kilbane    | Latta       |
| Law         | Martin    | Mason      | McGregor J. |
| Miller      | Mitchell  | Oelslager  | Otterman    |
| Patton S.   | Patton T. | Perry      | Peterson    |
| Raga        | Raussen   | Redfern    | Reidelbach  |
| Reinhard    | Sayre     | Schaffer   | Schlichter  |
| Schneider   | Seitz     | Setzer     | Skindell    |
| Smith G.    | Smith S.  | Stewart D. | Stewart J.  |
| Strahorn    | Sykes     | Taylor     | Trakas      |
| Uecker      | Ujvagi    | Wagner     | Wagoner     |
| Webster     | White     | Widener    | Widowfield  |
| Willamowski | Williams  | Wolpert    | Woodard     |
| Yates       | Yuko      |            | Husted-95.  |

The bill passed.

Representative Reinhard moved to amend the title as follows:

Add the names: "Blessing, Boccieri, Book, Calvert, Carano, Carmichael, Cassell, Chandler, Collier, Combs, Daniels, DeBose, DeGeeter, Distel, Dolan, Domenick, Evans, C., Evans, D., Flowers, Garrison, Gibbs, Gilb, Hartnett, Harwood, Healy, Martin, Mason, Miller, Oelslager, Otterman, Patton, S., Patton, T., Peterson, Raussen, Reidelbach, Schaffer, Schneider, Skindell, Smith, G., Stewart, D., Stewart, J., Taylor, Trakas, Wagoner, White, Widener, Williams, Wolpert, Yates, Yuko."

The motion was agreed to and the title so amended.

The title as amended was agreed to.

#### MESSAGE FROM THE SPEAKER

The Speaker hereby appoints the following members of the House to the Committee of Conference on matters of difference between the two houses on **Am. Sub. H.B. No. 122**-Representative Wagoner, et al.,

Representatives Wagoner, Carmichael, and Hartnett.

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

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. 106-Speaker Husted.**

Relative to the election of Ross W. McGregor to fill the vacancy in the membership of the House of Representatives created by the resignation of Merle Grace Kearns of the 72nd 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, Merle Grace Kearns of the 72nd House District has resigned as a member of the House of Representatives of the 126th General Assembly effective August 25, 2005, 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 Ross W. McGregor, 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 72nd House District, is hereby elected, effective October 5, 2005, pursuant to Section 11 of Article II, Ohio Constitution, as a member of the House of Representatives from the 72nd House District, to fill the vacancy created by the unexpired portion of the term of said Merle Grace Kearns, 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 57, 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     | Flowers    |
| Gibbs      | Gilb       | Hagan       | Hood       |
| Hoops      | Hughes     | Kilbane     | Latta      |
| Law        | Martin     | McGregor J. | Oelslager  |
| Patton T.  | Peterson   | Raga        | Rausen     |
| Reidelbach | Reinhard   | Schaffer    | Schlichter |
| Schneider  | Seitz      | Setzer      | Smith G.   |
| Stewart J. | Taylor     | Trakas      | Uecker     |
| Wagner     | Wagoner    | Webster     | White      |
| Widener    | Widowfield | Willamowski | Wolpert    |
|            |            |             | Husted-57. |



The resolution was adopted.

Mr. McGregor was escorted to bar of the House by Representatives Schneider, Widener, DeWine, T. Patton, Latta, Ueker, Driehaus, and Sykes, 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, Ross W. McGregor, 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/ ROSS W. MCGREGOR

Sworn to and subscribed before me this 5th day of October, 2005.

/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. 105**-Representative Blasdel.

Relative to the election of the majority floor leader, the assistant majority floor leader, the majority whip, and the assistant majority whip for the 126th General Assembly of Ohio.

*WHEREAS, Merle Grace Kearns of the 72nd House District has resigned as a member of the House of Representatives of the 126th General Assembly, thus creating a vacancy in the position of majority floor leader of the House of Representatives; and*

*WHEREAS, The members of the House of Representatives of the 126th General Assembly of Ohio have been advised that the caucus of Republican members have chosen Larry L. Flowers of House District #19 as majority floor leader, Kevin DeWine of House District #70 as assistant majority floor leader, Jim Carmichael of House District #3 as majority whip, and William J. Seitz of House District #30 as assistant majority whip; therefore be it*

*RESOLVED, By the members of the House of Representatives of the*

*126th General Assembly that Larry L. Flowers be, and upon adoption of this resolution is, hereby elected to the office of majority floor leader; that Kevin DeWine be, and upon adoption of this resolution is, hereby elected to the office of assistant majority floor leader; that Jim Carmichael be, and upon the adoption of this resolution is, hereby elected to the office of majority whip; and that William J. Seitz be, and upon adoption of this resolution is, hereby elected to the office of assistant majority whip.*

The yeas and nays were taken and resulted - yeas 91, nays 0, as follows:

Those who voted in the affirmative were: Representatives

|             |            |             |             |
|-------------|------------|-------------|-------------|
| Allen       | Barrett    | Beatty      | Blasdel     |
| Blessing    | Bocieri    | 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     | Flowers    | Garrison    | Gibbs       |
| Gilb        | Hagan      | Hartnett    | Harwood     |
| Healy       | Hood       | Hoops       | Hughes      |
| Key         | Kilbane    | Latta       | Law         |
| Martin      | Mason      | McGregor J. | McGregor R. |
| Miller      | Mitchell   | Oelslager   | Otterman    |
| Patton S.   | Patton T.  | Perry       | Peterson    |
| Raga        | Rausen     | Redfern     | Reidelbach  |
| Reinhard    | Sayre      | Schaffer    | Schlichter  |
| Schneider   | Seitz      | Setzer      | Skindell    |
| Smith G.    | Smith S.   | Stewart J.  | Taylor      |
| Trakas      | Uecker     | Wagner      | Wagoner     |
| Webster     | White      | Widener     | Widowfield  |
| Willamowski | Williams   | Wolpert     | Woodard     |
| Yates       | Yuko       |             | Husted-91.  |

The resolution was adopted.

Representatives Flowers, DeWine, Carmichael, and Seitz were escorted to the bar of the House by Representatives Schneider, Widener, Raga, T. Patton, Latta, and Ueker, 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 their duties.

On motion of Representative Blasdel, the House adjourned until Thursday, October 6, 2005 at 11:00 o'clock a.m.

Attest:

LAURA P. CLEMENS,  
Clerk.