

**OHIO**

**SENATE**

**JOURNAL**

TUESDAY, FEBRUARY 7, 2006

ONE HUNDRED FORTY-SIXTH DAY  
Senate Chamber, Columbus, Ohio  
**Tuesday, February 7, 2006, 1:30 p.m.**

The Senate met pursuant to adjournment.

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

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

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

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

**Sub. H. B. No. 254**-Representatives Collier, Allen, Aslanides, Coley, Daniels, DeWine, Dolan, Evans, C., Flowers, Hagan, Hartnett, Hood, Hoops, Law, Martin, McGregor, J., Peterson, Reidelbach, Reinhard, Seaver, Setzer, Smith, G., Taylor, Ujvagi, Wagner, Webster, Willamowski, Yates, Carano, Evans, D., Schlichter.

To amend sections 2151.011, 3313.48, 3313.533, 3313.62, 3317.01, and 3317.029; to enact new section 3313.481; and to repeal sections 3313.481 and 3313.482 of the Revised Code to establish a minimum school year for school districts and chartered nonpublic schools based on hours, rather than days, of instruction.

To the Committee on Education.

**Sub. H. B. No. 46**-Representatives Schaffer, McGregor, J., Fessler, Taylor, Reidelbach, Martin, Aslanides, Blessing, Brinkman, Buehrer, Cassell, Chandler, Collier, Combs, Core, Dolan, Domenick, Evans, C., Evans, D., Faber, Flowers, Gilb, Hagan, Hughes, Law, Patton, T., Raussen, Sayre, Schneider, Seitz, Setzer, Smith, G., Trakas, Wagoner, White, Willamowski, Wolpert, Yuko, Coley.

To amend section 9.833 and to enact section 305.172 of the Revised Code to permit political subdivisions to offer and make contributions to health savings accounts for employees.

To the Committee on Health, Human Services and Aging.

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

To amend sections 2151.313, 2152.72, 2930.13, 3301.0714, 3313.64, 3313.662, 3314.03, 3323.01, and 4301.69; to amend, for the purpose of adopting a new section number as indicated in parentheses, section 2151.357 (2151.362); to enact new sections 2151.357 and 2151.358 and sections 2151.355 and 2151.356; and to repeal section 2151.358 of the Revised Code to revise the procedure by which a juvenile court may seal records of alleged and adjudicated delinquent and unruly children and adjudicated juvenile traffic offenders.

To the Committee on Judiciary - Civil Justice.

**Sub. H. B. No. 374**-Representatives Hughes, Latta, Webster, Allen, Flowers, Uecker, Evans, D., McGregor, J., Skindell, Brown, Fende, Sayre, Combs, Otterman, Ujvagi, Wagoner, Yuko, Chandler, Barrett, Strahorn, Gilb, Seitz, Willamowski, Beatty, Book, Calvert, Cassell, Daniels, DeBose, DeGeeter, Domenick, Evans, C., Faber, Key, Law, Oelslager, Patton, T., Perry, Reidelbach, Schaffer, Schlichter, Schneider, Setzer, Smith, G., Stewart, D..

To amend sections 2917.46, 2933.41, 3313.206, 5502.61, and 5502.62 and to repeal section 3301.076 of the Revised Code to abolish the children's safety program known as the Block Parent Program in the State Board of Education, to establish in its place the McGruff House Program in the Division of Criminal Justice Services of the Department of Public Safety, to create the offense of unauthorized use of a McGruff house symbol, and if a citizens' reward program has entered into an agreement of affiliation with a board of county commissioners, to permit instead of require specified law enforcement agencies to pay 25 per cent of the proceeds from the sale of forfeited property to that citizens' reward program.

To the Committee on Judiciary - Criminal Justice.

**S. B. No. 269**-Senators Amstutz, Austria, Clancy, Gardner, Grendell, Jacobson, Jordan, Padgett, Schuler, Wachtmann, Zurz.

To amend section 5741.02 of the Revised Code to exempt from the use tax items held by a person, but not for that person's own use, and donated to a charitable organization.

To the Committee on Ways and Means and Economic Development.

**S. B. No. 270**-Senator Cates.

To amend sections 153.12, 153.13, 153.14, 4113.61, 4113.62, and 5559.14 and to enact section 4113.63 of the Revised Code to modify provisions governing the practice of withholding a percentage of payment from contractors, subcontractors, and material suppliers in the form of retainage.

To the Committee on Insurance, Commerce and Labor.

YES - 5: J. KIRK SCHURING, KIMBERLY A. ZURZ, JEFF JACOBSON, C. J. PRENTISS, BILL HARRIS.

NO - 0.

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

The report of the committee was accepted.

Said bills were considered a second time and referred to committee as recommended.

**BILLS FOR THIRD CONSIDERATION**

**Am. S. B. No. 211**-Senators Carey, Stivers, Niehaus, Gardner, Jordan, Mumper, Fedor, Spada, Clancy, Padgett, Fingerhut, Amstutz, Dann, Hagan, Schuring, Wachtmann.

To amend section 5511.09 and to enact section 4503.546 of the Revised Code to create "Gold Star Family" license plates and to permit local jurisdictions to request the Director of Transportation to designate a name for a bridge that is part of the highway system, was considered the third time.

The question being, "Shall the bill, **Am. S. B. No. 211**, pass?"

The yeas and nays were taken and resulted - yeas 31, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Brady
Carey	Cates	Clancy	Coughlin
Dann	Fedor	Gardner	Goodman
Hagan	Hottinger	Jacobson	Jordan
Kearney	Miller	Mumper	Niehaus
Padgett	Prentiss	Roberts	Schuler
Schuring	Spada	Stivers	Wachtmann
Wilson	Zurz		Harris-31.

So the bill passed.

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

Senator Carey moved to amend the title as follows:

Add the names: "Armbruster, Austria, Cates, Goodman, Harris, Hottinger, Kearney, Roberts, Schuler, Zurz, Jacobson, Prentiss."

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

The motion was agreed to and the title so amended.

### **INTRODUCTION AND FIRST CONSIDERATION OF BILLS**

The following bill was introduced and considered the first time:

**S. B. No. 271**-Senators Hottinger, Miller, Fedor.

To enact section 5.073 of the Revised Code to designate the Newark Earthworks as the official prehistoric monument of the state.

### **OFFERING OF RESOLUTIONS**

Senator Harris offered the following resolution:

**S. R. No. 160**-Senator Harris.

Authorizing the YMCA Youth in Government program to use the Ohio Senate Chambers to conduct its model legislature, April 6, 7, and 8, 2006.

WHEREAS, The members of the Senate of the 126th General Assembly of Ohio have learned that the Ohio-West Virginia YMCA Youth in Government program has requested permission to use the Ohio Senate Chambers for its model legislature event, April 6-8, 2006; and

WHEREAS, A beneficial educational event, the YMCA Youth in Government program provides students with the opportunity to better appreciate and understand government and its components, and the knowledge gained through this presentation will certainly be of value to all participants throughout their lifetime; and

WHEREAS, By utilizing the facilities that accommodate those involved in the state legislative process, the YMCA Youth in Government program will offer students an accurate depiction of state government and the manner in which legislation is created and processed; and

WHEREAS, Through participation in the YMCA Youth in Government program, students will be better prepared to become productive members of our complex and ever-changing society. The maturity and experience the participants will gain through their involvement in this program will not only enrich their total educational experience but also enable them to make

better-informed decisions as they assume the responsibilities of adult citizenship; therefore be it

RESOLVED, That we, the members of the Senate of the 126th General Assembly of Ohio, in adopting this Resolution, permit the Ohio-West Virginia YMCA Youth in Government program to use the Ohio Senate Chambers for its model legislature event, contingent upon the availability of those facilities, and salute its participants as conscientious young citizens; and be it further

RESOLVED, That the Clerk of the Senate transmit a duly authenticated copy of this Resolution to the YMCA Youth in Government program.

The question being, "Shall the resolution, **S. R. No. 160**, be adopted?"

The yeas and nays were taken and resulted - yeas 31, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Brady
Carey	Cates	Clancy	Coughlin
Dann	Fedor	Gardner	Goodman
Hagan	Hottinger	Jacobson	Jordan
Kearney	Miller	Mumper	Niehaus
Padgett	Prentiss	Roberts	Schuler
Schuring	Spada	Stivers	Wachtmann
Wilson	Zurz		Harris-31.

So the resolution was adopted.

Senator Harris offered the following resolution:

**S. R. No. 161**-Senator Harris.

Authorizing The Ohio Junior State of America to use the Ohio Senate Chambers to conduct its 2006 Ohio Spring State Convention.

WHEREAS, The members of the Senate of the 126th General Assembly of Ohio have learned that The Ohio Junior State of America has requested permission to use the Ohio Senate Chambers and four hearing rooms for its annual Ohio Spring State Convention, April 22-23, 2006; and

WHEREAS, A beneficial educational program, The Ohio Junior State of America provides students with the opportunity to better appreciate and understand government and its components, and the knowledge gained through this event will certainly be of value to participants in the years to come; and

WHEREAS, Utilizing the facilities that accommodate those involved in the state legislative process, The Ohio Junior State of America will effectively offer students an accurate depiction of state government and the manner in which legislation is processed; and

WHEREAS, Through participation in The Ohio Junior State of America's annual Ohio Spring State Convention, students will be better prepared to become productive members of our complex and ever-changing society. The maturity and experience participants will gain through their involvement in this program will not only enrich their total educational experience but also enable them to make better-informed decisions as they assume the responsibilities of adult citizenship; therefore be it

RESOLVED, That we, the members of the Senate of the 126th General Assembly of Ohio, in adopting this Resolution, permit The Ohio Junior State of America to use the Ohio Senate Chambers and four hearing rooms for its 2006 Ohio Spring State Convention, contingent upon the availability of those facilities, and salute its participants as some of Ohio's finest young citizens; and be it further

RESOLVED, That the Clerk of the Senate transmit a duly authenticated copy of this Resolution to The Ohio Junior State of America.

The question being, "Shall the resolution, **S. R. No. 161**, be adopted?"

The yeas and nays were taken and resulted - yeas 31, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Brady
Carey	Cates	Clancy	Coughlin
Dann	Fedor	Gardner	Goodman
Hagan	Hottinger	Jacobson	Jordan
Kearney	Miller	Mumper	Niehaus
Padgett	Prentiss	Roberts	Schuler
Schuring	Spada	Stivers	Wachtmann
Wilson	Zurz		Harris-31.

So the resolution was adopted.

**COMMUNICATIONS FROM THE GOVERNOR**

The President handed down the following messages from the Governor which were read by the Clerk:

**STATE OF OHIO  
EXECUTIVE DEPARTMENT  
OFFICE OF THE GOVERNOR  
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, John A. Kubincanek, Republican, from North Ridgeville, Lorain County, Ohio, as a Member of the State Board of Emergency Medical Services for a new term beginning January 27, 2006 and ending at the close of business November 12, 2008.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 27th day of January in the year of our Lord, two thousand and six.

[Seal]

Bob Taft,  
Governor.

**STATE OF OHIO  
EXECUTIVE DEPARTMENT  
OFFICE OF THE GOVERNOR  
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Mark B. LaPlace, Republican, from Columbus, Franklin County, Ohio, as a Member of the Ohio Cultural Facilities Commission for a term beginning January 27, 2006 and ending at the close of business December 31, 2008.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 27th day of January in the year of our Lord, two thousand and six.

[Seal]

Bob Taft,  
Governor.

**STATE OF OHIO  
EXECUTIVE DEPARTMENT  
OFFICE OF THE GOVERNOR  
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Charlene Mancuso, Democrat, from Lyndhurst, Cuyahoga County, Ohio, as a Member of the State Board of Emergency Medical Services for a term beginning January 27, 2006 and ending at the close of business November 12, 2008.



IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 27th day of January in the year of our Lord, two thousand and six.

[Seal]

Bob Taft,  
Governor.

**STATE OF OHIO  
EXECUTIVE DEPARTMENT  
OFFICE OF THE GOVERNOR  
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, John A. Pakiela, Independent, from Sagamore Hills, Summit County, Ohio, as a Member of the State Board of Emergency Medical Services for a term beginning January 27, 2006, and ending at the close of business November 12, 2008, replacing Andrew Hawk, who resigned.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 27th day of January in the year of our Lord, two thousand and six.

[Seal]

Bob Taft,  
Governor.

**STATE OF OHIO  
EXECUTIVE DEPARTMENT  
OFFICE OF THE GOVERNOR  
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Wendy J. Pomerantz, Democrat, from Cincinnati, Hamilton County, Ohio, as a Member of the State Board of Emergency Medical Services for a term beginning January 27, 2006, and ending at the close of business November 12, 2008, replacing William Cotton, whose term expired.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 27th day of January in the year of our Lord, two thousand and six.

[Seal]

Bob Taft,  
Governor.

**STATE OF OHIO  
EXECUTIVE DEPARTMENT  
OFFICE OF THE GOVERNOR  
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Barbara S. Robinson, Democrat, from Cleveland, Cuyahoga County, Ohio, as a Member of the Ohio Cultural Facilities Commission for a new term beginning January 27, 2006 and ending at the close of business December 31, 2008.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 27th day of January in the year of our Lord, two thousand and six.

[Seal]

Bob Taft,  
Governor.

Said appointments were referred to the Committee on Rules.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the Speaker of the House of Representatives has signed the following concurrent resolution:

**H. C. R. No. 19** - Representative White - et al.

Attest:

Laura P. Clemens,  
Clerk.

The President signed said concurrent resolution.

Message from the House of Representatives

Mr. President:

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

**Am. Sub. H. B. No. 301** - Representatives Seitz, Fessler, Combs, Wagoner, Coley, Trakas, Reidelbach, Gilb, White, Schneider, Willamowski, Allen, Aslanides, Barrett, Book, Carano, Cassell, Collier, Core, DeGeeter, Domenick, Evans, C., Fende, Flowers, Garrison, Gibbs, Harwood, Healy, Hughes, Key, McGregor, J., McGregor, R., Miller, Mitchell, Oelslager, Otterman, Patton, T., Sayre, Seaver, Webster, Yuko, Beatty, Mason

To amend sections 111.16, 1701.01, 1701.10, 1701.11, 1701.17, 1701.18, 1701.19, 1701.40, 1701.41, 1701.44, 1701.51, 1701.54, 1701.57, 1701.58, 1701.62, 1701.63, 1701.73, 1701.75, 1701.76, 1701.81, 1701.831, 1701.84, 1701.85, 1701.92, 1704.02, 1704.03, 1705.09, 1705.19, 1705.40, 1705.41, 1705.42, 1707.01, 1707.041, 1707.20, 1707.44, 1775.01, 1775.05, 1775.14, 1775.45 to 1775.52, 1782.435, 1782.436, and 1782.437 and to enact sections 1701.782, 1701.792, 1701.802, 1701.811, 1701.821, 1701.921, 1705.361, 1705.371, 1705.381, 1705.391, 1705.61, 1707.142, 1775.53 to 1775.56, 1782.438, 1782.439, 1782.4310, 1782.4311, and 1782.65 of the Revised Code to authorize and specify applicable provisions to conversions of business entities by corporations, limited liability companies, and general, limited liability, and limited partnerships; to expand the limited liability of registered limited liability partnerships; to limit liability to limited partnerships; to modify the Corporation Law relating to regulations or articles, shareholder rights, delegation authority, acceptable payments for shares, director meetings, executive committees, actions authorized after bankruptcy, distributions to shareholders when the issuing corporation "spins off" a subsidiary corporation, reorganization and restructuring of holding company corporations, and control share acquisitions; to modify the Limited Liability Company Law to specify acceptable forms of contributions; and to modify the Securities Law relating to dealer recordkeeping and filing requirements, tender offers, and incorporation in Ohio law of future amendments to federal securities laws.

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

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

Attest:

Laura P. Clemens,  
Clerk.

Said bills were considered the first time.

## Message from the House of Representatives

Mr. President

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

**Am. H. B. No. 102** - Representatives Wolpert, Faber, Core, Seaver, Willamowski, Raussen, Combs, G. Smith, Martin, Hoops, Reidelbach, Harwood, Allen, Buehrer, Cassell, Coley, Collier, Domenick, C. Evans, Flowers, Gibbs, Gilb, Hagan, Hood, Hughes, McGregor, Schaffer, Setzer, White, Williams Senators Amstutz, Fedor, Grendell, Niehaus, Padgett

To amend section 3111.03 and to enact section 3111.97 of the Revised Code to clarify the parentage of children born as a result of embryo donation.

Attest:

Laura P. Clemens,  
Clerk.

## Message from the House of Representatives

Mr. President

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

**Sub. S. B. No. 33** - Senators Spada, Jacobson, Amstutz, Schuler, Mumper, Armbruster, Dann, Zurz Representatives Webster, Hagan, Allen, Healy, Patton, T., Daniels, Stewart, D., Coley, Smith, G., Book, Brown, Cassell, Chandler, Combs, DeBose, DeGeeter, Distel, Domenick, Driehaus, Evans, C., Fende, Fessler, Flowers, Garrison, Gilb, Harwood, Hughes, Key, Koziura, Mason, McGregor, J., Miller, Mitchell, Oelslager, Otterman, Patton, S., Raussen, Reidelbach, Sayre, Seaver, Setzer, Skindell, Ujvagi, Williams, Yuko

To enact section 1349.61 of the Revised Code to prohibit the sale of a gift card that has an expiration date that is less than two years after the date the gift card is issued and to prohibit, for two years after issuance, any service charges or fees having the effect of reducing the value of the gift card.

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

Attest:

Laura P. Clemens,  
Clerk.

Said amendments were laid over under the rule.

On the motion of Senator Jacobson, the Senate adjourned until Wednesday, February 8, 2006 at 1:30 p.m.

Attest:

DAVID A. BATTOCLETTI,  
Clerk.