

OHIO

SENATE

JOURNAL

TUESDAY, NOVEMBER 15, 2005

ONE HUNDRED FOURTEENTH DAY
Senate Chamber, Columbus, Ohio
Tuesday, November 15, 2005, 1:30 p.m.

The Senate met pursuant to adjournment.

Prayer was offered by Pastor Ken Kirk, Grove City United Methodist Church, Grove City, 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:

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

To amend sections 4737.10 and 4737.99 of the Revised Code to require a junk yard owner's license to be suspended if the owner fails to make required changes or improvements to the owner's junk yard, to restrict the junk yard owner's activities during the suspension, and to increase the tax that may be imposed on an owner who does not make the required changes or improvements.

To the Committee on Insurance, Commerce and Labor.

S. B. No. 214-Senators Dann, Fedor, Schuring, Stivers, Hagan, Miller, Fingerhut.

To amend sections 5902.02 and 5902.08 and to enact section 5902.09 of the Revised Code to require the Director of the Governor's Office of Veterans Affairs to develop the Ohio Veterans Legion of Honor Program.

To the Committee on State and Local Government and Veterans' Affairs.

S. B. No. 215-Senators Gardner, Mumper, Grendell, Dann, Schuler, Wachtmann, Padgett, Amstutz, Jordan, Austria, Hottinger, Wilson.

To amend section 312.06 of Am. Sub. H.B. 66 of the 126th General

Assembly to ensure that investment earnings of the Agricultural Commodity Depositors Fund are credited to that Fund.

To the Committee on Finance and Financial Institutions.

S. B. No. 216-Senators Dann, Zurz.

To amend section 149.43 and to enact section 3.18 of the Revised Code to require certain state officers to keep a personal calendar and an appointment book containing certain information and to provide that their calendars and appointment books are public records subject to inspection and copying.

To the Committee on Rules.

S. B. No. 217-Senators Schuring, Padgett, Grendell, Fedor.

To enact section 4905.76 of the Revised Code to require natural gas companies to read or accept a customer's meter monthly under certain conditions.

To the Committee on Energy and Public Utilities.

S. B. No. 218-Senators Schuring, Grendell, Fedor, Dann, Brady, Miller, Zurz.

To enact section 1345.022 of the Revised Code to prohibit retail dealers from raising the price of gasoline until the service station's gasoline underground storage tanks are refilled and to create the Ohio Task Force on Gasoline Policy to review and investigate the causes and effects of the cost of gasoline in Ohio and to make policy recommendations that would ensure that citizens of Ohio are paying the lowest possible price for gasoline.

To the Committee on Energy and Public Utilities.

S. B. No. 219-Senators Schuring, Padgett, Schuler, Fedor, Dann.

To amend section 2923.11 of the Revised Code to modify the definition of "explosive device" to include household chemicals or goods knowingly combined or used to cause an explosion with intent to induce panic or cause physical harm.

To the Committee on Judiciary - Criminal Justice.

S. B. No. 220-Senators Schuring, Armbruster, Grendell, Spada.

To amend section 2915.01 of the Revised Code to modify the definition of a skill-based amusement machine that applies to the Gambling Law.

To the Committee on Judiciary - Criminal Justice.

S. B. No. 221-Senators Cates, Fedor, Clancy.

To amend sections 4507.05 and 4507.071 of the Revised Code to increase the age at which a person is eligible to obtain a temporary instruction permit from 15 years 6 months to 16 years and to prohibit the holder of a probationary driver's license from operating a motor vehicle between midnight and six a.m. or with more than one person who is not a family member occupying the vehicle.

To the Committee on Highways and Transportation.

S. B. No. 222-Senators Coughlin, Gardner, Schuring, Schuler, Wachtmann, Fedor, Zurz, Padgett, Spada.

To amend Sections 203.45, 203.54, 203.66, 203.69, 203.84, 203.87, 206.03, 206.16, 206.99, 209.04, 209.15, 209.24, 209.30, 209.33, 209.36, 209.45, 209.75, 209.81, 212.03, and 212.30 and to repeal Section 315.03 of Am. Sub. H.B. 66 of the 126th General Assembly to eliminate the consolidation of specified health-related regulatory boards within the Department of Health, other specified regulatory boards and commissions within the Department of Commerce, and the Ohio Medical Transportation Board within the Department of Public Safety and to make appropriations to these boards and commissions for fiscal year 2007.

To the Committee on Finance and Financial Institutions.

S. B. No. 223-Senators Niehaus, Schuring, Spada, Mumper, Jacobson.

To amend sections 121.04, 121.08, 169.01, 169.13, and 169.99 and to enact sections 169.14, 169.16, and 169.17 of the Revised Code to statutorily recognize the Division of Unclaimed Funds and the Office of Superintendent of Unclaimed Funds in the Department of Commerce and to require the

registration of persons who, for compensation, agree to locate or recover the unclaimed funds of another.

To the Committee on Insurance, Commerce and Labor.

S. B. No. 224-Senators Schuring, Coughlin, Dann, Hagan, Zurz.

To amend section 3734.57 and to enact section 3745.50 of the Revised Code to establish a moratorium on the issuance of permits for new solid waste landfills and expansions of existing landfills and licenses for new construction and demolition debris facilities and expansion of existing facilities in counties that are included in the Regional Hydrologic Study of the Tuscarawas River Basin conducted by the United States Geological Survey and to authorize solid waste management districts to expend money derived from district solid waste disposal and generation fees to provide funding for geological and hydrogeological surveys.

To the Committee on Environment and Natural Resources.

YES - 5: J. KIRK SCHURING, JEFF JACOBSON, MARK MALLORY, 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.

REPORTS OF STANDING AND SELECT COMMITTEES

Senator Carey submitted the following report:

The standing committee on Finance and Financial Institutions, to which was referred **S. B. No. 210**-Senators Jordan, Wachtmann, having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Cates, Padgett.

YES - 10: JOHN A. CAREY, STEPHEN C. AUSTRIA, TOM NIEHAUS, RANDY GARDNER, GARY W. CATES, JOY PADGETT, RON AMSTUTZ, PATRICIA M. CLANCY, TOM ROBERTS, CHARLES A. WILSON.

NO - 3: DAVID GOODMAN, DANIEL R. BRADY, RAY MILLER.

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

The report of the committee was accepted.

Senator Schuring submitted the following report:

The standing committee on Rules to which were referred the appointments by the Governor of:

Linda Aller, Independent, from Lewis Center, Delaware County, Ohio, as a Member of the State Board of Sanitarian Registration for a new term beginning August 26, 2005 and ending at the close of business August 15, 2008.

Rebecca B. Baute, from Mason, Warren County, Ohio, as a Member of the Ohio Medical Transportation Board for a new term beginning July 29, 2005 and ending at the close of business July 5, 2007.

Jody B. Benda, Independent, from Ada, Hardin County, Ohio, as a Member of the Ohio Occupational Therapy, Physical Therapy and Athletic Trainers Board for a new term beginning September 9, 2005 and ending at the close of business August 27, 2007.

Raymond M. Bilecky, Republican, from Columbus, Franklin County, Ohio, as a Member of the Ohio Occupational Therapy, Physical Therapy and Athletic Trainers Board for a term beginning September 9, 2005 and ending at the close of business August 27, 2007, replacing Sandra J. Pomeroy, whose term expired.

Gregory Braylock, Sr., Democrat, from South Euclid, Cuyahoga County, Ohio, as a Member of the State Board of Pharmacy for a new term beginning August 5, 2005 and ending at the close of business June 30, 2009.

Thomas J. Caldwell, Independent, from Galena, Delaware County, Ohio, as a Member of the Ohio Occupational Therapy, Physical Therapy and Athletic Trainers Board for a term beginning September 9, 2005 and ending at the close of business August 27, 2007, replacing Amy Heilmann Rocco, whose term expired.

Michael Chase, Republican, from Brecksville, Cuyahoga County, Ohio, as a Member of the Ohio Athletic Commission for a term beginning September 30, 2005 and ending at the close of business September 3, 2006, replacing David W. Troutman, who resigned.

Donna J. Conley, Republican, from Columbus, Franklin County, Ohio, as a Member of the Council on Alcohol and Drug Addiction Services for a new term beginning August 12, 2005 and ending at the close of business July 31, 2007.

John Drstvenssek, Independent, from Columbus, Franklin County, Ohio, as a Member of the Ohio Medical Transportation Board for a term beginning July 29, 2005 and ending at the close of business July 5, 2007.

Albert S. Gatka, from Parma, Cuyahoga County, Ohio, as a Member of the State Board of Emergency Medical Services for a term beginning June 18, 2004 and ending at the close of business November 12, 2005, replacing Martin Mace, who resigned.

Carolyn Givens, from Columbus, Franklin County, Ohio, as the Director of the Ohio Department of Alcohol and Drug Addiction Services for a term beginning August 4, 2005 and continuing at the pleasure of the Governor.

Timothy I. Ingram, Republican, from Maineville, Warren County, Ohio, as a Member of the Tobacco Use Prevention and Control Foundation for a new term beginning July 8, 2005 and ending at the close of business June 3, 2010.

Merle Grace Kearns, from Springfield, Clark County, Ohio, as Director of the Ohio Department of Aging for a term beginning August 29, 2005 and continuing at the pleasure of the Governor.

Edward A. Kidston, Republican, from Pioneer, Williams County, Ohio, as a Member of the Ohio Turnpike Commission for a term beginning June 24, 2005 and ending at the close of business June 30, 2011, replacing Thomas Noe, who resigned.

Betty L. Kovach, Republican, from Painesville, Lake County, Ohio, as a Member of the Ohio Medical Transportation Board for a new term beginning July 29, 2005 and ending at the close of business July 5, 2007.

Rebecca LeBron, Democrat, from Strongsville, Cuyahoga County, Ohio, as a Member of the Ohio Occupational Therapy, Physical Therapy and Athletic Trainers Board for a new term beginning September 9, 2005 and ending at the close of business August 27, 2007.

Nathan S. Lipsyc, Republican, from Pepper Pike, Cuyahoga County, Ohio, as a Member of the State Board of Pharmacy for a new term beginning August 5, 2005 and ending at the close of business June 30, 2009.

William E. Mabe, from Westerville, Delaware County, Ohio, as Administrator/CEO of the Ohio Bureau of Workers' Compensation for at term beginning October 31, 2005 and continuing at the pleasure of the Governor.

Paul G. Miller, Republican, from Lewis Center, Delaware County, Ohio, as a Member of the Ohio Occupational Therapy, Physical Therapy and Athletic Trainers Board for a new term beginning September 9, 2005 and ending at the close of business August 27, 2007.

John L. (Jack) Popadak, Republican, from Warren, Trumbull County, Ohio, as a Member of the Ohio Medical Transportation Board for a term beginning July 29, 2005 and ending at the close of business July 5, 2007.

Alan J. Rapoport, Democrat, from Cleveland Heights, Cuyahoga County, Ohio, as a Member of the Motor Vehicle Salvage Dealer's Licensing Board for a new term beginning August 5, 2005 and ending at the close of business July 31, 2008.

David O. Regula, Republican, from Navarre, Stark County, Ohio, as a Member of the Ohio Turnpike Commission for a new term beginning July 15, 2005 and ending at the close of business June 30, 2013.

R. L. Richards, from Dublin, Franklin County, Ohio, as a Member of the Tobacco Use Prevention and Control Foundation for a term beginning July 8, 2005 and ending at the close of business June 3, 2010, replacing Larry McAllister, whose term expired.

Vandadean Rogers, Democrat, from Dayton, Montgomery County, Ohio, as a Member of the Ohio Board of Dietetics for a term beginning September 30, 2005 and ending at the close of business June 30, 2010, replacing Lorna Fuller, whose term expired.

David G. Rummel, Republican, from Columbus, Franklin County, Ohio, as a Member of the Tobacco Use Prevention and Control Foundation for a new term beginning July 8, 2005 and ending at the close of business June 3, 2010.

Michael Schoenhofer, Republican, from Lima, Allen County, Ohio, as a Member of the Council on Alcohol and Drug addiction Services for a new term beginning August 12, 2005 and ending at the close of business July 31, 2007.

Richard D. Setty, Democrat, from Youngstown, Mahoning County, Ohio, as a Member of the State Board of Sanitarian Registration for a term beginning September 9, 2005 and ending at the close of business August 15, 2007, replacing Janet Rickabaugh, who resigned.

Gary Silverman, Democrat, from Bowling Green, Wood County, Ohio as a Member of the State Board of Sanitarian Registration for a new term beginning August 26, 2005 and ending at the close of business August 15, 2008.

Jason C. Stephens, Republican, from Kitts Hill, Lawrence County, Ohio, as a Member of the Ohio Medical Transportation Board for a new term beginning July 29, 2005 and ending at the close of business July 5, 2007.

Eloise V. Traina, Republican, from Salem, Columbiana County, Ohio, as a Member of the Council on Alcohol and Drug addiction Services for a new term beginning August 12, 2005 and ending at the close of business July 31, 2007.

David P. Viola, Democrat, from Minerva, Stark County, Ohio, as a Member of the Ohio Medical Transportation Board for a term beginning July 29, 2005 and ending at the close of business July 5, 2006, replacing Donald Martens, Sr., who resigned.

Janet K. Wade-Watts, Independent, from Malta, Moran County, Ohio, as a Member of the Council on Alcohol and Drug addiction Services for a new term beginning August 12, 2005 and ending at the close of business July 31, 2007.

Eugene H. Weiss, Democrat, from Solon, Cuyahoga County, Ohio, as a Member of the Ohio Athletic Commission for a new term beginning September 23, 2005 and ending at the close of business September 3, 2008.

Gary A. Weiss, Republican, from Brecksville, Cuyahoga County, Ohio, as a Member of the Ohio Occupational Therapy, Physical Therapy and Athletic Trainers Board for a term beginning September 9, 2005 and ending at the close of business August 27, 2007, replacing Thomas G. Vignos, whose term expired.

Aaron Wheeler, Sr., Republican, from Columbus, Franklin County, Ohio, as a Member of the Ohio Civil Rights Commission for a new term beginning July 29, 2005 and ending at the close of business July 28, 2010.

Walter H. Whitney, Republican, from Huntsburg, Geauga County, Ohio, as a Member of the Hearing Aid Dealers and Fitters Licensing Board for a term beginning July 8, 2005 and ending at the close of business January 25, 2009, replacing Stephen D. Wilson, whose term expired.

Willie S. Williams, Democrat, from Shaker Heights, Cuyahoga County, Ohio, as a Member of the State Board of Psychology for a term beginning July 22, 2005 and ending at the close of business October 5, 2006, replacing Deborah Plummer, who resigned.

Theodore P. Ziegler, Democrat, from Akron, Summit County, Ohio, as a Member of the Council on Alcohol and Drug addiction Services for a new term beginning August 12, 2005 and ending at the close of business July 31, 2007.

Having had the same under consideration, reports back the recommendation that the Senate advise and consent to said appointments.

YES - 10: BILL HARRIS, JEFF JACOBSON, RANDY GARDNER,
ROBERT F. SPADA, STEPHEN C. AUSTRIA, JAY
HOTTINGER, J. KIRK SCHURING, ROBERT F.
HAGAN, TERESA FEDOR, C. J. PRENTISS.

NO - 0.

The question being, "Shall the Senate advise and consent to the appointments by the Governor?"

The yeas and nays were taken and resulted - yeas 31, nays 1, as follows:

Those who voted in the affirmative were: Senators

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

Senator Brady voted in the negative-1.

So the Senate advised and consented to said appointments.

On the motion of Senator Jacobson the Senate recessed.

The Senate met pursuant to the recess.

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:

Am. S. B. No. 190 - Senators Carey, Amstutz, Zurz, Fingerhut, Dann, Roberts, Austria, Spada, Harris, Coughlin, Gardner, Grendell, Hagan, Clancy, Hottinger, Niehaus, Armbruster, Schuler Representatives Collier, Stewart, J., Aslanides, Brown, Cassell, Chandler, Combs, DeBose, Domenick, Fende, Hagan, Harwood, Hughes, Law, Otterman, Raussen, Reinhard, Schaffer, Taylor, Trakas, Wagner, Wolpert, Barrett, Buehrer, Daniels, Evans, C., Flowers, Healy, Latta, Martin, Mason, Oelslager, Reidelbach, Sayre, Schlichter, Smith, G., Widener, Williams, Yates, Gilb

To amend sections 5111.176, 5725.31, 5729.07, 5733.42, and 5747.39 of the Revised Code to extend the job training tax credit for an additional year, to accelerate and provide for the continuation of the requirement that Medicaid health insuring corporations pay a franchise permit fee, and to declare an emergency.

With the following additional amendments, in which the concurrence of the Senate is requested:

Topic: Medicaid health insuring corporations -- franchise permit fee acceleration and continuation

In line 5, after "sections" insert "5111.176,"

Between lines 6 and 7, insert:

"**Sec. 5111.176.** (A) As used in this section:

(1) "Medicaid health insuring corporation" means a health insuring corporation that holds a certificate of authority under Chapter 1751. of the Revised Code and has entered into a contract with the department of job and family services pursuant to section 5111.17 of the Revised Code.

(2) "Managed care premium" means any premium payment, capitation payment, or other payment a medicaid health insuring corporation receives for providing, or arranging for the provision of, health care services to its members or enrollees residing in this state.

(B) Except as provided in division (C) of this section, all of the following apply:

(1) Each medicaid health insuring corporation shall pay to the department of job and family services a franchise permit fee for the period December 1, 2005, through December 31, 2005, and each calendar quarter occurring ~~between January 1, 2006, and June 30, 2007~~thereafter.

(2) The fee to be paid is an amount that is equal to a percentage of the managed care premiums the medicaid health insuring corporation received in the period December 1, 2005, through December 31, 2005, and in the subsequent quarter to which the fee applies, excluding the amount of any managed care premiums the corporation returned or refunded to enrollees, members, or premium payers during ~~that the period December 1, 2005, through December 31, 2005, or the subsequent~~ quarter to which the fee applies.

(3) The percentage to be used in calculating the fee shall be four and one-half per cent, unless the department adopts rules under division (L) of this section decreasing the percentage below four and one-half per cent or increasing the percentage to not more than six per cent.

(C) The department shall reduce the franchise permit fee imposed under this section or terminate its collection of the fee if the department determines either of the following:

(1) That the reduction or termination is required to comply with federal statutes or regulations;

(2) That the fee does not qualify as a state share of medicaid expenditures eligible for federal financial participation.

(D) The franchise permit fee shall be paid on or before the thirtieth day following the end of the period December 1, 2005, through December 31, 2005, or the calendar quarter to which the fee applies. At the time the fee is submitted, the medicaid health insuring corporation shall file with the department a report on a form prescribed by the department. The corporation shall provide on the form all information required by the department and shall include with the form any necessary supporting documentation.

(E) The department may audit the records of any medicaid health insuring corporation to determine whether the corporation is in compliance with this section. The department may audit the records that pertain to the period December 1, 2005, through December 31, 2005, or a particular calendar quarter, at any time during the five years following the date the franchise permit fee payment for that period or quarter was due.

(F)(1) A medicaid health insuring corporation that does not pay the franchise permit fee in full by the date the payment is due is subject to any or all of the following:

(a) A monetary penalty in the amount of five hundred dollars for each day any part of the fee remains unpaid, except that the penalty shall not exceed an amount equal to five per cent of the total fee that was due ~~for the calendar quarter for which the penalty is being imposed;~~

(b) Withholdings from future managed care premiums pursuant to division (G) of this section;

(c) Termination of the corporation's medicaid provider agreement pursuant to division (H) of this section.

(2) Penalties imposed under division (F)(1)(a) of this section are in addition to and not in lieu of the franchise permit fee.

(G) If a medicaid health insuring corporation fails to pay the full amount of its franchise permit fee when due, or the full amount of a penalty imposed under division (F)(1)(a) of this section, the department may withhold an amount equal to the remaining amount due from any future managed care premiums to be paid to the corporation under the medicaid program. The department may withhold amounts under this division without providing notice to the corporation. The amounts may be withheld until the amount due has been paid.

(H) The department may commence actions to terminate a medicaid health insuring corporation's medicaid provider agreement, and may terminate the agreement subject to division (I) of this section, if the corporation does any of the following:

(1) Fails to pay its franchise permit fee or fails to pay the fee promptly;

(2) Fails to pay a penalty imposed under division (F)(1)(a) of this section or fails to pay the penalty promptly;

(3) Fails to cooperate with an audit conducted under division (E) of this section.

(I) At the request of a medicaid health insuring corporation, the department shall grant the corporation a hearing in accordance with Chapter 119. of the Revised Code, if either of the following is the case:

(1) The department has determined that the corporation owes an additional franchise permit fee or penalty as the result of an audit conducted

under division (E) of this section.

(2) The department is proposing to terminate the corporation's medicaid provider agreement and the provisions of section 5111.06 of the Revised Code requiring an adjudication in accordance with Chapter 119. of the Revised Code are applicable.

(J)(1) At the request of a medicaid corporation, the department shall grant the corporation a reconsideration of any issue that arises out of the provisions of this section and is not subject to division (I) of this section. The department's decision at the conclusion of the reconsideration is not subject to appeal under Chapter 119. of the Revised Code or any other provision of the Revised Code.

(2) In conducting a reconsideration, the department shall do at least the following:

(a) Specify the time frames within which a corporation must act in order to exercise its opportunity for a reconsideration;

(b) Permit the corporation to present written arguments or other materials that support the corporation's position.

(K) There is hereby created in the state treasury the managed care assessment fund. Money collected from the franchise permit fees and penalties imposed under this section shall be credited to the fund. The department shall use the money in the fund to pay for medicaid services, the department's administrative costs, and contracts with medicaid health insuring corporations.

(L) The director of job and family services may adopt rules to implement and administer this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code."

In line 416, after "sections" insert "5111.176,"

In line 420, delete "reason" and insert "reasons"; delete "is" and insert "are"; after "that" insert "(1)"

In line 423, after "employees" insert ", and (2) federal matching funds for the franchise permit fees paid by Medicaid health insuring corporations may not be available unless the fees are initially imposed prior to January 1, 2006"

In line 1 of the title, after "sections" insert "5111.176,"

In line 3 of the title, after "year" insert ", to accelerate and provide for the continuation of the requirement that Medicaid health insuring corporations pay a franchise permit fee,"

Attest:

Laura P. Clemens,
Clerk.

On the motion of Senator Jacobson **Am. S. B. No. 190**, was brought up for consideration.

The question being, "Shall the section, Section 3, setting forth the emergency features of the bill, stand as a part of the bill?"

The yeas and nays were taken and resulted - yeas 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Brady
Carey	Cates	Clancy	Coughlin
Dann	Fedor	Fingerhut	Gardner
Goodman	Grendell	Hagan	Hottinger
Jacobson	Jordan	Mallory	Miller
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Wachtmann	Wilson	Zurz	Harris-32.

So the section, Section 3, setting forth the emergency features of the bill stood as a part of the bill.

The question being, "Shall the Senate concur in the amendments of the House of Representatives?"

The yeas and nays were taken and resulted - yeas 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Brady
Carey	Cates	Clancy	Coughlin
Dann	Fedor	Fingerhut	Gardner
Goodman	Grendell	Hagan	Hottinger
Jacobson	Jordan	Mallory	Miller
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Wachtmann	Wilson	Zurz	Harris-32.

So the Senate concurred in the amendments of the House of Representatives.

BILLS FOR THIRD CONSIDERATION

Sub. S. B. No. 210-Senators Jordan, Wachtmann, Cates, Padgett.

To enact section 131.51 of the Revised Code to impose restrictions on the use of state moneys for activities involving human embryonic stem cell research or cloning, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 210**, pass?"

Senator Fingerhut moved to amend as follows:

In line 19, after "research" delete the balance of the line and insert "unless it is conducted in accordance with the federal law relating to stem cell research that is in effect when the money is so used;"

Delete lines 20 through 26

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

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

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

A roll call was requested which was properly supported.

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

Those who voted in the affirmative were: Senators

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

Those who voted in the negative were: Senators

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

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. S. B. No. 210**, pass?"

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

Those who voted in the affirmative were: Senators

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

Those who voted in the negative were: Senators

Brady	Dann	Fedor	Fingerhut
Goodman	Grendell	Hagan	Mallory
Miller	Prentiss		Zurz-11.

So the bill passed.

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

Senator Jordan moved to amend the title as follows:

Add the names: "Hottinger, Harris, Mumper, Clancy, Niehaus."

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

The motion was agreed to and the title so amended.

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

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

The question being, "Shall the bill, **H. B. No. 100**, pass?"

Senator Niehaus moved to amend as follows:

After line 75, insert:

"**Section 2.** That Section 513.03 of Am. Sub. H.B. 66 of the 126th General Assembly be amended to read as follows:

Sec. 513.03. (A) Notwithstanding any provision of law to the contrary and during the period beginning July 1, 2005, and ending ~~December 31~~May 1, 2005~~2006~~, or the effective date of H.B. 397 of the 126th General Assembly, whichever is earlier, the Director of Environmental Protection or a board of health as defined in section 3714.01 of the Revised Code shall not issue a license to open a new construction and demolition debris facility under Chapter 3714. of the Revised Code and rules adopted under it. Except as otherwise provided in this division, the moratorium established by this division applies both with respect to an application for a license to open a new construction and demolition debris facility that is submitted on or after the effective date of this section and to an application for such a license that has been submitted to the Director or a board of health prior to the effective date of this section, but concerning which a license for a facility has not been issued as of that effective date.

The board of county commissioners of a county may request the Director or a board of health to continue to process an application for a license to open a new construction and demolition debris facility in that county that has been submitted to the Director or board of health prior to the effective date of this section. After receiving such a request from a board of county commissioners, the Director or board of health may then issue a license for the new construction

and demolition debris facility notwithstanding the moratorium established by this division.

The moratorium established by this division does not apply to a license for a new construction and demolition debris facility if the new facility will be located adjacent or contiguous to a previously licensed construction and demolition debris facility. The moratorium also does not apply to an expansion of or other modification to an existing licensed construction and demolition debris facility.

(B) The moratorium established by division (A) of this section does not apply to an application for a license to establish a construction and demolition debris facility pending before a board of health or the Director of Environmental Protection, as applicable, prior to July 1, 2005, and such an application shall be reviewed and the license shall be issued or denied in accordance with Chapter 3714. of the Revised Code, if all of the following apply to the applicant for the license:

(1) The applicant has acquired an interest in the property on which the facility will be located on or before May 1, 2005.

(2) The applicant has begun a hydrogeologic investigation pursuant to section 3745-400-09 of the Ohio Administrative Code prior to submitting the application.

(3) The applicant has begun the engineering plans for the facility prior to submitting the application.

(4) The application submitted by the applicant would have been determined to be complete if the moratorium had not been in effect.

The director shall determine whether this division applies to an applicant within forty-five days after receiving an applicant's request for a determination under this division.

(C)(1) There is hereby created the Construction and Demolition Debris Facility Study Committee composed of the following thirteen members:

(a) Three members of the House of Representatives appointed by the Speaker of the House of Representatives;

(b) Three members of the Senate appointed by the President of the Senate;

(c) The Director of Environmental Protection or the Director's designee;

(d) One member representing health districts in the state appointed by the Governor;

(e) Three members representing the construction and demolition debris industry in the state appointed by the Governor, one of whom shall be the owner of both a construction and demolition debris facility and a solid waste disposal facility;

(f) Two members representing environmental consulting organizations or firms in the state appointed by the Governor.

Appointments shall be made to the Committee not later than fifteen days after the effective date of this section. Members of the Committee shall not receive compensation for their service on the Committee and shall not receive reimbursement for expenses incurred related to that service.

(2) The Committee shall study the laws of this state governing construction and demolition debris facilities and the rules adopted under those laws and shall make recommendations to the General Assembly regarding changes to those laws including, but not limited to, recommendations concerning the following topics:

(a) The establishment of a code of ethics for owners and operators of construction and demolition debris facilities;

(b) The establishment of best management practices;

(c) Licensing requirements;

(d) Testing and monitoring requirements and protocols;

(e) Siting and setback criteria for construction and demolition debris facilities;

(f) State and local oversight and regulatory authority;

(g) Fees;

(h) The regulation of construction and demolition debris from sources inside and outside the state;

(i) The closure process for construction and demolition debris facilities.

(3) The Committee shall submit a report of its study and any recommendations that it has developed to the General Assembly not later than September 30, 2005. The Committee shall cease to exist on the date on which it submits its report.

The General Assembly shall enact legislation based on the recommendations of the Committee as soon as is practicable.

Section 3. That existing Section 513.03 of Am. Sub. H.B. 66 of the 126th General Assembly is hereby repealed.

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 a moratorium on the siting of new construction and demolition debris facilities and the expansion of existing facilities is due to expire on December 31, 2005, and additional statutory requirements related to such facilities are necessary to protect public health and the environment. Therefore, this act shall go into immediate effect."

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

Senator Dann moved to amend the amendment.

In line 54 of the amendment, after "application" insert "was"; after "applicant" insert "prior to May 1, 2005 and"

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

On the motion of Senator Harris the Senate recessed.

The Senate met pursuant to the recess.

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

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

Those who voted in the affirmative were: Senators

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

Those who voted in the negative were: Senators

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

So the motion to amend the amendment was not agreed to.

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

The yeas and nays were taken and resulted - yeas 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Brady
Carey	Cates	Clancy	Coughlin
Dann	Fedor	Fingerhut	Gardner
Goodman	Grendell	Hagan	Hottinger
Jacobson	Jordan	Mallory	Miller
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Wachtmann	Wilson	Zurz	Harris-32.

The motion was agreed to.

The question being, "Shall the section, Section 4, setting forth the emergency features of the bill, stand as a part of the bill?"

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

Those who voted in the affirmative were: Senators

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

Those who voted in the negative were: Senators

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

So the section, Section 4, setting forth the emergency features of the bill did not stand as a part of the bill.

The question being, "Shall the bill, **H. B. No. 100**, pass?"

The yeas and nays were taken and resulted - yeas 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Brady
Carey	Cates	Clancy	Coughlin
Dann	Fedor	Fingerhut	Gardner
Goodman	Grendell	Hagan	Hottinger
Jacobson	Jordan	Mallory	Miller
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Wachtmann	Wilson	Zurz	Harris-32.

So the bill passed.

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

Senator Niehaus moved to amend as follows:

In line 1 of the title, after "Code" insert "and to amend Section 513.03 of Am. Sub. H.B. 66 of the 126th General Assembly"

In line 4 of the title, after "fee" insert ", to extend the moratorium on the issuance of licenses for new construction and demolition debris facilities, and to create an exemption to the moratorium under certain circumstances"

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

The motion was agreed to.

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

Senator Niehaus moved to amend the title as follows:

Add the names: "Grendell, Niehaus, Cates, Coughlin, Schuring."

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

The motion was agreed to and the title so amended.

Am. H. B. No. 226-Representatives Hoops, C. Evans, Flowers, Kearns, Martin, McGregor, Seitz, Setzer, Wagoner, Brown, Hartnett, Koziura, Willamowski, Barrett, Coley, Combs, Daniels, Domenick, Harwood, Otterman.

To amend section 1901.26 of the Revised Code to authorize the legislative authority of a municipal corporation to establish a schedule of fees to be taxed as costs in a civil, criminal, or traffic proceeding in a municipal court for services performed by officers or employees of the municipal corporation's police department or marshal's office, was considered the third time.

The question being, "Shall the bill, **Am. H. B. No. 226**, pass?"

Senator Jacobson moved to amend as follows:

After line 173, insert:

"Section 3. Notwithstanding Section 502.03 of Am. Sub. H.B. 66 of the 126th General Assembly, the assets of funds that at the time that section took effect were invested in investments that are prohibited by section 4121.12 of the Revised Code and the assets of funds that, in the twelve months immediately preceding the effective date of that section, had been invested in investments that are prohibited by section 4121.12 of the Revised Code shall be divested in the most expedient time possible to obtain the maximum value during the liquidation unless the assets are being held as evidence in a criminal investigation or prosecution. If the assets are being held as evidence in a criminal investigation or prosecution, the assets shall be divested in the most expedient time possible to obtain the maximum value during the liquidation after the investigation or prosecution has concluded."

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

The yeas and nays were taken and resulted - yeas 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Brady
Carey	Cates	Clancy	Coughlin
Dann	Fedor	Fingerhut	Gardner
Goodman	Grendell	Hagan	Hottinger
Jacobson	Jordan	Mallory	Miller
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Wachtmann	Wilson	Zurz	Harris-32.

The motion was agreed to.

The question recurred, "Shall the bill, **Am. H. B. No. 226**, pass?"

The yeas and nays were taken and resulted - yeas 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Brady
Carey	Cates	Clancy	Coughlin
Dann	Fedor	Fingerhut	Gardner
Goodman	Grendell	Hagan	Hottinger
Jacobson	Jordan	Mallory	Miller
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Wachtmann	Wilson	Zurz	Harris-32.

So the bill passed.

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

Senator Jacobson moved to amend as follows:

In line 8 of the title, after "office" insert "and to revise the law regarding the Workers' Compensation Oversight Commission's reporting requirements concerning investments"

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

The motion was agreed to.

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

Senator Goodman moved to amend the title as follows:

Add the names: "Schuler, Carey, Cates."

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

The motion was agreed to and the title so amended.

Sub. H. B. No. 246-Representatives Oelslager, Willamowski, Aslanides, Barrett, Beatty, Book, Buehrer, Carano, Coley, Collier, Combs, Daniels, DeGeeter, Domenick, C. Evans, Gilb, Hagan, Harwood, Healy, Hughes, Latta, McGregor, Otterman, T. Patton, Reidelbach, Sayre, Schaffer, Schlichter, Seaver, Setzer, Skindell, G. Smith, J. Stewart, Williams Senator Zurz.

To amend section 2106.18 and to enact sections 1337.18, 1337.19, and 1337.20 of the Revised Code to permit a surviving spouse to take a motorcycle as one of the two automobiles the surviving spouse may receive outside of probate, to create a statutory form for the creation of a power of attorney, to set forth the general powers of an attorney in fact under a power of attorney, and to provide for the construction of the powers of an attorney in fact under a power of attorney created by use of the statutory form, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 246**, pass?"

The yeas and nays were taken and resulted - yeas 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Brady
Carey	Cates	Clancy	Coughlin
Dann	Fedor	Fingerhut	Gardner
Goodman	Grendell	Hagan	Hottinger
Jacobson	Jordan	Mallory	Miller
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Wachtmann	Wilson	Zurz	Harris-32.

So the bill passed.

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

Senator Goodman moved to amend the title as follows:

Add the names: "Carey, Grendell, Niehaus."

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

The motion was agreed to and the title so amended.

S. B. No. 114-Senators Goodman, Harris, Coughlin, Amstutz, Spada, Wachtmann, Gardner, Jordan, Carey, Schuler, Schuring, Padgett, Fedor, Dann.

To amend section 5533.09 of the Revised Code to designate Interstate Routes 70 and 71 as the "Purple Heart Trail, was considered the third time."

The question being, "Shall the bill, **S. B. No. 114**, pass?"

The yeas and nays were taken and resulted - yeas 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Brady
Carey	Cates	Clancy	Coughlin
Dann	Fedor	Fingerhut	Gardner
Goodman	Grendell	Hagan	Hottinger
Jacobson	Jordan	Mallory	Miller
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Wachtmann	Wilson	Zurz	Harris-32.

So the bill passed.

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

Senator Goodman moved to amend the title as follows:

Add the names: "Armbruster, Austria, Brady, Cates, Clancy, Fingerhut, Grendell, Hagan, Hottinger, Jacobson, Mallory, Miller, Mumper, Niehaus, Prentiss, Roberts, Wilson, Zurz."

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

The motion was agreed to and the title so amended.

Am. S. B. No. 121-Senator Hottinger.

To enact section 5533.321 of the Revised Code to designate a bridge on State Route 13 in Licking County as the "K.I.A. Memorial Bridge, was considered the third time."

The question being, "Shall the bill, **Am. S. B. No. 121**, pass?"

The yeas and nays were taken and resulted - yeas 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Brady
Carey	Cates	Clancy	Coughlin
Dann	Fedor	Fingerhut	Gardner
Goodman	Grendell	Hagan	Hottinger
Jacobson	Jordan	Mallory	Miller
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Wachtmann	Wilson	Zurz	Harris-32.

So the bill passed.

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

Senator Hottinger moved to amend the title as follows:

Add the names: "Austria, Carey, Armbruster, Grendell, Goodman, Spada, Miller, Wachtmann, Gardner, Coughlin, Padgett, Mallory, Zurz, Prentiss, Amstutz, Brady, Cates, Clancy, Dann, Fedor, Fingerhut, Hagan, Harris, Jacobson, Jordan, Mumper, Niehaus, Roberts, Schuler, Schuring, Wilson."

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 bills were introduced and considered the first time:

S. B. No. 225-Senators Zurz, Dann, Hagan, Roberts.

To amend sections 3125.18, 5101.35, 5101.80, 5101.801, and 5153.16 and to enact section 5101.804 of the Revised Code to require the Director of Job and Family Services to establish a TANF program that provides help to eligible households for home and energy and weatherization costs and to make an appropriation.

S. B. No. 226-Senators Cates, Wilson, Zurz, Stivers.

To amend sections 505.38, 737.08, 737.22, 3737.66, 4765.01, 4765.04, 4765.49, and 4765.55 of the Revised Code to provide for the adoption of rules governing firefighter training.

S. B. No. 227-Senator Mumper.

To enact section 5533.331 of the Revised Code to designate a portion of State Route 423 within Marion County the "Deputy Brandy Winfield Memorial Highway."

OFFERING OF RESOLUTIONS

Senator Dann offered the following concurrent resolution:

S. C. R. No. 21-Senators Dann, Fedor, Hagan.

To direct the Ohio Attorney General to file suit against state elected officers and candidates for state elective office to return campaign contributions from Thomas and Bernadette Noe to the Bureau of Workers' Compensation.

The question being, "Shall the concurrent resolution, **S. C. R. No. 21**, be adopted?"

On motion of Senator Jacobson, **S. C. R. No. 21**, was referred to the

Committee on Reference.

Pursuant to Senate Rule No. 54, the following resolutions were offered:

S. R. No. 130-Senators Prentiss, Wilson, Zurz, Dann, Fedor, Fingerhut, Brady, Hagan, Mallory, Roberts, Miller.

Honoring Melinda Battenberg for outstanding service to the State of Ohio.

S. R. No. 131-Senator Cates.

In memory of Lance Corporal Michael J. Cifuentes.

S. R. No. 132-Senator Cates.

In memory of Private First Class Timothy J. Hines, Jr.

S. R. No. 133-Senator Cates.

In memory of Private First Class Marlin T. Rockhold.

S. R. No. 134-Senator Cates.

In memory of Lance Corporal Timothy M. Bell, Jr.

S. R. No. 135-Senator Cates.

In memory of Lance Corporal Taylor Bradley Prazynski.

S. R. No. 136-Senator Cates.

In memory of Sergeant Charles J. Webb.

The question being, "Shall the resolutions listed under the President's prerogative be adopted?"

So the resolutions were 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, Adam K. Brandt, Independent, from Bexley, Franklin County, Ohio, as a Member of the Ohio Cultural Facilities Commission for a term beginning November 4, 2005 and ending at the close of business December 31, 2007.

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 7th day of November in the year of our Lord, two thousand and five.

[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, Harry J. Lehman, Democrat, from New Albany, Franklin County, Ohio, as a Member of the Ohio Cultural Facilities Commission for a term beginning November 4, 2005 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 7th day of November in the year of our Lord, two thousand and five.

[Seal]

Bob Taft,
Governor.

Said appointments were referred to the Committee on Rules.

MESSAGE FROM THE PRESIDENT

Pursuant to Section 2151.282 of H. B. No. 66 of the 126th General Assembly, the President of the Senate appoints the following public member to serve on the Ohio Court Appointed Special Advocate/Guardian Ad Litem Study Committee:

Judge Ron Spon
Richland County Juvenile Justice Center
Mansfield, Ohio

Pursuant to Section 2151.282 of H. B. No. 66 of the 126th General Assembly, the Minority Leader of the Senate appoints the following public member to serve on the Ohio Court Appointed Special Advocate/Guardian Ad Litem Study Committee:

M. Kathryn Smith

Office of the Ohio State Public Defender
Columbus, Ohio

On the motion of Senator Jacobson, the Senate adjourned until Wednesday,
November 16, 2005 at 1:30 p.m.

Attest:

DAVID A. BATTOCLETTI,
Clerk.