

**OHIO**

**SENATE**

**JOURNAL**

TUESDAY, DECEMBER 6, 2005

ONE HUNDRED TWENTY-SECOND DAY  
Senate Chamber, Columbus, Ohio  
**Tuesday, December 6, 2005, 1:30 p.m.**

The Senate met pursuant to adjournment.

Prayer was offered by Reverend Abeoseh Flemister, Trinity Episcopal Church, Columbus, Ohio, followed by the Pledge of Allegiance to the Flag.

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

Senator Jacobson moved that the Senate advance to the Ninth Order of Business, Offering of Resolutions.

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

The motion was agreed to.

**OFFERING OF RESOLUTIONS**

**S. R. No. 143**-Senator Prentiss.

Relative to the appointment of Eric H. Kearney to fill the vacancy in the membership of the Senate created by the resignation of Mark Mallory of the 9th Senatorial District.

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

WHEREAS, Mark Mallory of the 9th Senatorial District has resigned as a member of the Senate effective November 30, 2005, thus creating a vacancy in the Senate; now therefore be it

RESOLVED, By the members of the Senate who are affiliated with the Democrat party, that Eric H. Kearney (Democrat), having the qualifications set forth in the Ohio Constitution and the laws of Ohio to be a member of the Senate from the 9th Senatorial District is hereby appointed, pursuant to Section 11 of Article II, Ohio Constitution, as a member of the Senate from the 9th Senatorial District, to fill the vacancy created by Mark Mallory; and be it further

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

The question being, "Shall the resolution, **S. R. No. 143**, be adopted?"

The yeas and nays were taken and resulted - yeas 10, nays 0, as follows:

Those who voted in the affirmative were: Senators

Brady	Dann	Fedor	Fingerhut
Hagan	Miller	Prentiss	Roberts
Wilson			Zurz-10.

So the resolution was agreed to.

Senator-elect Kearney appeared at the bar of the Senate and was administered the oath of office by the Honorable Nadine Allen, Judge, Hamilton County Municipal Court.

Senator Fedor nominated Senator Kimberly A. Zurz of the Twenty-eighth District for the office of Assistant Minority Leader.

Senator Hagan seconded the nomination.

On the motion of Senator Roberts, the nominations were closed.

The question being, "Shall Senator Kimberly A. Zurz be elected Assistant Minority Leader?"

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	Kearney	Miller
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Harris-32.

Senator Kimberly A. Zurz having recieved a majority of the votes cast was declared the elected Assistant Minority Leader.

Senator Zurz appeared at the bar of the Senate and was administered the oath of office by the Honorable Linda Teodosio, Judge, Summit County Juvenile Court.

Senator Jacobson moved that the Senate revert to the First Order of Business, Reports of Reference and Bills for Second Consideration.

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

The motion was agreed to.

**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. H. B. No. 82**-Representatives Hughes, Allen, Barrett, Boccieri, Brown, Chandler, DeBose, Domenick, Evans, C., Fende, Flowers, McGregor, J., Patton, S., Patton, T., Perry, Reidelbach, Schaffer, Schneider, Seitz, Stewart, D., Yuko.

To amend sections 4777.01, 4777.02, 4777.03, and 4777.04 of the Revised Code to change the professional title "Industrial Hygienist in Training" to "Certified Associate Industrial Hygienist" with respect to the practice of industrial hygiene.

To the Committee on Insurance, Commerce and Labor.

**Am. H. B. No. 85**-Representatives Blessing, Combs, Flowers, Hagan, Martin, Reinhard, Smith, G..

To amend section 4928.20 and to enact section 4928.21 of the Revised Code to limit retail electric service automatic governmental aggregation and to create a "Do Not Aggregate" list.

To the Committee on Energy and Public Utilities.

**Am. H. B. No. 214**-Representatives Hughes, Combs, C. Evans, Latta, McGregor, Seitz, Setzer, Cassell, Domenick, Harwood, Oelslager, Patton, T., Reidelbach, Smith, G., Wagoner.

To amend section 2935.09 of the Revised Code to limit the role of clerks of court in the procedures regarding the filing by private persons of affidavits alleging that a person committed a criminal offense and to require that an appropriate official review affidavits filed by private persons to determine if a complaint should be filed.

To the Committee on Judiciary - Criminal Justice.

**H. B. No. 336**-Representatives Core, Willamowski, Harwood, Bubb, Coley, Schaffer, Barrett, Boccieri, Combs, Daniels, DeBose, DeGeeter, Domenick, Evans, C., Fessler, Flowers, Hughes, Latta, Oelslager, Patton, T., Seaver, Seitz, Stewart, J., Wagoner, Wolpert.

To amend section 1901.08 of the Revised Code to change the status of the judge of the Marysville Municipal Court from part-time to full-time.

To the Committee on Judiciary - Civil Justice.

**H. B. No. 352**-Representatives Redfern, Fende, Key, Patton, S., Perry, Barrett, Beatty, Boccieri, Brown, DeBose, DeGeeter, Distel, Domenick, Driehaus, Evans, C., Faber, Hoops, Hughes, Latta, Mason, McGregor, J., McGregor, R., Miller, Oelslager, Otterman, Patton, T., Sayre, Schaffer, Stewart, D., Stewart, J., Uecker, Ujvagi, Wagoner, Williams, Yates, Yuko.

To amend sections 4511.21 and 4511.251 of the Revised Code to establish a 35-mile per hour speed limit for highways outside municipal corporations within island jurisdictions.

To the Committee on Highways and Transportation.

**S. B. No. 228**-Senator Schuring.

To amend sections 3715.87, 3715.871, 3715.872, and 3715.873 of the Revised Code to require terminal and wholesale distributors of dangerous drugs to send to the Drug Repository Program unused or unsold prescription drugs that qualify for the Program.

To the Committee on Health, Human Services and Aging.

**S. B. No. 229**-Senators Coughlin, Wachtmann.

To amend section 2950.99 and to enact sections 2950.15 and 4503.237 of the Revised Code to create a sex offender license plate and to establish the conditions for its use.

To the Committee on Judiciary - Criminal Justice.

**S. B. No. 230**-Senators Roberts, Dann, Fedor, Hagan, Miller.

To amend sections 903.02, 903.04, 903.05, and 903.10, to enact sections 149.551, 149.552, 903.021, 903.101, and 903.102, and to repeal section 903.20 of the Revised Code to revise the law governing concentrated animal feeding facilities, to require the placement of the historic village of Longtown on the State Registry of Historic Landmarks, and to prohibit development on

land within an historic site that is on the State Registry and that was formed by freedmen or escaped slaves.

To the Committee on Agriculture.

**S. B. No. 231**-Senator Schuring.

To generally impose a moratorium for one year on increases in medical malpractice insurance premiums and to declare an emergency.

To the Committee on Insurance, Commerce and Labor.

**S. B. No. 232**-Senators Schuring, Coughlin, Dann, Fingerhut, Fedor, Grendell, Padgett.

To amend sections 101.15, 121.22, and 149.011 of the Revised Code to specifically provide that a public body cannot engage in actions that have the effect of circumventing the requirements of Ohio's open meetings laws, such as conducting prearranged discussions of public business via electronic mail, and that electronic mail created or received by or coming under the jurisdiction of any public office may qualify as a public record.

To the Committee on Judiciary - Civil Justice.

**S. B. No. 233**-Senators Hagan, Fedor, Zurz.

To amend section 5739.02 of the Revised Code to expand the sales tax exemption for sales of natural gas, and to extend the exemption to sales of propane.

To the Committee on Ways and Means and Economic Development.

**S. B. No. 234**-Senator Niehaus.

To amend sections 3714.01, 3714.02, 3714.03, 3714.04, 3714.05, 3714.06, 3714.071, 3714.09, 3714.11, 3714.12, 3714.13, and 3734.281 and to enact sections 3714.051, 3714.052, 3714.053, 3714.061, 3714.062, 3714.081, 3714.082, 3714.083, 3714.101, and 3714.20 of the Revised Code to revise the statutes governing construction and demolition debris facilities and to declare an emergency.

To the Committee on Environment and Natural Resources.

**S. B. No. 235**-Senators Padgett, Wilson, Amstutz, Armbruster, Carey, Cates, Clancy, Fingerhut, Mumper, Niehaus, Schuring, Zurz.

To amend section 3706.01 of the Revised Code to revise the definition of "air quality facility" under the Air Quality Development Authority Law.

To the Committee on Environment and Natural Resources.

**S. B. No. 236**-Senator Carey.

To amend sections 151.01, 151.02, 184.01, 184.02, and 184.03 and to enact sections 122.085, 122.086, 122.087, 122.088, 122.089, 122.0810, 122.0811, 122.0812, 122.0813, 122.0814, 122.0815, 122.0816, 122.0817, 122.0818, 122.0819, 122.0820, 151.10, 151.11, 184.10, 184.11, 184.111, 184.112, 184.113, 184.114, 184.115, 184.12, 184.13, 184.14, 184.15, 184.16, 184.17, 184.171, 184.172, 184.173, and 184.18 of the Revised Code, and to amend sections 203.99, 203.99.33, 203.99.51, and 209.99 of Am. Sub. H.B. 66 of the 126th General Assembly to implement certain provisions of Article VIII, Section 2p of the Ohio Constitution regarding the issuance of obligations to support research and development projects and the development of certain sites and facilities and to make an appropriation.

To the Committee on Finance and Financial Institutions.

**S. B. No. 237**-Senators Dann, Fingerhut, Miller, Hagan, Brady.

To amend sections 351.021, 5733.98, 5739.09, and 5747.98 and to enact sections 122.85, 5733.59, 5733.60, 5739.091, 5747.66, and 5747.67 of the Revised Code to create tax credits against corporation franchise or income tax liability for investments in a state-certified motion picture production and for a motion picture production company that employs Ohio residents, and to rebate to a motion picture production company lodging taxes paid by it.

To the Committee on Ways and Means and Economic Development.

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.

### **REPORTS OF STANDING AND SELECT COMMITTEES**

Senator Schuring submitted the following report:

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

**Robert W. Boden**, Republican, from Cincinnati, Hamilton County, Ohio, as a Member of the Ohio Venture Capital Authority for a term beginning October 28, 2005 and ending at the close of business January 31, 2009, replacing James E. Schwab, who resigned.

**Julianne Bruzina**, Democrat, from Cincinnati, Hamilton County, Ohio, as a Member of the Credit Union Council for a term beginning October 28, 2005 and ending at the close of business September 9, 2008.

**Katherine Garman**, Democrat, from Campbell, Mahoning County, Ohio, as a Member of the Financial Planning and Supervision Commission for the City of Campbell for a term beginning October 28, 2005 and continuing at the pleasure of the Governor, replacing F. Anthony Fontes, who resigned.

**Jeff Grey**, Republican, from Celina, Mercer County, Ohio, as a Member of the County Sheriff's Standard Car-Marking and Uniform Commission for a term beginning April 1, 2005 and serving at the pleasure of the Governor, replacing Sheriff Stephen Saltsman, who resigned.

**Bonny Huffman**, Republican, from Wellston, Jackson County, Ohio, as a Member of the Rio Grande Community College Board of Trustees for a term beginning October 28, 2005 and ending at the close of business October 10, 2010.

**Thomas Karr**, Democrat, from Pomeroy, Meigs County, Ohio, as a Member of the Rio Grande Community College Board of Trustees for a new term beginning October 28, 2005 and ending at the close of business October 10, 2010.

**John Lattanzi**, Democrat, from North Jackson, Mahoning County, Ohio, as a Member of the Credit Union Council for a new term beginning October 28, 2005 and ending at the close of business September 9, 2008.

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

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

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 33, 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	Kearney	Miller
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the Senate advised and consented to said appointments.

## HOUSE AMENDMENTS TO SENATE BILLS AND RESOLUTIONS

The amendments of the House of Representatives to:

**Am. Sub. S. B. No. 87**-Senators Wachtmann, Hagan, Gardner, Mumper, Clancy, Amstutz, Austria, Carey, Niehaus, Padgett, Schuring, Jordan, Harris, Zurz, Schuler, Armbruster, Brady, Cates, Coughlin, Dann, Fedor, Fingerhut, Goodman, Grendell, Hottinger, Jacobson, Mallory, Miller, Prentiss, Roberts, Spada, Wilson Representatives Raussen, Barrett, Beatty, Brown, Martin, Smith, G., Combs, Smith, S., Schneider, Mason, Allen, Blessing, Buehrer, Cassell, Collier, DeBose, DeGeeter, Distel, Domenick, Evans, C., Fende, Flowers, Garrison, Gilb, Hagan, Harwood, Healy, Hoops, Hughes, Key, Koziura, Latta, Otterman, Patton, T., Reidelbach, Sayre, Seitz, Setzer, Stewart, D., Ujvagi, Wagoner, Webster, Willamowski, Yuko.

To amend sections 3721.011, 3721.04, 4766.09, 4766.14, 5111.971, 5126.15, and 5126.20 and to enact section 5126.201 of the Revised Code and to amend Section 206.66.53 of Am. Sub. H.B. 66 of the 126th General Assembly regarding the provision of hospice care in residential care facilities and the addition of four legislators as non-voting members of the Medicaid Administrative Study Council, regarding the Medicaid voucher pilot program,

to exempt certain entities from the Medical Transportation Law, to establish minimum requirements to be a conditional status service and support administrator, and to make a change regarding who can supervise conditional status service and support administrators, were taken up.

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

The yeas and nays were taken and resulted - yeas 33, 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	Kearney	Miller
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

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

The amendments of the House of Representatives to:

**Am. S. B. No. 144**-Senators Schuler, Clancy, Mumper, Spada Representatives Seitz, Collier, Cassell, Distel, Schaffer, Barrett, Combs, DeBose, Domenick, Fende, Fessler, Flowers, Hartnett, Hughes, Miller, Raga, Schneider, Stewart, D., Yuko.

To amend section 4763.05 of the Revised Code to modify the Ohio Real Estate Appraiser law with respect to the temporary registration of appraisers licensed or certified in another state, were taken up.

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

The yeas and nays were taken and resulted - yeas 33, 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	Kearney	Miller
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada

Stivers

Wachtmann

Wilson

Zurz  
Harris-33.

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

### RESOLUTIONS REPORTED BY COMMITTEE

Senator Coughlin offered the following concurrent resolution:

**Sub. H. C. R. No. 13**-Representatives Hoops, Calvert, C. Evans, D. Evans, Flowers, Kearns, McGregor, Seaver, Widener, Distel, Hartnett, Beatty, Reidelbach, Aslanides, Boccieri, Book, Buehrer, Cassell, Coley, Collier, Daniels, DeWine, Dolan, Gibbs, Gilb, Hagan, Latta, S. Patton, T. Patton, Raga, Raussen, Reinhard, Schaffer, Schlichter, Schneider, Seitz, Setzer, G. Smith, Taylor, Wagoner, Webster, White, Widowfield, Willamowski, Faber.

To memorialize the Congress of the United States and the United States Secretary of Health and Human Services to reform the Medicaid program to ensure the program's solvency for future generations.

The question being, "Shall the concurrent resolution, **Sub. H. C. R. No. 13**, be adopted?"

The yeas and nays were taken and resulted - yeas 32, nays 1, 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	Kearney	Miller
Mumper	Niehaus	Padgett	Roberts
Schuler	Schuring	Spada	Stivers
Wachtmann	Wilson	Zurz	Harris-32.

Senator Prentiss voted in the negative-1.

So the concurrent resolution was adopted.

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

Senator Coughlin moved to amend the title as follows:

Add the names: "Coughlin, Amstutz, Armbruster, Clancy, Goodman, Harris, Hottinger, Jordan, Mumper, Niehaus, Padgett, Schuler, Schuring, Stivers, Wachtmann, Grendell, Spada."

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

The motion was agreed to and the title so amended.

**BILLS FOR THIRD CONSIDERATION****Sub. S. B. No. 189**-Senators Grendell, Mumper, Dann.

To amend sections 907.01, 907.03, 907.14, and 907.28 of the Revised Code to make changes to the Agricultural Seed Law, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 189**, pass?"

The yeas and nays were taken and resulted - yeas 33, 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	Kearney	Miller
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the bill passed.

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

Senator Grendell moved to amend the title as follows:

Add the names: "Harris, Miller."

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

The motion was agreed to and the title so amended.

**Am. S. B. No. 206**-Senators Coughlin, Fedor.

To amend sections 742.63, 5505.12, and 5505.18 and to enact sections 5505.50 to 5505.59 of the Revised Code to provide for the establishment of the State Highway Patrol Retirement System deferred retirement option plan, was considered the third time.

The question being, "Shall the bill, **Am. S. B. No. 206**, pass?"

The yeas and nays were taken and resulted - yeas 33, 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	Kearney	Miller
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the bill passed.

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

Senator Coughlin moved to amend the title as follows:

Add the names: "Armbruster, Hagan, Harris, Niehaus, Schuring, Spada, Kearney, Mumper, Fingerhut, Stivers."

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

The motion was agreed to and the title so amended.

### OFFERING OF RESOLUTIONS

Senator Jacobson offered the following resolution:

**S. R. No. 144**-Senator Jacobson.

Relative to mileage reimbursement.

RESOLVED, Pursuant to section 101.27 of the Revised Code and S.R. No. 2--Senator Jacobson, Relative to mileage reimbursement, adopted January 4, 2005, the Clerk of the Senate is authorized to add the mileage for Eric H. Kearney of 206 miles round trip.

The question being, "Shall the resolution, **S. R. No. 144**, be adopted?"

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	Miller	Mumper
Niehaus	Padgett	Prentiss	Roberts
Schuler	Schuring	Spada	Stivers
Wachtmann	Wilson	Zurz	Harris-32.

So the resolution was adopted.

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

The title was agreed to.

**MESSAGE FROM THE PRESIDENT**

Pursuant to Senate Rules 19 and 20, the President of the Senate makes the following appointment changes to the following Senate Standing Committees:

**Removes** Senator Zurz as a member of the Standing Committee on Judiciary - Civil Justice.

**Appoints** Senator Kearney as a member of the Standing Committee on Judiciary - Civil Justice.

**Removes** Senator Dann as Ranking Minority member of the Standing Committee on Judiciary - Civil Justice.

**Appoints** Senator Kearney as Ranking Minority member of the Standing Committee on Judiciary - Civil Justice.

**Appoints** Senator Kearney as a member of the Standing Committee on Judiciary - Criminal Justice.

**Appoints** Senator Brady as a member of the Standing Committee on Highways and Transportation.

**Appoints** Senator Dann as Ranking Minority member on the Standing Committee on Highways and Transportation.

**Appoints** Senator Kearney as a member of the Standing Committee on Insurance, Commerce and Labor.

**Removes** Senator Zurz as a member of the Standing Committee on State and Local Government and Veterans Affairs.

**Appoints** Senator Kearney as a member of the Standing Committee on State and Local Government and Veterans Affairs.

**Appoints** Senator Zurz as a member of the Standing Committee on Reference.

**Appoints** Senator Zurz as Ranking Minority member of the Standing Committee on Reference.

**Appoints** Senator Zurz as a member of the Standing Committee on Rules.

On the motion of Senator Jacobson, the Senate adjourned until Wednesday, December 7, 2005 at 1:30 p.m.

Attest:

DAVID A. BATTOCLETTI,  
Clerk.