

OHIO

SENATE

JOURNAL

TUESDAY, MARCH 27, 2007

TWENTY-EIGHTH DAY
Senate Chamber, Columbus, Ohio
Tuesday, March 27, 2007, 1:30 p.m.

The Senate met pursuant to adjournment.

Prayer was offered by Rabbi Jason Miller, Congregation Agudas Achim, Columbus, 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:

H. B. No. 2-Representative Webster.

Cosponsors: Representatives Garrison, Luckie, Lundy, Dyer, Heard, Brady, Celeste, Adams, Williams, B., Sykes, Okey, Bacon, Beatty, Blessing, Bolon, Book, Boyd, Brown, Budish, Carano, Combs, DeBose, DeGeeter, Distel, Domenick, Driehaus, Fende, Flowers, Foley, Gibbs, Hagan, R., Harwood, Hughes, Koziura, Letson, Mallory, McGregor, J., Miller, Oelslager, Otterman, Sayre, Schindel, Stewart, D., Uecker, Ujvagi, White, Williams, S., Wolpert, Yates, Yuko.

To amend sections 121.03, 3333.01, 3333.021, 3333.03, 3333.04, 3333.041, 3333.042, 3333.043, 3333.044, 3333.045, 3333.046, 3333.047, 3333.05, 3333.06, 3333.07, 3333.071, 3333.072, 3333.08, 3333.09, 3333.10, 3333.11, 3333.12, 3333.121, 3333.122, 3333.123, 3333.13, 3333.14, 3333.15, 3333.16, 3333.161, 3333.162, 3333.17, 3333.18, 3333.19, 3333.20, 3333.21, 3333.22, 3333.23, 3333.25, 3333.26, 3333.27, 3333.28, 3333.29, 3333.31, 3333.35, 3333.36, 3333.37, 3333.372, 3333.373, 3333.374, 3333.375, and 3333.38 and to enact section 3333.031 of the Revised Code to transfer appointment of the Chancellor of the Ohio Board of Regents to the Governor with the advice and consent of the Senate, to make the Board of Regents an advisory board to the Chancellor, and to transfer the Board's duties and powers to the Chancellor.

To the Committee on Education.

S. B. No. 124-Senator Grendell.

To enact sections 5533.632 and 5533.91 of the Revised Code to designate State Route Number 2 within the city of Willoughby as the "Brian Montgomery Memorial Highway" and to designate a portion of State Route 44 within Lake County as the "Andy Nowacki Memorial Highway."

To the Committee on Highways and Transportation.

S. B. No. 125-Senator Stivers.

Cosponsors: Senators Clancy, Goodman, Spada, Mason, Schuler, Cates, Cafaro, Smith.

To amend sections 3769.03, 3769.08, 3769.083, 3769.085, and 3769.088 and to enact sections 3769.0811, 3769.0812, and 3769.0813 of the Revised Code to authorize wagering at a track on horse races that are telecast via an instant racing system and to levy a tax on amounts wagered in this manner.

To the Committee on Finance and Financial Institutions.

S. B. No. 126-Senator Stivers.

Cosponsors: Senators Carey, Gardner, Goodman, Spada, Clancy.

To amend sections 117.13 and 131.02 and to enact sections 117.60 to 117.72 of the Revised Code to require the Auditor of State to contract with independent audit consultants to recover overpayments made by certain state agencies to vendors.

To the Committee on Finance and Financial Institutions.

S. B. No. 127-Senator Coughlin.

Cosponsors: Senators Boccieri, Gardner, Spada, Cafaro, Clancy, Padgett, Schuring, Mumper, Miller, D., Morano, Schaffer.

To amend sections 1751.13 and 1753.09, to enact sections 3963.01 to 3963.09, and to repeal sections 1753.03, 1753.04, 1753.05, and 1753.08 of the Revised Code to establish certain uniform contract provisions between health care providers and third-party payers, to establish standardized credentialing, and to require third-party payers to provide to health care providers specified information concerning enrollees.

To the Committee on Judiciary - Civil Justice.

YES - 5: J. KIRK SCHURING, TOM ROBERTS, TERESA FEDOR, JEFF JACOBSON, 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 Clancy submitted the following report:

The standing committee on Highways and Transportation, to which was referred **S. B. No. 34**-Senator Padgett., having had the same under consideration, reports it back and recommends its passage.

YES - 8: PATRICIA M. CLANCY, STEPHEN C. AUSTRIA, J. KIRK SCHURING, JOY PADGETT, CAPRI S. CAFARO, JASON H. WILSON, SHIRLEY A. SMITH, KEVIN J. COUGHLIN.

NO - 0.

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

The report of the committee was accepted.

Senator Clancy submitted the following report:

The standing committee on Highways and Transportation, to which was referred **Am. Sub. H. B. No. 67**-Representative Patton, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Clancy, Padgett.

YES - 9: PATRICIA M. CLANCY, STEPHEN C. AUSTRIA, J. KIRK SCHURING, JOY PADGETT, CAPRI S. CAFARO, JASON H. WILSON, SHIRLEY A. SMITH, KEVIN J. COUGHLIN, STEPHEN BUEHRER.

NO - 0.

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:

Kathryn Bartter, Republican, from Columbus, Franklin County, Ohio, as a Member of the Ohio Expositions Commission for a term beginning January 6, 2007 and ending at the close of business December 1, 2012, replacing Richard Ricker, whose term expired.

Kelly D. Cole, Republican, from Hamersville, Brown County, Ohio, as a Member of the Southern Ohio Agricultural and Community Development Foundation for a new term beginning January 5, 2007 and ending at the close of business June 3, 2011.

Terry Collins, from Franklin County, Ohio, as Director of Rehabilitation and Correction, for a term beginning January 8th 2007.

Lee Fisher, from Cuyahoga County, Ohio, as Director of Development, for a term beginning January 8th 2007.

Thomas S. Jackson, Republican, from Columbus, Franklin County, Ohio, as a Member of the Ohio Expositions Commission for a term beginning January 5, 2007 and ending at the close of business December 1, 2012, replacing Dorothy Jones, whose term expired.

Rich Levin, from Franklin County, Ohio, as Tax Commissioner, for the term beginning January 8th 2007.

Eric A. Poklar, Republican, from Powell, Delaware County, Ohio, as a Member of the Board of Motor Vehicle Collision Repair Registration for a term beginning January 6, 2007 and ending at the close of business January 1, 2010, replacing Barbara Lewis, whose term expired.

John O. Spreng, Jr., Republican, from Bucyrus, Crawford County, Ohio, as a Member of the Ohio Expositions Commission for a term beginning January 5, 2007 and ending at the close of business December 1, 2012, replacing Harold Crowe, whose term expired.

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

YES - 11: BILL HARRIS, JEFF JACOBSON, RANDY GARDNER, ROBERT F. SPADA, STEPHEN C. AUSTRIA, JOHN A. CAREY, J. KIRK SCHURING, LANCE T. MASON, RAY MILLER, TOM ROBERTS, TERESA FEDOR.

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

Austria

Boccieri

Buehrer

Cafaro	Carey	Cates	Clancy
Coughlin	Faber	Fedor	Gardner
Goodman	Grendell	Jacobson	Kearney
Mason	Miller D	Miller R	Morano
Mumper	Niehaus	Padgett	Roberts
Sawyer	Schaffer	Schuler	Schuring
Smith	Spada	Stivers	Wilson
			Harris-33.

So the Senate advised and consented to said appointments.

BILLS FOR THIRD CONSIDERATION

Sub. H. B. No. 67-Representative Patton.

Cosponsors: Representatives Webster, Hottinger, Evans, Flowers, Schlichter, Strahorn, Aslanides, Batchelder, Bolon, Brown, Carmichael, Collier, Daniels, DeBose, Dolan, Domenick, Fende, Garrison, Gibbs, Hagan, J., Hagan, R., McGregor, J., Miller, Okey, Otterman, Uecker, Williams, B. Senators Clancy, Padgett.

To amend sections 737.04, 737.041, 1533.18, 3314.091, 3327.10, 3705.242, 4503.10, 4503.44, 4505.09, 4510.037, 4510.038, 4511.21, 4513.20, 4517.21, 4519.59, 4561.18, 4707.02, 4707.074, 5501.31, 5501.49, 5502.03, 5502.62, 5516.01, 5517.03, 5537.16, 5577.05, 5591.02, and 5735.05; to enact sections 121.51, 1327.70, 4511.092, 4517.021, and 5502.67 of the Revised Code; to amend Section 755.03 of Am. Sub. H.B. 530 of the 126th General Assembly, to amend Section 243.10 of Am. Sub. H.B. 530 of the 126th General Assembly, as subsequently amended, and to amend Sections 235.20.20 and 235.30.70 of Am. Sub. H.B. 699 of the 126th General Assembly to prescribe terms and conditions pertaining to transportation and public safety purposes, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 67**, pass?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Bocchieri	Buehrer
Cafaro	Carey	Cates	Clancy
Coughlin	Faber	Fedor	Gardner
Goodman	Grendell	Jacobson	Kearney
Mason	Miller D	Miller R	Morano
Mumper	Niehaus	Padgett	Roberts
Sawyer	Schaffer	Schuler	Schuring
Smith	Spada	Stivers	Wilson
			Harris-33.

So the bill passed.

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

Senator Clancy moved to amend the title as follows:

Add the names: "Austria, Buehrer, Cafaro, Carey, Fedor, Grendell, Harris, Kearney, Mason, Miller, D., Miller, R., Morano, Mumper, Roberts, Sawyer, Schaffer, Spada, Smith, Amstutz, Gardner."

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

The motion was agreed to and the title so amended.

Sub. S. B. No. 41-Senator Spada.

Cosponsors: Senators Gardner, Clancy, Schuler, Amstutz, Padgett, Miller, D., Smith, Cafaro, Schaffer.

To amend sections 701.01, 711.23, 1775.31, 2111.37, 2111.47, 2307.14, 2317.021, 2317.03, 2317.06, 2721.05, 3763.06, 4303.272, 4399.05, 4971.16, 5301.22, 5305.17, 5305.18, 5305.19, 5305.20, 5305.21, 5305.22, 5307.19, 5307.20, 5310.12, 5711.05, 5711.07, 5907.06, 5907.08, and 5907.09 of the Revised Code to replace terms that refer to persons with certain conditions , was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 41**, pass?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Bocchieri	Buehrer
Cafaro	Carey	Cates	Clancy
Coughlin	Faber	Fedor	Gardner
Goodman	Grendell	Jacobson	Kearney
Mason	Miller D	Miller R	Morano
Mumper	Niehaus	Padgett	Roberts
Sawyer	Schaffer	Schuler	Schuring
Smith	Spada	Stivers	Wilson
			Harris-33.

So the bill passed.

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

Senator Spada moved to amend the title as follows:

Add the names: "Austria, Bocchieri, Carey, Fedor, Goodman, Harris, Kearney, Mason, Miller, R., Morano, Mumper, Sawyer, Wilson, Roberts."

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. 128-Senator Miller, D.

Cosponsors: Senators Smith, Cafaro, Fedor, Bocchieri, Miller, R.

To create the Ohio Climate Commission for the purpose of studying the probable impacts that global climate change will have on the state of Ohio and for the purpose of recommending appropriate state responses to address global climate change and problems likely to be associated with it.

S. B. No. 129-Senator Schuler.

Cosponsors: Senators Gardner, Spada.

To enact section 4513.66 of the Revised Code to permit local law enforcement agencies and fire departments to remove motor vehicles from the roadway after a motor vehicle accident and to provide immunity to local law enforcement agencies and fire personnel for the removal of damaged or inoperable vehicles from roadways.

S. B. No. 130-Senator Padgett.

Cosponsors: Senators Spada, Clancy, Schuring.

To permit school districts and nonpublic schools to count time that schools are in session beyond the required minimum number of hours in order to make up "calamity days" missed during the 2006-2007 school year in excess of the number of days permitted by law, and to declare an emergency.

S. B. No. 131-Senator Fedor.

Cosponsors: Senators Roberts, Miller, D., Miller, R., Cafaro, Kearney, Mason, Morano, Sawyer, Wilson.

To amend sections 3301.0718, 3313.60, 3313.603, 3314.03, and 3314.21 and to enact sections 3301.0719, 3314.40, and 3319.076 of the Revised Code to require the State Board of Education to adopt instructional standards in physical education, nutrition, and dental care; to specify physical education requirements for grades kindergarten through eight; to require physical education teachers to be licensed in their subject area; and to make other changes relative to physical education.

OFFERING OF RESOLUTIONS

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

S. R. No. 38-Senator Cates.

Honoring the Miami University Middletown women's basketball team as the 2007 Ohio Regional Campus State Champion.

S. R. No. 39-Senator Cafaro.

In memory of Sergeant Robert Carr.

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

So the resolutions were adopted.

Message from the House of Representatives

Mr. President:

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

Sub. H. B. No. 53 -Representative Peterson.

Cosponsors: Representatives Yuko, Skindell, Ujvagi, Setzer, Dodd, Bacon, Collier, Fende, Chandler, Strahorn, White, Hagan, R., Wachtmann, Williams, B., Boyd, Brown, DeBose, Flowers, Goodwin, Hottinger, Huffman, Jones, Oelslager, Otterman, Raussen, Uecker, Webster, Adams, Aslanides, Batchelder, Beatty, Bolon, Book, Brady, Bubp, Budish, Carano, Celeste, Combs, DeGeeter, Distel, Dolan, Domenick, Driehaus, Dyer, Evans, Foley, Garrison, Gibbs, Goyal, Harwood, Heard, Hite, Hughes, Latta, Letson, Luckie, Lundy, Mallory, Mandel, McGregor, R., Miller, Okey, Patton, Sayre, Schindel, Schneider, Stebelton, Stewart, D., Stewart, J., Sykes, Wagoner, Williams, S., Yates.

To amend sections 701.01, 711.23, 1775.31, 2111.37, 2111.47, 2307.14, 2317.021, 2317.03, 2317.06, 2721.05, 3763.06, 4303.272, 4399.05, 4971.16, 5301.22, 5305.17, 5305.18, 5305.19, 5305.20, 5305.21, 5305.22, 5307.19, 5307.20, 5310.12, 5711.05, 5711.07, 5907.06, 5907.08, and 5907.09 of the Revised Code to replace terms that refer to persons with certain conditions.

Attest:

Laura P. Clemens,
Clerk.

Said bill was considered the first time.

MESSAGE FROM THE PRESIDENT

Pursuant to Section 105.41 of the Ohio Revised Code, the President of the

Senate appoints the following senators to serve on the Capitol Square Review and Advisory Board:

Senator Harris
Senator Fedor

MESSAGE FROM THE PRESIDENT

Pursuant to Section 105.41 of the Ohio Revised Code, the President of the Senate appoints the following former president of the senate to serve on the Capitol Square Review and Advisory Board:

Richard H. Finan

MESSAGE FROM THE PRESIDENT

Pursuant to Section 5902.15 (B) of the Ohio Revised Code, the President of the Senate appoints the following members to serve on the Military Activation Task Force:

Senator Cates (as Chair of the State & Local Government & Veterans' Affairs Committee)

Senator Bocchieri (as Ranking Minority Member of the State & Local Government & Veterans' Affairs Committee)

MESSAGE FROM THE PRESIDENT

Pursuant to Executive Order 87-19, the President of the Senate appoints Senator Clancy to serve on the Ohio Interagency Early Intervention Council.

MESSAGE FROM THE PRESIDENT

Pursuant to Section 5149.22 of the Ohio Revised Code, the President of the Senate appoints Senator Grendell to serve on the Ohio Council of the Interstate Compact for Adult Offender Supervision.

MESSAGE FROM THE PRESIDENT

Pursuant to Section 121.32(J) of the Ohio Revised Code, the President of the Senate appoints Senator Schuring to serve on the Interagency Council on Hispanic-Latino Affairs.

MESSAGE FROM THE PRESIDENT

Pursuant to Section 4121.70 (2) of the Ohio Revised Code, the President of the Senate appoints Senator Stivers (as Chair of the Senate Insurance, Commerce, and Labor Committee) to serve as an ex-officio member on the Labor-Management Government Advisory Council.

MESSAGE FROM THE PRESIDENT

Pursuant to Section 4121.70 (4) of the Ohio Revised Code, the President of the Senate appoints the following public members to serve on the Labor-Management Government Advisory Council:

Chad Wilson

N.F.I.B

Columbus, Ohio 43215

(representing employers – term beginning immediately and ending October 6, 2010, replacing Shawn Combs)

Lusta Anderson

Dayton, Ohio 45420

(representing employees – term beginning immediately and ending October 6, 2010, replacing Douglas A. Joseph)

MESSAGE FROM THE PRESIDENT

Pursuant to Section 6161.02 of the Ohio Revised Code, the President of the Senate appoints Senator Grendell to serve on the Great Lakes Commission.

MESSAGE FROM THE PRESIDENT

Pursuant to Section 173.03 of the Ohio Revised Code, the President of the Senate appoints the following senators to serve on the Ohio Advisory Council for the Aging:

Senator Mumper

Senator Cafaro

MESSAGE FROM THE PRESIDENT

Pursuant to Executive Order 95-V, the President of the Senate appoints Senator Goodman to serve on the Ohio Martin Luther King, Jr., Holiday Commission.

MESSAGE FROM THE PRESIDENT

Pursuant to Section 122.72 (B) of the Ohio Revised Code, the President of the Senate appoints Senator Austria to serve on the Minority Development Financing Advisory Board.

MESSAGE FROM THE PRESIDENT

Pursuant to Section 3924.08 (A) of the Ohio Revised Code, the President of the Senate appoints Senator Schaffer to serve as an ex-officio member of the Ohio Health Reinsurance Program.

MESSAGE FROM THE PRESIDENT

Pursuant to Section 3702.81 (C) of the Ohio Revised Code, the President of the Senate appoints the following senators to serve on the Physician Loan Repayment Advisory Board:

Senator Carey
Senator Smith

MESSAGE FROM THE PRESIDENT

Pursuant to Section 101.37 of the Ohio Revised Code, the President of the Senate appoints the following senators to serve on the Joint Council on Mental Retardation and Developmental Disabilities:

Senator Coughlin
Senator Spada
Senator Morano

MESSAGE FROM THE PRESIDENT

Pursuant to Section 3701.78 (A) of the Ohio Revised Code, the President of the Senate appoints the following senators to serve on the Ohio Commission on Minority Health:

Senator Schuring
Senator R. Miller

MESSAGE FROM THE PRESIDENT

Pursuant to Section 3704.14 of the Ohio Revised Code, the President of the Senate appoints the following senators to serve on the Motor Vehicle Inspection and Maintenance Program Legislative Oversight Committee:

Senator Clancy (Vice Chairman)
Senator Schuring
Senator Cafaro

MESSAGE FROM THE PRESIDENT

Pursuant to Section 5111.34 (A) (7) of Am. Sub. HB 94 of the 124th General Assembly, the President of the Senate appoints the following senators to serve on the Nursing Facility Reimbursement Study Council:

Senator Niehaus
Senator Morano

MESSAGE FROM THE PRESIDENT

Pursuant to Section 149.303 of the Ohio Revised Code, the President of the Senate appoints Senator R. Miller to serve as a nonvoting member on the National Museum of Afro-American History and Culture Planning Committee.

MESSAGE FROM THE PRESIDENT

Pursuant to Section 101.39 of the Ohio Revised Code, the President of the Senate appoints the following senators to serve on the Joint Legislative Committee on Health Care Oversight:

Senator Coughlin (as Chair of the Senate Health Committee)
Senator Clancy
Senator Faber
Senator Cafaro
Senator Smith

MESSAGE FROM THE PRESIDENT

Pursuant to Section 121.374 of HB 289 of the 126th General Assembly, the President of the Senate appoints the following members to serve on the Ohio Family and Children First Cabinet Council Advisory Board:

Senator Carey
Senator Sawyer

MESSAGE FROM THE PRESIDENT

Pursuant to Section 121.374 of HB 289 of the 126th General Assembly, the President of the Senate reappoints the following public persons to serve on the Ohio Family and Children First Cabinet Council Advisory Board:

Betsy Johnson (representing primary caregivers)
Associate Chief Executive Officer
Ohio Association of County
Behavioral Health Authorities
Columbus, Ohio 43215

Amy Swanson, Director (representing foundations or non-profits)
Voices for Children of Greater Cleveland
Cleveland, OH 44103

MESSAGE FROM THE PRESIDENT

Pursuant to Section 107.12 (D) (1) of Am. Sub. HB 95 of the 125th General

Assembly, the President of the Senate reappoints the following members to serve on the Governor's Advisory Board of Faith-Based and Community Initiatives:

Senator Amstutz
Senator Ray Miller

MESSAGE FROM THE PRESIDENT

Pursuant to Section 107.12 (D) (1) of Am. Sub. HB 95 of the 125th General Assembly, the President of the Senate reappoints the following public members to serve on the Governor's Advisory Board of Faith-Based and Community Initiatives:

Pastor Daniel L. Whisner
(1-year term beginning immediately, ending March 26, 2008)
Mt. Vernon, Ohio 43050

Pastor Bob Burney
(1-year term beginning immediately, ending March 26, 2008)
Westerville, Ohio 43081

Pastor G. Bruce Wilkinson
(1-year term beginning immediately, ending March 26, 2008)
Ashland, Ohio 44805

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 refused to concur in the Senate amendments to:

Sub. H. B. No. 67 -Representative Patton. - et al.

Attest:

Laura P. Clemens,
Clerk.

Senator Schaffer moved that the Senate insist on the amendments to **Sub. H. B. No. 67**, and ask for a Committee of Conference.

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

The motion was agreed to.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the House of Representatives accedes to the request of the Senate for a Committee of Conference on matters of difference between the two Houses on:

Sub. H. B. No. 67 -Representative Patton. - et al.

The Speaker of the House has appointed as managers on the part of the House on such matters of difference:

Representatives Dolan, Patton and Hagan, R.

Attest:

Laura P. Clemens,
Clerk.

MESSAGE FROM THE PRESIDENT

Pursuant to Senate Rule 30, the President of the Senate appoints the following members to serve on the Conference Committee on Sub. HB 67 of the 127th General Assembly:

Senator Clancy
Senator Carey
Senator Cafaro

On the motion of Senator Schaffer, the Senate recessed.

The Senate met pursuant to the recess.

On the motion of Senator Carey the Senate reverted to the Fourth Order of Business, Reports of Conference Committees.

REPORTS OF CONFERENCE COMMITTEES

Senator Clancy submitted the following report:

The Committee of Conference, to which the matters of difference between the two houses were referred on Sub. H.B. 67, Representative Patton - et al., having had the same under consideration, recommends to the respective houses as follows:

The bill as passed by the Senate with the following amendments:

In line 21, delete the first "and"; after "5735.05" insert ", and 5751.032"

In line 82, delete " its" and insert " the"; after " activities" insert " of the deputy inspector general"

Between lines 3332 and 3333, insert:

Sec. 5751.032. (A) As used in this section:

(1) "CAT" refers to the tax levied by this chapter.

(2) "CAT collected" means, with regard to a CAT test period, the net amount of CAT, exclusive of registration fees, received in the period after subtracting any CAT refunded in the period.

(3) "First CAT test period" means the twenty-four month period beginning July 1, 2005, and ending June 30, 2007.

(4) "Second CAT test period" means the twelve-month period beginning July 1, 2008, and ending June 30, 2009.

(5) "Third CAT test period" means the twelve-month period beginning July 1, 2010, and ending June 30, 2011.

(B) Not later than the last day of September immediately following the end of each CAT test period, the tax commissioner shall compute the amount of CAT collected during that test period. If the amount is ~~less than ninety per cent~~ ~~or~~ greater than one hundred ten per cent of the prescribed CAT collections for that period, the commissioner shall proceed as provided in ~~division~~ divisions (C) ~~or and~~ (D) of this section, ~~as applicable~~. For the purposes of division (B) of this section, the prescribed CAT collections for the CAT test periods are as follows:

(1) For the first CAT test period, eight hundred fifteen million dollars;

(2) For the second CAT test period, one billion one hundred ninety million dollars less any amount credited to the commercial activity tax ~~reduction~~ refund fund with regard to the first CAT test period;

(3) For the third CAT test period, one billion six hundred ten million dollars less any amount credited to the commercial activity tax ~~reduction~~ refund fund with regard to the second CAT test period.

(C)(1) ~~If the amount of CAT collected during a CAT test period is less than ninety per cent of the prescribed CAT collections for that test period, the tax commissioner shall determine a new tax rate equal to the tax rate that would have yielded the prescribed CAT collections during that test period. The tax rate shall be the rate that would have to be imposed under division (A) of section 5751.03 of the Revised Code before any applicable phase-in percentages under section 5751.031 of the Revised Code or otherwise provided by law to yield the prescribed CAT collection after applying any applicable phase-in percentages.~~

(2) If the amount of CAT collected during a CAT test period exceeds one hundred ten per cent of the prescribed CAT collections for that test period, the

tax commissioner shall determine a new tax rate equal to the tax rate that would have yielded the prescribed CAT collections during that test period less one-half of the amount of the excess that was certified to the director of budget and management for the test period under division (D) of this section. The tax rate shall be the rate that would have to be imposed under division (A) of section 5751.03 of the Revised Code before any applicable phase-in percentages under section 5751.031 of the Revised Code or otherwise provided by law to yield the prescribed CAT collection after applying any applicable phase-in percentages.

~~(3)~~ (2) A new tax rate computed under division (C)(1) ~~or (2)~~ of this section shall be expressed as a number of mills per dollar, rounded to the nearest one-hundredth of one mill. The rate shall be rounded upward by one-hundredth of one mill only if the next decimal digit is five or more.

~~(4)~~ (3) Not later than the last day of September following the end of the CAT test period on the basis of which a new tax rate is computed, the tax commissioner shall certify the new tax rate to the governor, the president of the senate, the speaker of the house of representatives, and all other members of the general assembly. The commissioner shall publish the new tax rate by journal entry and provide notice of the new tax rate to taxpayers. The new tax rate shall be the rate imposed under division (A) of section 5751.03 of the Revised Code beginning with the ensuing calendar year, and is subject to any applicable phase-in percentages provided for under section 5751.031 of the Revised Code.

(D) If the amount of CAT collected during a CAT test period exceeds one hundred ten per cent of the prescribed CAT collections for that test period, the tax commissioner shall certify the excess amount to the director of budget and management not later than the last day of September immediately following the end of that test period. The director shall forthwith transfer from the general revenue fund one-half of the amount of the excess so certified to the commercial activity tax refund fund, which is hereby created in the state treasury, and the remaining one-half of the amount of the excess to the budget stabilization fund. All money credited to the commercial activity tax refund fund shall be applied to reimburse the general revenue fund, school district tangible property tax replacement fund, and local government tangible property tax replacement fund for the diminution in revenue caused by the credit provided under division (D) of section 5751.03 of the Revised Code. On or before the last day of May, August, and October of the calendar year that begins after the end of the test period, and on or before the last day of February of the following calendar year, the director of budget and management shall transfer one-fourth of the amount that had been transferred to the commercial activity tax refund fund to each of those funds in the proportions specified under division (B) of section 5751.21 of the Revised Code.

In the calendar year that begins immediately after the year in which a transfer is made to the commercial activity tax refund fund, the tax commissioner shall compute the amount to be credited, under division (D) of section 5751.03 of the Revised Code, to each taxpayer that paid in full the tax imposed under this chapter for the calendar year in which the transfer was made.

The credit allowed to each such taxpayer shall equal the amount transferred to the commercial activity tax refund fund multiplied by a fraction, the numerator of which is the amount of tax paid by that taxpayer for that calendar year and the denominator of which is the total of the taxes paid by all such taxpayers for which the credit is allowed. The credit applies only to the calendar year that begins immediately after the year in which a transfer is made to the commercial activity tax refund fund under this division.

(E) It is the intent of the General Assembly to conduct a review of the prescribed CAT collections and rate adjustments provided for under divisions (A) to (D) of this section every two years in conjunction with its biennial budget deliberations, and to establish lower prescribed CAT collections or reduce the rate of tax levied under this chapter on the basis of the following three factors:

- (1) The revenue yield of the tax;
- (2) The condition of the Ohio economy;
- (3) Savings realized by ongoing reform to medicaid and other policy initiatives."

In line 3337, delete "and"; after "5735.05" insert ", and 5751.032"

In line 3865, delete "\$128,814,282" and insert "\$129,178,282"

In line 4127, delete "State" and insert "United States"

In line 4167, strike through "twenty-four"

In line 4673, after "The" insert "sections and"

In line 4674, after "any" insert "section or"

In line 4675, after the second "any" insert "section or"

In line 4676, after "other" insert "sections or"

In line 4678, after "invalid" insert "section or"

In line 4732, delete "not"

In line 6 of the title, delete "and"; after "5735.05" insert ", and 5751.032"

In line 14 of the title, delete everything after "to"

Delete line 15 of the title

In line 16 of the title, delete "purposes" and insert "make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2007, and ending June 30, 2009, and to provide authorization and conditions for the operation of those programs"

Managers on the Part of the
House of Representatives

Managers on the Part of the
Senate

/s/ MATTHEW J. DOLAN

/s/ PATRICIA CLANCY

MATTHEW J. DOLAN

PATRICIA CLANCY

/s/ THOMAS PATTON
THOMAS PATTON/s/ JOHN A. CAREY, JR.
JOHN A. CAREY, JR.

ROBERT F. HAGAN/s/ CAPRI S. CAFARO
CAPRI S. CAFARO

The report of the Committee of Conference was laid over under the rule.

On the motion of Senator Carey, the Senate adjourned until Wednesday, March 28, 2007, 1:30 p.m.

Attest:

DAVID A. BATTOCLETTI,
Clerk.