

OHIO

SENATE

JOURNAL

TUESDAY, APRIL 22, 2008

ONE HUNDRED SIXTY-THIRD DAY
Senate Chamber, Columbus, Ohio
Tuesday, April 22, 2008, 1:30 p.m.

The Senate met pursuant to adjournment.

Prayer was offered by Father Michael Lumpe, St. Catharine's Church, 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:

Sub. H. B. No. 130-Representatives White, Yates.

Cosponsors: Representatives Seitz, Peterson, Hagan, R., Carano, Miller, Yuko, Wagner, McGregor, J., Flowers, Letson, Strahorn, Williams, S., DeWine, Luckie, Brinkman, Celeste, DeBose, Heard, Otterman, J., Sykes.

To amend sections 9.06, 121.05, 124.11, 309.02, 321.44, 341.192, 1713.34, 2921.36, 2929.01, 2929.13, 2929.14, 2929.141, 2929.15, 2929.17, 2929.19, 2929.20, 2935.36, 2943.032, 2949.12, 2951.021, 2951.041, 2953.08, 2953.13, 2967.03, 2967.05, 2967.12, 2967.121, 2967.141, 2967.15, 2967.26, 2967.28, 4507.51, 5120.52, 5120.63, 5120.66, 5139.02, 5139.18, 5139.281, 5139.31, 5139.36, 5139.38, 5139.41, 5139.43, 5139.50, 5145.01, 5145.163, and 5149.06, to enact sections 9.871, 109.37, 2967.29, 4743.06, 5120.07, 5120.59, and 5120.70, and to repeal section 2967.11 of the Revised Code to modify sentencing procedures with respect to post-release control and related releases from prison, to conform the Revised Code to the decision of the Ohio Supreme Court in *State ex rel. Bray v. Russell* (2000), 89 Ohio St.3d 132 by removing provisions related to bad time, to authorize courts to participate in the supervision of released prisoners, to provide released prisoners with identification cards and additional procedures for access to social services, to make other changes relative to opportunities for prisoner training and employment, to modify procedures for the judicial or medical release of prisoners and intervention in lieu of conviction, to grant the Adult Parole Authority more flexibility in determining periods of post-release control, to adopt other cost-control measures, to create the Ex-offender Reentry Coalition, to provide for the indemnification of the Department of Rehabilitation and Correction for legal costs incurred in certain cases, to provide for legal representation of Department employees charged with offenses in certain cases until a grand jury has acted, to create a fund for the deposit of money received in certain federal law enforcement cases, to authorize the Department to enter into contracts to provide water and sewage

treatment services, to make other changes related to the operations of the Department of Rehabilitation and Correction, to clarify the duties of juvenile parole officers, to establish reimbursement rates paid by the Department of Youth Services for outside medical providers, to authorize the Director of Youth Services to designate a deputy director, to modify the formula for expending appropriations for the care and custody of felony delinquents and the purposes for which money in the Felony Delinquent Care and Custody Fund may be used, to allow for unlimited reappointments of members of the Release Authority, to make other changes related to the operations of the Department of Youth Services, and to terminate the ex-offender reentry coalition on December 31, 2011, by repealing section 5120.07 of the Revised Code on that date.

To the Committee on Judiciary - Criminal Justice.

Am. H. B. No. 215-Representative Collier.

Cosponsors: Representatives Evans, Latta, Brown, Chandler, Stebelton, Combs, Setzer, Aslanides, Bacon, Batchelder, Blessing, Book, Boyd, Core, Daniels, DeBose, DeGeeter, Dodd, Domenick, Dyer, Flowers, Gibbs, Hagan, J., Hagan, R., Mallory, Patton, Schindel, Schlichter, Sears, Wagner, Williams, B., Williams, S., Yuko.

To amend section 3719.41 of the Revised Code to list *Salvia divinorum* as a controlled substance.

To the Committee on Judiciary - Criminal Justice.

YES - 5: J. KIRK SCHURING, SHIRLEY A. SMITH, RAY MILLER, BILL HARRIS, JEFF JACOBSON.

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:

Gerry N. Bird, from Dublin, Franklin County, Ohio, as a Member of the Board of Building Standards for a term beginning January 9, 2008 and ending at the close of business October 13, 2011, replacing Mark Tanner, whose term expired.

Jennifer Coleman, Democrat, from Cleveland, Cuyahoga County, Ohio, as a Member of the Board of Building Standards for a new term beginning February 1, 2008 and ending at the close of business October 13, 2011.

Charles W. Graf, Democrat, from Lancaster, Fairfield County, Ohio, as a Member of the Barber Board for a new term beginning January 2, 2008 and ending at the close of business September 27, 2010.

Steven M. Kasarnich, Democrat, from Akron, Summit County, Ohio, as a Member of the Board of Building Standards for a term beginning February 1, 2008 and ending at the close of business October 13, 2011, replacing Herbert Slone, whose term expired.

Pamela L. Margulies, Democrat, from Bexley, Franklin County, Ohio, as a Member of the Board of Tax Appeals for a new term beginning April 5, 2007 and ending at the close of business February 8, 2013.

William McCreary, from Toledo, Lucas County, Ohio, as a Member of the Third Frontier Commission for a term beginning February 1, 2008 and ending at the close of business April 1, 2010, replacing David Waterman, whose term expired.

Steve Remias, Democrat, from Chagrin Falls, Geauga County, Ohio, as a Member of the State Auctioneer's Commission for a term beginning January 10, 2008 and ending at the close of business October 9, 2010, replacing David Schnaidt, whose term expired.

Thomas C. Washbush, Republican, from Dublin, Franklin County, Ohio, as a Member of the Industrial Technology and Enterprise Advisory Council for a new term beginning January 10, 2008 and ending at the close of business December 31, 2014.

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, TOM NIEHAUS, ROBERT F. SPADA, STEPHEN C. AUSTRIA, JOHN A. CAREY, J. KIRK SCHURING, CAPRI S. CAFARO, LANCE T. MASON, SHIRLEY A. SMITH, RAY MILLER.

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 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Buehrer
Cafaro	Carey	Cates	Coughlin
Faber	Fedor	Grendell	Jacobson
Kearney	Mason	Miller D	Miller R
Morano	Mumper	Niehaus	Padgett
Roberts	Sawyer	Schaffer	Schuler
Schuring	Seitz	Smith	Spada
Stivers	Wagoner	Wilson	Harris-32.

So the Senate advised and consented to said appointments.

BILLS FOR THIRD CONSIDERATION

Sub. H. B. No. 244-Representative Brinkman.

Cosponsors: Representatives Flowers, Mallory, Uecker, Chandler, Wagner, Bacon, Batchelder, Blessing, Combs, Daniels, Dolan, Domenick, Dyer, Fessler, Gardner, Hagan, R., Hite, Hughes, Koziura, McGregor, J., Mecklenborg, Patton, Schindel, Schneider, Sears, Setzer, Williams, B., Yuko, Zehringer. Senators Cates, Schuler, Seitz, Fedor.

To amend sections 515.04, 515.05, 515.08, 515.11, 515.12, and 515.15 and to enact section 515.16 of the Revised Code to authorize townships to relocate overhead cables, wires, and appurtenant equipment underground upon petition; to pay for a relocation by assessing abutting and otherwise specially benefited properties; to collect interest on unpaid assessments for an underground relocation project or an artificial lighting district project; and to exempt townships from liability for outages or other damage caused by a relocation project, and to exempt the owners of the cables, wires, and appurtenant equipment from liability, unless the outage or other damage was caused by the owner's negligence, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 244**, pass?"

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

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Buehrer
Cafaro	Carey	Cates	Coughlin
Faber	Fedor	Grendell	Jacobson
Kearney	Mason	Miller D	Miller R
Morano	Mumper	Niehaus	Padgett
Roberts	Sawyer	Schaffer	Schuler
Schuring	Seitz	Smith	Spada
Stivers	Wagoner	Wilson	Harris-32.

So the bill passed.

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

Senator Schuler moved to amend the title as follows:

Add the names: "Harris, Spada."

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

The motion was agreed to and the title so amended.

Am. H. B. No. 381-Representative Webster.

Cosponsors: Representatives Hottinger, Bacon, Bolon, Boyd, Budish, Chandler, Coley, Flowers, Hite, Jones, Mecklenborg, Patton, Sears, Strahorn, Batchelder, Beatty, Brady, Celeste, Combs, DeBose, DeGeeter, Distel, Dolan, Domenick, Driehaus, Dyer, Evans, Fende, Foley, Gibbs, Goyal, Hagan, R., Harwood, Heard, Hughes, Letson, Luckie, Lundy, McGregor, J., McGregor, R., Okey, Schindel, Schneider, Setzer, Stewart, D., Sykes, Szollosi, Williams, B., Williams, S., Wolpert, Yates, Yuko. Senators Cates, Sawyer, Padgett.

To amend Sections 263.10, 263.20.90, and 375.10 of Am. Sub. H.B. 119 of the 127th General Assembly, to amend Section 235.10.40 of Am. Sub. H.B. 699 of the 126th General Assembly, and to repeal Section 375.20.80 of Am. Sub. H.B. 119 of the 127th General Assembly to increase the funds available for the Ohio Research Scholars Program and to permit a nonpublic four-year Ohio university to submit a proposal for the Ohio Research Scholars Program if the proposal is to be implemented in collaboration with a state college or university, was considered the third time.

The question being, "Shall the bill, **Am. H. B. No. 381**, pass?"

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

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Buehrer
Cafaro	Carey	Cates	Coughlin
Faber	Fedor	Grendell	Jacobson
Kearney	Mason	Miller D	Miller R
Morano	Mumper	Niehaus	Padgett
Roberts	Sawyer	Schaffer	Schuler
Schuring	Seitz	Smith	Spada
Stivers	Wagoner	Wilson	Harris-32.

So the bill passed.

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

Senator Padgett moved to amend the title as follows:

Add the names: "Amstutz, Boccieri, Cafaro, Fedor, Harris, Miller, D., Miller, R., Morano, Roberts, Schaffer, Schuring, Seitz, Smith, Spada, Wagoner, Wilson, Stivers, Faber."

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. 321-Senator Stivers.

To amend sections 109.572 and 2151.86 and to enact section 2151.862 of the Revised Code to require a criminal records check conducted by the bureau of criminal identification and investigation to be completed for each employee of a residential camp and to require a social security number criminal records check to be completed for each volunteer of a residential camp.

S. B. No. 322-Senator Wilson.

To waive the requirement for certain school districts to make up days schools are closed due to flooding and to declare an emergency.

OFFERING OF RESOLUTIONS

Pursuant to Senate Rule No. 54, the following resolution was offered:

S. R. No. 206-Senator Roberts.

Cosponsor: Senator Stivers.

Honoring Stivers School for the Arts on its One Hundredth Anniversary.

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

So the resolution was adopted.

Message from the House of Representatives

Mr. President:

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

Am. H. B. No. 295 -Representative Wagoner - et al.

Am. H. B. No. 392 -Representative McGregor, J. - et al.

Attest:

Laura P. Clemens,
Clerk.

The President signed said bills.

On the motion of Senator Jacobson, the Senate recessed until 3:00 o'clock p.m.

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. Sub. S. B. No. 221 -Senator Schuler

Cosponsors: Senators Jacobson, Harris, Fedor, Boccieri, Miller, R., Morano, Mumper, Niehaus, Padgett, Roberts, Wilson, Spada Representatives Hagan, J., Blessing, Jones, Uecker, Budish, Chandler, Domenick, Evans, Flowers, McGregor, J., Yuko

To amend sections 4905.31, 4928.01, 4928.02, 4928.05, 4928.09, 4928.14, 4928.17, 4928.20, 4928.31, 4928.34, 4928.35, 4928.61, 4928.67, 4929.01, and 4929.02; to enact sections 9.835, 3318.112, 4928.141, 4928.142, 4928.143, 4928.144, 4928.145, 4928.146, 4928.151, 4928.24, 4928.621, 4928.64, 4928.65, 4928.66, 4928.68, 4928.69, and 4929.051; and to repeal sections 4928.41, 4928.42, 4928.431, and 4928.44 of the Revised Code to revise state energy policy to address electric service price regulation, establish alternative energy benchmarks for electric distribution utilities and electric services companies, provide for the use of renewable energy credits, establish energy efficiency standards for electric distribution utilities, require greenhouse gas emission reporting and carbon dioxide control planning for utility-owned generating facilities, authorize energy price risk management contracts, and authorize for natural gas utilities revenue decoupling related to energy conservation and efficiency.

As a substitute bill with the following additional amendments, in which the concurrence of the Senate is requested.

In line 27, after "9.835," insert "3318.112,"

In line 59, after the underlined period delete the balance of the line

Delete line 60

In line 61, delete " into."

Between lines 68 and 69, insert:

" **Sec. 3318.112.** (A) As used in this section, "solar ready" means capable of accommodating the eventual installation of roof top, solar photovoltaic energy equipment.

(B) The Ohio school facilities commission shall adopt rules prescribing standards for solar ready equipment in school buildings under their jurisdiction. The rules shall include, but not be limited to, standards regarding roof space limitations, shading and obstruction, building orientation, roof loading capacity, and electric systems.

(C) A school district may seek, and the commission may grant for good cause shown, a waiver from part or all of the standards prescribed under division (B) of this section."

In line 365, after " society" insert " , or clean coal technology that includes the design capability to control or prevent the emission of carbon dioxide, which design capability the commission shall adopt by rule and shall be based on economically feasible best available technology or, in the absence of a determined best available technology, shall be of the highest level of economically feasible design capability for which there exists generally accepted scientific opinion"

In line 374, after " (f)" insert " Advanced solid waste or construction and demolition debris conversion technology, including, but not limited to, advanced stoker technology, and advanced fluidized bed gasification technology, that results in measurable greenhouse gas emissions reductions as calculated pursuant to the United States environmental protection agency's waste reduction model (WARM).

(g)"

In line 385, delete " resources" and insert " resource"

In line 396, after " river" insert " , or on any water discharged to a river."

In line 536, delete " section" and insert " sections 4928.141 to"

In line 700, delete " market-based"

In line 715, delete " However," and insert " Notwithstanding the foregoing provision, the rate plan of an electric distribution utility shall continue for the purpose of the utility's compliance with this division until a standard service offer is first authorized under section 4928.142 or 4928.143 of the Revised Code, and, as applicable,"

In line 718, after the underlined period insert " A standard service offer under section 4928.142 or 4928.143 of the Revised Code shall exclude any previously authorized allowances for transition costs, with such exclusion being effective on and after the date that the allowance is scheduled to end under the

utility's rate plan."

In line 799, delete " twenty" and insert " fifty"

In line 853, after " Its" insert " prudently incurred"

In line 857, after " regulations" insert " , with consideration of the derating of any facility associated with those costs"

In line 859, delete " (4)"

In line 860, delete " consider" and insert " include"

In line 867, after the underlined period insert " The commission shall also determine how such adjustments will affect the electric distribution utility's return on common equity that may be achieved by those adjustments. The commission shall not apply its consideration of the return on common equity to reduce any adjustments authorized under this division unless the adjustments will cause the electric distribution utility to earn a return on common equity that is significantly in excess of the return on common equity that is earned by publicly traded companies, including utilities, that face comparable business and financial risk, with such adjustments for capital structure as may be appropriate. The burden of proof for demonstrating that significantly excessive earnings will not occur shall be on the electric distribution utility."

In line 879, after the underlined period delete the balance of the line

Delete lines 880 through 883

In line 888, after " abrupt" insert " or significant"

In line 893, after " event" insert " , including because of the length of time, as authorized under division (C) of this section, taken to approve the market rate offer"

In line 916, after " section" insert " , divisions (I), (J), and (K) of section 4928.20, division (E) of section 4928.64, and section 4928.69 of the Revised Code"

In line 920, delete " shall" and insert " may"

In line 927, after " of" insert " any of"; after " the" insert " following costs of the"; delete " utility's" and insert " utility, provided the cost is prudently incurred:"

In line 928, delete " costs" and insert " the cost"

In line 929, after the underlined semicolon insert " the cost of"

In line 931, after the first underlined semicolon insert " the cost of"; after " and" insert " the cost of"

In line 968, delete " the"; delete " bearing"

In line 969, delete " the surcharge all the electricity generated by" and insert " the capacity and energy and the rate associated with the cost of"

In line 973, after "d" delete the balance of the line

Delete line 974

In line 975, delete "e"

In line 982, delete "f" and insert "e"

In line 984, delete "g" and insert "f"

In line 989, after the underlined period delete the balance of the line

Delete lines 990 through 996

In line 997, delete "h" and insert "g"

In line 1002, delete "i" and insert "h"

In line 1013, after the underlined period insert "As part of its determination as to whether to allow in an electric distribution utility's electric security plan inclusion of any provision described in division (B)(2)(h) of this section, the commission shall examine the reliability of the electric distribution utility's distribution system and ensure that customers' and the electric distribution utility's expectations are aligned and that the electric distribution utility is placing sufficient emphasis on and dedicating sufficient resources to the reliability of its distribution system."

In line 1014, delete "j" and insert "i"

In line 1023, delete "twenty" and insert "fifty"

In line 1031, after "is" insert "more"

In line 1065, after "section" insert ", and the earnings test provided for in division (F) of this section shall not apply until after the expiration of the rate plan"

In line 1082, after "be" insert "more"

In line 1085, after the underlined period insert "The commission shall also determine the prospective effect of the electric security plan to determine if that effect is substantially likely to provide the electric distribution utility with a return on common equity that is significantly in excess of the return on common equity that is likely to be earned by publicly traded companies, including utilities, that face comparable business and financial risk, with such adjustments for capital structure as may be appropriate. The burden of proof for demonstrating that significantly excessive earnings will not occur shall be on the electric distribution utility."; after "negative" insert "or the commission finds that continuation of the electric security plan will result in a return on equity that is significantly in excess of the return on common equity that is likely to be earned by publicly traded companies, including utilities, that will face comparable business and financial risk, with such adjustments for capital structure as may be appropriate, during the balance of the plan"

Between lines 1095 and 1096, insert:

" (F) With regard to the provisions that are included in an electric security plan under this section, the commission shall consider, following the end of each annual period of the plan, if any such adjustments resulted in excessive earnings as measured by whether the earned return on common equity of the electric distribution utility is significantly in excess of the return on common equity that was earned during the same period by publicly traded companies, including utilities, that face comparable business and financial risk, with such adjustments for capital structure as may be appropriate. Consideration also shall be given to the capital requirements of future committed investments in this state. The burden of proof for demonstrating that significantly excessive earnings did not occur shall be on the electric distribution utility. If the commission finds that such adjustments, in the aggregate, did result in significantly excessive earnings, it shall require the electric distribution utility to return to consumers the amount of the excess by prospective adjustments; provided that, upon making such prospective adjustments, the electric distribution utility shall have the right to terminate the plan and immediately file an application pursuant to section 4928.142 of the Revised Code. Upon termination of a plan under this division, rates shall be set on the same basis as specified in division (C)(2)(b) of this section, and the commission shall permit the continued deferral and phase-in of any amounts that occurred prior to that termination and the recovery of those amounts as contemplated under that electric security plan. In making its determination of significantly excessive earnings under this division, the commission shall not consider, directly or indirectly, the revenue, expenses, or earnings of any affiliate or parent company."

In line 1104, after " assets" insert " pursuant to generally accepted accounting principles"

Delete lines 1110 through 1117 and insert:

" **Sec. 4928.145.** During a proceeding under sections 4928.141 to 4928.144 of the Revised Code and upon submission of an appropriate discovery request, an electric distribution utility shall make available to the requesting party every contract or agreement that is between the utility or any of its affiliates and a party to the proceeding, consumer, electric services company, or political subdivision and that is relevant to the proceeding, subject to such protection for proprietary or confidential information as is determined appropriate by the public utilities commission."

In lines 1239, 1246, 1258, and 1287, strike through "commercial"

In line 1299, after "out" insert " before the commencement"

In line 1341, strike through "competitive" and insert " electric services company"

In line 1342, strike through "retail electric services provider"

Between lines 1349 and 1350, insert:

" (I) Customers that are part of a governmental aggregation under this section shall be responsible only for such portion of a surcharge under section 4928.144 of the Revised Code that is proportionate to the benefits, as determined by the commission, that the governmental aggregation's customers as an aggregated group receive. The proportionate surcharge so established shall apply to each customer of the governmental aggregation while the customer is part of that aggregation. If a customer ceases being such a customer, the otherwise applicable surcharge shall apply. Nothing in this section shall result in less than full recovery by an electric distribution utility of any surcharge authorized under section 4928.144 of the Revised Code.

(J) On behalf of the customers that are part of a governmental aggregation under this section and by filing written notice with the public utilities commission, the legislative authority that formed or is forming that governmental aggregation may elect not to receive standby service within the meaning of division (B)(2)(e) of section 4928.143 of the Revised Code from an electric distribution utility in whose certified territory the governmental aggregation is located and that operates under an approved electric security plan under that section. Upon the filing of that notice, the electric distribution utility shall not charge any such customer to whom electricity is delivered under the governmental aggregation for the standby service. Any such consumer that returns to the utility for competitive retail electric service shall pay the market price of power incurred by the utility to serve that consumer plus any amount attributable to the utility's cost of compliance with the alternative energy resource provisions of section 4928.64 of the Revised Code to serve the consumer. Such market price shall include, but not be limited to, capacity and energy charges; all charges associated with the provision of that power supply through the regional transmission organization, including, but not limited to, transmission, ancillary services, congestion, and settlement and administrative charges; and all other costs incurred by the utility that are associated with the procurement, provision, and administration of that power supply, as such costs may be approved by the commission. The period of time during which the market price and alternative energy resource amount shall be so assessed on the consumer shall be from the time the consumer so returns to the electric distribution utility until the expiration of the electric security plan. However, if that period of time is expected to be more than two years, the commission may reduce the time period to a period of not less than two years.

(K) The commission shall adopt rules to encourage and promote large-scale governmental aggregation in this state. For that purpose, the commission shall conduct an immediate review of any rules it has adopted for the purpose of this section that are in effect on the effective date of the amendment of this section by S.B. 221 of the 127th general assembly. Further, within the context of an electric security plan under section 4928.143 of the Revised Code, the commission shall consider the effect on large-scale governmental aggregation of any nonbypassable generation charges, however

collected, that would be established under that plan, except any nonbypassable generation charge that relates to a cost incurred by the electric distribution utility, the deferral of which has been authorized by the commission prior to the effective date of the amendment of this section by S.B. 221 of the 127th general assembly."

In lines 1845 through 1861, delete the column "Solar energy resources" and insert:

" Solar energy resources
0.004%
0.010%
0.030%
0.060%
0.090%
0.12%
0.15%
0.18%
0.22%
0.26%
0.3%
0.34%
0.38%
0.42%
0.46%
0.5%"

Delete lines 1909 through 1934 and insert:

" (3) An electric distribution utility or an electric services company need not comply with a benchmark under division (B)(1) or (2) of this section to the extent that its reasonably expected cost of that compliance exceeds its reasonably expected cost of otherwise producing or acquiring the requisite electricity by three per cent or more."

In line 1940, delete "(5)" and insert "(2)"

In line 2028, after "river" insert ", or on any water discharged to a river."

In line 2167, strike through "energy"

In line 2178, delete "energy"

In line 2182, delete "division (A)(1) of this"

In line 2183, delete "section and"

Delete lines 2191 through 2193

In line 4 of the title, after "9.835," insert "3318.112,"

Attest:

Laura P. Clemens,
 Clerk.

Said amendments were laid over under the rule.

On the motion of Senator Carey, the Senate adjourned until Wednesday, April 23, 2008 at 1:30 p.m.

Attest:

VINCENT L. KEERAN,
Clerk.