

OHIO

SENATE

JOURNAL

WEDNESDAY, MAY 2, 2007

FORTY-SECOND DAY
Senate Chamber, Columbus, Ohio
Wednesday, May 2, 2007, 1:30 p.m.

The Senate met pursuant to adjournment.

Prayer was offered by Father Michael Gribble, St. Joseph's Cathedral, 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:

Am. Sub. H. B. No. 119-Representative Dolan.

Cosponsors: Representatives Peterson, McGregor, R., Hottinger, Bacon, Evans, Hite, Budish, Strahorn, Yates, Chandler, Stewart, D., Boyd, Hagan, R., Skindell, Brown, Bolon, Adams, Aslanides, Barrett, Beatty, Blessing, Bulp, Celeste, Collier, Combs, DeBose, DeGeeter, Domenick, Fende, Flowers, Gibbs, Goodwin, Goyal, Hagan, J., Harwood, Healy, Heard, Jones, Koziura, Letson, Luckie, Mallory, Miller, Otterman, Patton, Redfern, Schindel, Schlichter, Setzer, Szollosi, Uecker, Ujvagi, Wagoner, White, Williams, B., Williams, S., Zehringer.

To amend sections 9.821, 9.822, 9.823, 9.83, 107.12, 107.40, 109.57, 109.572, 109.93, 111.18, 118.01, 118.08, 118.17, 118.20, 118.23, 119.07, 120.33, 122.17, 122.171, 122.602, 124.152, 125.45, 125.93, 125.96, 125.97, 125.98, 126.07, 126.08, 126.16, 126.21, 126.22, 127.14, 127.16, 131.44, 133.01, 133.10, 133.25, 135.35, 135.352, 151.08, 151.40, 152.31, 156.02, 164.03, 164.05, 164.051, 164.08, 164.09, 166.08, 173.04, 173.35, 173.85, 173.86, 174.03, 174.06, 183.01, 183.021, 183.17, 183.33, 183.34, 183.35, 307.021, 307.37, 307.695, 307.6910, 307.98, 307.981, 308.04, 317.08, 319.202, 319.281, 319.54, 321.08, 322.01, 323.151, 323.152, 323.153, 323.154, 325.31, 329.04, 329.05, 329.14, 340.03, 505.376, 517.08, 521.01, 709.191, 711.05, 711.10, 711.131, 718.13, 742.301, 1503.05, 1504.02, 1506.01, 1506.99, 1521.01, 1521.20, 1521.21, 1521.22, 1521.23, 1521.24, 1521.25, 1521.26, 1521.27, 1521.28, 1521.29, 1521.99, 1531.06, 1531.35, 1548.06, 1555.08, 1557.03, 1901.34, 2151.362, 2913.40, 2921.42, 2927.023, 2935.03, 3109.04, 3109.041, 3119.022, 3119.023, 3119.27, 3119.29, 3119.30, 3125.12, 3301.0711, 3301.0714, 3301.53, 3302.03, 3302.10, 3311.24, 3313.41, 3313.603, 3313.615, 3313.64, 3313.646, 3313.66, 3313.661, 3313.98, 3314.015, 3314.02, 3314.074, 3314.08, 3314.26, 3317.01, 3317.012, 3317.013, 3317.014, 3317.015, 3317.016, 3317.017, 3317.02, 3317.021, 3317.022, 3317.023, 3317.024, 3317.025, 3317.026, 3317.027, 3317.028,

3317.029, 3317.0216, 3317.0217, 3317.03, 3317.04, 3317.06, 3317.08, 3317.16, 3317.20, 3317.201, 3318.12, 3318.15, 3318.26, 3319.55, 3323.01, 3323.11, 3327.05, 3333.04, 3333.122, 3333.38, 3357.01, 3365.01, 3375.05, 3375.121, 3375.40, 3375.85, 3381.04, 3501.17, 3701.74, 3701.741, 3701.83, 3702.52, 3702.5211, 3702.5212, 3702.5213, 3702.57, 3702.68, 3704.03, 3704.14, 3705.24, 3709.09, 3709.091, 3721.51, 3721.541, 3721.56, 3734.57, 3735.672, 3745.11, 3769.087, 3770.03, 3770.06, 3905.36, 4123.35, 4141.09, 4301.43, 4503.06, 4503.061, 4503.064, 4503.065, 4503.066, 4503.067, 4503.10, 4503.102, 4503.35, 4505.06, 4513.263, 4513.35, 4519.55, 4715.251, 4717.07, 4723.621, 4723.63, 4723.64, 4723.65, 4723.66, 4731.142, 4731.22, 4736.01, 4743.05, 4755.03, 4766.05, 4775.08, 4921.40, 5101.162, 5101.21, 5101.211, 5101.212, 5101.213, 5101.24, 5101.242, 5101.244, 5101.26, 5101.51, 5101.571, 5101.572, 5101.58, 5101.59, 5101.802, 5101.98, 5104.30, 5107.02, 5107.03, 5107.05, 5107.10, 5107.12, 5107.14, 5107.16, 5107.17, 5107.281, 5107.30, 5107.36, 5107.41, 5107.42, 5111.01, 5111.014, 5111.016, 5111.019, 5111.0112, 5111.023, 5111.03, 5111.06, 5111.084, 5111.10, 5111.101, 5111.163, 5111.17, 5111.172, 5111.20, 5111.871, 5111.8814, 5111.891, 5111.95, 5111.96, 5112.341, 5115.12, 5119.611, 5123.01, 5123.043, 5123.045, 5123.047, 5123.048, 5123.049, 5123.0411, 5123.051, 5123.19, 5123.196, 5123.198, 5123.20, 5123.211, 5123.38, 5123.41, 5123.51, 5123.60, 5123.602, 5123.603, 5123.604, 5123.99, 5126.038, 5126.042, 5126.046, 5126.054, 5126.055, 5126.056, 5126.057, 5126.06, 5126.11, 5126.12, 5126.15, 5126.18, 5126.19, 5126.25, 5126.40, 5126.42, 5126.43, 5126.45, 5126.47, 5139.27, 5139.271, 5139.43, 5302.30, 5528.54, 5531.10, 5537.04, 5537.16, 5537.99, 5705.28, 5705.281, 5705.29, 5705.30, 5705.31, 5705.32, 5705.321, 5705.37, 5705.44, 5709.68, 5709.882, 5715.36, 5719.041, 5725.151, 5725.24, 5727.45, 5727.81, 5727.84, 5727.85, 5727.87, 5733.12, 5733.98, 5739.02, 5739.033, 5739.12, 5739.21, 5741.02, 5741.03, 5743.01, 5743.20, 5743.331, 5745.02, 5745.05, 5745.13, 5747.03, 5747.46, 5747.47, 5747.48, 5747.50, 5747.501, 5747.51, 5747.52, 5747.53, 5747.54, 5747.55, 5747.98, 5748.01, 5748.02, 5748.021, 5748.04, 5748.08, 5751.20, 5751.21, 5751.23, 5907.15, 6109.21, 6111.04, 6111.44, 6121.04, 6121.043, and 6131.23; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 1521.20 (1506.38), 1521.21 (1506.39), 1521.22 (1506.40), 1521.23 (1506.41), 1521.24 (1506.42), 1521.25 (1506.43), 1521.26 (1506.44), 1521.27 (1506.45), 1521.28 (1506.46), 1521.29 (1506.47), 1521.30 (1506.48), 3702.63 (3702.591), 3702.68 (3702.59), 5111.95 (5111.033), 5111.96 (5111.034), and 5126.057 (5126.0511); to enact new sections 3318.47 and 5123.16 and sections 122.051, 122.071, 122.076, 122.174, 126.04, 126.24, 126.40, 131.51, 183.51, 183.52, 901.261, 991.08, 1713.031, 3123.23, 3301.162, 3303.20, 3310.51 to 3310.63, 3314.016, 3314.086, 3314.087, 3314.19, 3317.161, 3323.052, 3327.17, 3333.50, 3333.55, 3345.02, 3353.20, 3353.21, 3353.22, 3353.23, 3353.24, 3353.25, 3353.26, 3353.27, 3353.28, 3353.29, 3353.30, 3357.13, 3701.135, 4766.22, 4923.26, 5101.541, 5101.573, 5101.574, 5101.575, 5101.591, 5107.04, 5111.0119, 5111.028, 5111.029, 5111.031, 5111.032, 5111.085, 5111.102,

5111.165, 5111.84, 5111.861, 5123.033, 5123.0414, 5123.0415, 5123.0416, 5123.161, 5123.162, 5123.163, 5123.164, 5123.165, 5123.166, 5123.167, 5123.168, 5123.169, 5123.605, 5126.059, 5126.0510, 5126.0512, 5323.011, 5533.91, 5733.48, 5739.029, 5739.213, 5747.77, 5748.022, 5907.16, and 6111.0381; to repeal sections 125.95, 183.02, 183.27, 183.32, 3318.47, 3318.48, 3318.49, 3333.29, 3718.01, 3718.02, 3718.021, 3718.03, 3718.04, 3718.05, 3718.06, 3718.07, 3718.08, 3718.09, 3718.10, 3718.99, 4911.021, 5111.161, 5123.16, 5123.182, 5123.199, 5126.035, 5126.036, 5126.053, 5126.431, 5126.44, 5126.451, 5747.61, 5747.62, 5747.63, and 6111.441 of the Revised Code; to amend Section 310.10 of Am. Sub. H.B. 67 of the 127th General Assembly; to amend Section 252.70 of Am. Sub. H.B. 530 of the 126th General Assembly, to amend Section 153 of Am. Sub. H.B. 117 of the 121st General Assembly, as subsequently amended, to amend the version of section 127.16 of the Revised Code that is scheduled to take effect July 1, 2007, and to repeal the version of section 3702.68 of the Revised Code that was to have taken effect July 1, 2007, to make operating appropriations for the biennium beginning July 1, 2007, and ending June 30, 2009, and to provide authorization and conditions for the operation of state programs; to confirm and order implementation of sections 9.833, 9.90, 3311.19, 3313.12, 3313.202, 3313.33, 4117.03, and 4117.08 and to confirm and order complete implementation of section 9.901 of the Revised Code as the sections result from Am. Sub. H.B. 66 of the 126th General Assembly; to repeal Section 611.03 of Am. Sub. H.B. 66 of the 126th General Assembly; and to amend sections 9.90, 9.901, 3313.202, 3313.33, and 4117.03 of the Revised Code to make other specifications pertaining to that implementation as have become necessary; and to terminate operation of section 5101.213 of the Revised Code on July 1, 2008, by repealing the section on that date.

To the Committee on Finance and Financial Institutions.

S. B. No. 157-Senator Buehrer.

Cosponsors: Senators Carey, Faber.

To amend sections 1337.09, 2109.21, 2111.02, and 2111.121 of the Revised Code to specifically authorize a person to designate a guardian for the person's incompetent adult child.

To the Committee on Judiciary - Civil Justice.

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

The standing committee on Agriculture, to which was referred **S. B. No. 102**-Senator Schuler., having had the same under consideration, reports back a substitute bill and recommends its passage.

YES - 8: TOM ROBERTS, JASON H. WILSON, JOHN A. CAREY, J. KIRK SCHURING, TIMOTHY J. GRENDELL, KEITH L. FABER, JOY PADGETT, LARRY A. MUMPER.

NO - 0.

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

The report of the committee was accepted.

Senator Padgett submitted the following report:

The standing committee on Education, to which was referred **H. B. No. 2**-Representative Webster, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Padgett, Roberts, Morano, Sawyer, Jacobson, Mumper, Gardner, Cates.

YES - 9: TOM ROBERTS, SUSAN L. MORANO, THOMAS SAWYER, JEFF JACOBSON, LARRY A. MUMPER, JOHN A. CAREY, RANDY GARDNER, GARY W. CATES, JOY PADGETT.

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:

James Beasley, from Georgetown, Brown County, Ohio, as Director of the Department of Transportation for a term beginning March 5, 2007.

Michael A. Dolan, from Cleveland, Cuyahoga County, Ohio, as Director of the State Lottery Commission for a term beginning March 28, 2007.

Heather Heslop Licata, from Akron, Summit County, Ohio, as a Member of the State Board of Education for a term beginning March 1, 2007, and ending at the close of business December 31, 2008, replacing Tom Sawyer, who resigned.

J. Richard Lumpe, Independent, from Columbus, Franklin County, Ohio, as a Member and Chair of the State Personnel Board of Review for a new term beginning February 9, 2007 and ending at the close of business February 8, 2013.

Roger W. McCauley, from Glouster, Athens County, Ohio, as a Member of the Ohio Housing Finance Agency for a new term beginning March 6, 2007, and ending at the close of business January 31, 2013.

Rhonda L. Mears, from Marietta, Washington County, Ohio, as a Member of the Banking Commission for a term beginning March 6, 2007, and ending at the close of business January 31, 2010, replacing Tiney M. McComb, whose term expired.

Bick Weissenrieder, from Athens, Athens County, Ohio, as a Member of the Banking Commission for a term beginning March 6, 2007, and ending at the close of business January 31, 2010, replacing Marlene Barkheimer, whose term expired.

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, JOHN A. CAREY, J. KIRK SCHURING, LANCE T. MASON, RAY MILLER, TOM ROBERTS, TERESA FEDOR, STEPHEN C. AUSTRIA.

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
Smith

Schaffer
Spada

Schuler
Stivers

Schuring
Wilson
Harris-33.

So the Senate advised and consented to said appointments.

RESOLUTIONS REPORTED BY COMMITTEE

S. C. R. No. 5-Senator Padgett.

Cosponsors: Senators Cates, Clancy, Gardner, Boccieri, Schuler, Miller, D., Schaffer, Kearney.

To urge the Congress of the United States to recognize the significance of the eastern states, including Ohio, in the preparation for, and return of, the Lewis and Clark Expedition by enacting legislation extending the Lewis and Clark National Historic Trail east to its origin at Monticello.

WHEREAS, The idea for the Lewis and Clark Expedition had been a dream of President Thomas Jefferson from the time that he was a boy. He wanted to find a water route that connected the Atlantic Ocean with the Pacific Ocean; and

WHEREAS, Ohio has direct links to the early stages of the Expedition. Meriwether Lewis stopped in Marietta and Cincinnati on his way down the Ohio River to meet William Clark and begin the Expedition; and

WHEREAS, In honor of the accomplishments of Lewis and Clark and the people who accompanied and assisted them, the federal government created the Lewis and Clark National Historic Trail running from Illinois to Oregon. Many people believe that the current trail should be extended east to recognize the places that were significant in the preparation for, and return of, the Expedition; and

WHEREAS, Legislation was introduced in the 108th United States Congress to extend the Lewis and Clark National Historic Trail to include additional sites associated with the preparation for, or the return of, the Expedition, but was not enacted; now therefore be it

RESOLVED, That we, the members of the 127th General Assembly of the State of Ohio, urge the Congress of the United States to recognize the significance of the eastern states, including Ohio, in the preparation for, and return of, the Lewis and Clark Expedition by enacting legislation extending the Lewis and Clark National Historic Trail east to its origin at Monticello; and be it further

RESOLVED, That the Clerk of the Senate transmit duly authenticated copies of this resolution to the Speaker and Clerk of the United States House of

Representatives, the President Pro Tempore and Secretary of the United States Senate, the members of the Ohio Congressional delegation, the Lewis and Clark Trail Heritage Foundation, and the news media of Ohio.

The question being, "Shall the concurrent resolution, **S. C. R. No. 5**, be adopted?"

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 concurrent resolution was adopted.

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

Senator Padgett moved to amend the title as follows:

Add the names: "Austria, Buehrer, Fedor, Goodman, Roberts, Spada, Wilson, Harris, Stivers."

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

The motion was agreed to and the title so amended.

BILLS FOR THIRD CONSIDERATION

Sub. 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 Senators Padgett, Roberts, Morano, Sawyer, Jacobson, Mumper, Gardner, Cates.

To amend sections 3333.01, 3333.02, 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, 3333.163, 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, 3333.33, 3333.34, 3333.35, 3333.36, 3333.37, 3333.372, 3333.373, 3333.374, 3333.375, and 3333.38 and to enact sections 3333.031 and 3333.032 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, to transfer the Board's duties and powers to the Chancellor, to shorten the terms of the Board's members, and to declare an emergency, was considered the third time.

The question being, "Shall the section, Section 6, setting forth the emergency features of the bill, stand as a part of the bill?"

The yeas and nays were taken and resulted - yeas 31, nays 2, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Cafaro
Carey	Cates	Clancy	Coughlin
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-31.

Senators Buehrer and Faber voted in the negative-2.

So the section, Section 6, setting forth the emergency features of the bill stood as a part of the bill.

The question being, "Shall the bill pass as an emergency measure?"

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 bill having received the required constitutional majority passed as an emergency measure.

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

Senator Cates moved to amend the title as follows:

Add the names: "Cafaro, Carey, Clancy, Fedor, Kearney, Mason, Miller, D., Spada, Goodman, Stivers, Boccieri, Wilson, Miller, R., Schaffer, Grendell, Harris, Smith, Schuring."

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

The motion was agreed to and the title so amended.

MOTIONS

Senator Austria moved that Senators absent the week of Sunday, April 29, 2007, be excused, so long as a written explanation is on file with the Clerk pursuant to Senate Rule No. 17.

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

The motion was agreed to.

INTRODUCTION AND FIRST CONSIDERATION OF BILLS

The following bills were introduced and considered the first time:

S. B. No. 158-Senator Padgett.

Cosponsors: Senators Wilson, Schaffer, Cafaro.

To amend sections 4510.02, 4510.036, 4511.21, 4511.33, 4511.41, 4511.42, 4511.43, 4511.431, 4511.44, 4511.441, 4511.45, 4511.451, 4511.46, 4511.47, and 4513.39 and to enact section 4501.14 of the Revised Code to provide for increased penalties when a person violates the motor vehicle traffic law assured clear distance ahead provision or commits a failure to yield the right-of-way offense that results in serious physical harm or death to another person.

S. B. No. 159-Senator Coughlin.

Cosponsors: Senators Clancy, Mumper.

To amend section 2950.99 of the Revised Code to make a violation of the prohibition against certain sex offenders residing within 1,000 feet of any school premises a felony of the fifth degree.

S. B. No. 160-Senator Amstutz.

Cosponsors: Senators Schuring, Spada.

To amend sections 5739.03, 5739.031, 5739.033, 5739.035, 5739.123, and 5741.02 and to enact section 5741.09 of the Revised Code to require vendors using origin-based situsing rules to determine the appropriate sales tax jurisdiction in which a sale is taxable to continue to do so, to authorize vendors using destination-based sourcing to convert to origin-based situsing at their convenience, to repeal Ohio's multiple points of use provisions for services and computer-related sales, and to authorize the Tax Commissioner to

develop a plan for in-state and out-of-state vendors to elect to collect and remit Ohio use taxes at a uniform rate.

OFFERING OF RESOLUTIONS

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

S. R. No. 69-Senator Harris.

Recognizing All-Ohio Academic Team Day.

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 House of Representatives has concurred in the Senate amendments to:

Am. Sub. H. B. No. 53 -Representative Peterson. - et al.

Attest:

Laura P. Clemens,
Clerk.

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 bill:

Am. Sub. H. B. No. 53 -Representative Peterson. - et al.

Attest:

Laura P. Clemens,
Clerk.

The President signed said bill.

MESSAGE FROM THE PRESIDENT

Pursuant to Section 5537.02 (B) (1) (c) of the Ohio Revised Code, the

President of the Senate appoints Senator Buehrer to serve on the Ohio Turnpike Commission.

On the motion of Senator Jacobson, the Senate adjourned until Thursday, May 3, 2007, 11:00 o'clock a.m.

Attest:

DAVID A. BATTOCLETTI,
Clerk.