

**OHIO**

**SENATE**

**JOURNAL**

**THURSDAY, JUNE 5, 2003**

## SIXTIETH DAY

Senate Chamber, Columbus, Ohio

**Thursday, June 5, 2003, 11:00 o'clock a.m.**

The Senate met pursuant to adjournment.

Prayer was offered by Pastor Brian Hanson, Linworth Baptist Church, Worthington, 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 Carnes reports for the Standing Committee on Reference, recommending that the following bills and joint resolution, standing in order for second consideration, be referred to committee as recommended:

**Am. H. B. No. 137**-Representatives G. Smith, Book, Hughes, Setzer, Gibbs, Olman, Wolpert, D. Evans, T. Patton, Fessler, Brown.

To amend sections 3909.09 and 3909.15, to enact new sections 3909.05 and 3927.03, and to repeal sections 3909.05 and 3927.03 of the Revised Code relative to the appointment of agents by foreign insurance companies doing business in Ohio.

To the Committee on Insurance, Commerce and Labor.

**Sub. H. B. No. 142**-Representatives Hagan, Willamowski, Schmidt, Setzer, Husted, Schaffer, Seitz, Kearns, Gilb, McGregor, Hoops, Jolivette, Collier, White, Williams, Hollister, Reinhard, Miller, Otterman, Redfern, Allen, Carano, D. Evans, Barrett, Chandler, Ujvagi, S. Smith, Yates, DeBose, Reidelbach, Taylor, Schneider, Beatty.

To enact sections 1713.55, 3332.25, 3345.85, and 3701.133 of the Revised Code regarding meningitis vaccination status of students living in on-campus housing at institutions of higher education.

To the Committee on Health, Human Services and Aging.

**S. B. No. 99**-Senator Blessing.

To amend sections 1711.09, 1711.11, 3770.02, 3770.03, 3770.05, 3770.06, 3770.07, 3770.08, and 4301.03 and to enact sections 3333.30 and 3770.21 to 3770.30 of the Revised Code to require the State Lottery Commission to establish licensing procedures for electronic lottery sales agents that are horse-racing permit holders and to conduct lotteries that provide immediate prize determinations for individual participants through the use of electronic

gaming devices at the permit holders' tracks; to require the Department of Education to implement a scholarship program to provide tuition scholarships to certain high school graduates who enroll in state-assisted or private colleges or universities in Ohio; and to require a portion of the proceeds from the electronic lotteries to be used to support the scholarship program.

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

**S. J. R. No. 8-Senators Blessing, Fingerhut.**

Proposing to amend Section 6 of Article XV of the Constitution of the State of Ohio to require an agency of the state conducting lotteries to conduct lottery games, with immediate prize determinations for individual participants, by electronic devices, in those counties where licensed horseracing tracks operated during calendar year 2002, but in no more locations than the number of licensed horseracing tracks that operated in each such county during that year, and to require that the entire net proceeds of those lottery games be used to fund school building construction and scholarships for Ohio students at Ohio institutions of higher education.

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

JAMES E. CARNES  
DOUG WHITE  
BILL HARRIS

MARK MALLORY  
GREGORY L. DIDONATO

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

The report of the committee was accepted.

Said bills and joint resolution were considered a second time and referred to committee as recommended.

**REPORTS OF STANDING AND SELECT COMMITTEES**

Senator Wachtmann submitted the following report:

The standing committee on Health, Human Services and Aging, to which was referred **S. B. No. 86**-Senator Stivers, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsor: Wachtmann.

YES - 11: DANIEL R. BRADY, LYNN R. WACHTMANN,  
JEFFREY J. ARMBRUSTER, SCOTT R. NEIN, JIM  
JORDAN, MARK MALLORY, JEFF JACOBSON,

LOUIS W. BLESSING, C. J. PRENTISS, DAVID  
GOODMAN, RANDY GARDNER.

NO - 0.

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

The report of the committee was accepted.

Senator Wachtmann submitted the following report:

The standing committee on Health, Human Services and Aging, to which was referred **H. C. R. No. 6**-Representative Reidelbach, et al., having had the same under consideration, reports it back and recommends its passage.

Co-Sponsors: Wachtmann, Jordan, Jacobson.

YES - 9: LYNN R. WACHTMANN, SCOTT R. NEIN, RANDY  
GARDNER, JIM JORDAN, LOUIS W. BLESSING,  
DAVID GOODMAN, JEFFRY J. ARMBRUSTER, RAY  
MILLER, JEFF JACOBSON.

NO - 1: DANIEL R. BRADY.

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

The report of the committee was accepted.

Senator Carnes submitted the following report:

The standing committee on Rules to which was referred the appointment of the Governor of:

**Alan Rosenfield**, Democrat, from Columbus, Franklin County, Ohio, as a Member of the Radiation Advisory Council for a term beginning March 18, 2003 and ending at the close of business September 8, 2003, replacing Esther Blevins, who resigned.

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

YES - 10: DOUG WHITE, RANDY GARDNER, JAY  
HOTTINGER, JAMES E. CARNES, BILL HARRIS,  
SCOTT R. NEIN, C. J. PRENTISS, TERESA FEDOR,  
MARK MALLORY, GREGORY L. DIDONATO.

NO - 0.

The question being, "Shall the Senate advise and consent to the appointment

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	Blessing
Brady	Carey	Carnes	Coughlin
Dann	DiDonato	Fedor	Fingerhut
Randy Gardner	Robert Gardner	Goodman	Hagan
Harris	Herington	Hottinger	Jacobson
Jordan	Mallory	Miller	Mumper
Nein	Prentiss	Roberts	Schuler
Schuring	Spada	Stivers	Wachtmann
			White-33.

So the Senate advised and consented to said appointment.

## HOUSE AMENDMENTS TO SENATE BILLS AND RESOLUTIONS

The amendments of the House of Representatives to:

**Sub. S. B. No. 47** - Senators Stivers, et al.

To amend section 5741.02 and to enact sections 323.122 and 3319.284 of the Revised Code and to amend Sections 1.09 and 35.03 of H.B. 675 of the 124th General Assembly and to amend Section 3 of Am. Sub. S.B. 143 of the 124th General Assembly to extend the time with which members of the National Guard and reserve components of the Armed Forces of the United States who have been called to active duty must pay real property and manufactured homes taxes, to provide for extension of educator licenses for active duty members, to delay the effective date of certain sales tax law changes, to exempt leased computer equipment and related software from use taxation if it is held temporarily in Ohio by a third party, to amend the version of section 5741.02 of the Revised Code that is scheduled to take effect July, 2003, to continue the amendment of that section by this act on and after that date, and to declare an emergency, were taken up.

The question being, "Shall the section, Section 12, setting forth the emergency features of the bill, stand as a part of the bill?"

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	Blessing
Brady	Carey	Carnes	Coughlin
Dann	DiDonato	Fedor	Fingerhut
Randy Gardner	Robert Gardner	Goodman	Hagan
Harris	Herington	Hottinger	Jacobson
Jordan	Mallory	Miller	Mumper
Nein	Prentiss	Roberts	Schuler
Schuring	Spada	Stivers	Wachtmann
			White-33.

So the section, Section 12, setting forth the emergency features of the bill stood as a part of the bill.

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

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

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Blessing
Brady	Carey	Carnes	Coughlin
Dann	DiDonato	Fedor	Fingerhut
Randy Gardner	Robert Gardner	Goodman	Hagan
Harris	Herington	Hottinger	Jacobson
Jordan	Mallory	Miller	Mumper
Nein	Prentiss	Roberts	Schuler
Schuring	Spada	Stivers	Wachtmann
			White-33.

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

### **BILLS FOR THIRD CONSIDERATION**

**Sub. H. B. No. 95**-Representative Calvert. -Senators Carnes, Jacobson, Blessing, Goodman.

To amend sections 9.01, 9.83, 101.34, 101.72, 101.82, 102.02, 109.57, 109.572, 109.71, 117.101, 117.16, 117.44, 117.45, 119.035, 121.04, 121.08, 121.084, 121.41, 121.48, 121.62, 122.011, 122.04, 122.08, 122.17, 122.171, 122.25, 122.651, 122.658, 122.87, 122.88, 123.01, 124.03, 124.15, 124.152, 124.181, 125.15, 125.91, 125.92, 125.93, 125.95, 125.96, 125.98, 127.16, 131.02, 131.23, 131.35, 131.41, 145.38, 147.01, 147.37, 149.011, 149.30, 149.31, 149.33, 149.331, 149.332, 149.333, 149.34, 149.35, 153.65, 164.27, 165.09, 173.06, 173.061, 173.062, 173.07, 173.071, 173.14, 173.26, 173.54, 175.03, 175.21, 175.22, 183.02, 306.35, 306.99, 307.86, 307.87, 307.93, 307.98, 307.981, 307.987, 311.17, 317.32, 321.24, 323.01, 323.13, 325.31, 329.03, 329.04, 329.05, 329.051, 329.06, 340.021, 340.03, 341.05, 341.25, 504.03, 504.04, 505.376, 507.09, 511.12, 515.01, 515.07, 521.05, 715.013, 718.01, 718.02, 718.05, 718.11, 718.14, 718.15, 718.151, 731.14, 731.141, 735.05, 737.03, 753.22, 901.17, 901.21, 901.22, 901.63, 902.11, 921.151, 927.53, 927.69, 929.01, 955.51, 1309.109, 1317.07, 1321.21, 1333.99, 1337.11, 1346.02, 1501.04, 1503.05, 1513.05, 1515.08, 1519.05, 1521.06, 1521.063, 1531.26, 1533.08, 1533.10, 1533.101, 1533.11, 1533.111, 1533.112, 1533.13, 1533.151, 1533.19, 1533.23, 1533.301, 1533.32, 1533.35, 1533.40, 1533.54, 1533.631, 1533.632, 1533.71, 1533.82, 1541.10, 1563.42, 1702.59, 1711.13, 1711.15, 1711.17, 2101.16, 2117.06, 2117.25, 2133.01, 2151.352, 2151.3529, 2151.3530, 2151.83, 2151.84, 2152.19, 2301.58, 2305.234, 2329.07, 2329.66, 2505.13, 2715.041, 2715.045, 2716.13, 2743.02,

2743.60, 2915.01, 2915.02, 2915.08, 2915.09, 2915.091, 2915.092, 2915.093, 2915.10, 2915.101, 2915.13, 2917.41, 2921.13, 2923.35, 2925.44, 2929.38, 2933.43, 2935.01, 2935.36, 2949.091, 3111.04, 3119.01, 3121.01, 3123.952, 3125.12, 3301.0710, 3301.0711, 3301.0714, 3301.52, 3301.53, 3301.54, 3301.55, 3301.57, 3301.58, 3301.68, 3301.80, 3302.03, 3311.05, 3311.24, 3311.26, 3313.41, 3313.843, 3313.976, 3313.978, 3313.979, 3313.981, 3314.02, 3314.041, 3314.07, 3314.08, 3314.17, 3316.031, 3316.08, 3317.012, 3317.013, 3317.014, 3317.022, 3317.023, 3317.024, 3317.029, 3317.0217, 3317.03, 3317.032, 3317.05, 3317.064, 3317.07, 3317.09, 3317.10, 3317.15, 3317.16, 3318.01, 3318.03, 3318.042, 3318.05, 3318.06, 3318.08, 3318.30, 3318.31, 3318.37, 3318.41, 3319.01, 3319.02, 3319.03, 3319.07, 3319.19, 3319.22, 3319.33, 3319.36, 3323.16, 3327.01, 3327.011, 3329.06, 3329.08, 3332.04, 3333.12, 3353.11, 3361.01, 3375.41, 3377.01, 3377.06, 3383.01, 3383.07, 3501.18, 3501.30, 3503.10, 3505.01, 3505.061, 3505.08, 3505.10, 3517.092, 3701.02, 3701.021, 3701.022, 3701.024, 3701.141, 3701.145, 3701.342, 3701.82, 3701.83, 3701.881, 3701.99, 3702.31, 3702.529, 3702.53, 3702.532, 3702.54, 3702.544, 3702.55, 3702.60, 3702.61, 3702.68, 3702.74, 3705.01, 3705.23, 3705.24, 3709.09, 3710.05, 3710.07, 3711.021, 3721.02, 3721.121, 3721.19, 3721.51, 3721.56, 3722.151, 3733.43, 3733.45, 3734.02, 3734.05, 3734.12, 3734.123, 3734.124, 3734.18, 3734.28, 3734.42, 3734.44, 3734.46, 3734.57, 3735.27, 3735.67, 3735.671, 3737.01, 3737.02, 3737.03, 3737.21, 3737.22, 3737.65, 3737.71, 3737.81, 3737.82, 3737.83, 3737.84, 3737.85, 3737.86, 3737.88, 3737.881, 3737.882, 3737.883, 3737.89, 3737.91, 3737.92, 3737.98, 3741.14, 3743.57, 3743.75, 3745.04, 3745.11, 3745.14, 3745.40, 3746.02, 3746.13, 3747.16, 3748.07, 3748.13, 3769.087, 3770.07, 3770.10, 3770.12, 3770.99, 3773.33, 3773.43, 3781.07, 3781.19, 3901.491, 3901.501, 3901.72, 3901.86, 4104.01, 4104.02, 4104.04, 4104.06, 4104.07, 4104.08, 4104.15, 4104.18, 4104.19, 4104.20, 4104.41, 4104.44, 4104.45, 4104.46, 4105.17, 4112.15, 4115.10, 4117.02, 4117.14, 4123.27, 4123.41, 4141.04, 4141.09, 4141.23, 4301.03, 4301.19, 4303.02, 4303.021, 4303.03, 4303.04, 4303.05, 4303.06, 4303.07, 4303.08, 4303.09, 4303.10, 4303.11, 4303.12, 4303.121, 4303.13, 4303.14, 4303.141, 4303.15, 4303.151, 4303.16, 4303.17, 4303.171, 4303.18, 4303.181, 4303.182, 4303.183, 4303.184, 4303.19, 4303.20, 4303.201, 4303.202, 4303.203, 4303.204, 4303.21, 4303.22, 4303.23, 4303.231, 4501.06, 4503.101, 4503.103, 4505.06, 4506.14, 4506.15, 4506.16, 4506.20, 4506.24, 4508.08, 4509.60, 4511.33, 4511.62, 4511.63, 4519.55, 4707.071, 4707.072, 4707.10, 4709.12, 4717.07, 4717.09, 4719.01, 4723.01, 4723.06, 4723.07, 4723.08, 4723.082, 4723.17, 4723.271, 4723.34, 4723.35, 4723.431, 4723.63, 4729.01, 4729.41, 4731.27, 4731.65, 4731.71, 4734.15, 4736.12, 4743.05, 4747.05, 4747.06, 4747.07, 4747.10, 4749.01, 4749.02, 4749.03, 4749.04, 4749.05, 4749.06, 4749.07, 4749.08, 4749.10, 4749.11, 4749.12, 4749.13, 4749.14, 4751.06, 4751.07, 4755.03, 4759.08, 4771.22, 4779.08, 4779.17, 4779.18, 4903.24, 4905.79, 4905.91, 4919.79, 4928.62, 4928.63, 4931.45, 4931.47, 4931.48, 4973.17, 4981.20, 5101.11, 5101.14, 5101.141, 5101.142, 5101.144, 5101.145, 5101.146, 5101.16, 5101.162, 5101.18, 5101.181, 5101.21, 5101.211, 5101.212,

5101.22, 5101.24, 5101.26, 5101.27, 5101.28, 5101.35, 5101.36, 5101.58, 5101.59, 5101.75, 5101.80, 5101.83, 5101.97, 5103.031, 5103.033, 5103.034, 5103.036, 5103.037, 5103.038, 5103.0312, 5103.0313, 5103.0314, 5103.0315, 5103.0316, 5103.154, 5104.01, 5104.011, 5104.02, 5104.04, 5104.30, 5104.32, 5107.02, 5107.30, 5107.37, 5107.40, 5107.60, 5108.01, 5108.03, 5108.06, 5108.07, 5108.09, 5108.10, 5111.0112, 5111.02, 5111.021, 5111.022, 5111.03, 5111.06, 5111.082, 5111.111, 5111.17, 5111.171, 5111.20, 5111.21, 5111.22, 5111.25, 5111.251, 5111.252, 5111.28, 5111.29, 5111.30, 5111.31, 5111.34, 5111.85, 5111.87, 5111.871, 5111.872, 5111.873, 5111.92, 5111.94, 5112.03, 5112.08, 5112.17, 5112.31, 5112.99, 5115.01, 5115.02, 5115.03, 5115.04, 5115.05, 5115.07, 5115.10, 5115.11, 5115.13, 5115.15, 5115.20, 5119.61, 5119.611, 5120.52, 5123.01, 5123.051, 5123.19, 5123.60, 5123.801, 5126.01, 5126.042, 5126.11, 5126.12, 5126.121, 5126.15, 5126.18, 5126.44, 5139.01, 5139.04, 5139.33, 5139.34, 5139.36, 5139.41, 5139.43, 5139.87, 5153.122, 5153.16, 5153.163, 5153.60, 5153.69, 5153.72, 5153.78, 5301.68, 5301.691, 5310.15, 5502.01, 5502.13, 5549.21, 5703.052, 5705.39, 5705.41, 5705.412, 5709.20, 5709.21, 5709.22, 5709.25, 5709.26, 5709.27, 5709.61, 5709.62, 5709.63, 5709.632, 5709.64, 5711.02, 5711.13, 5711.18, 5711.22, 5711.27, 5711.33, 5713.07, 5713.08, 5713.081, 5713.082, 5713.30, 5715.27, 5715.39, 5717.03, 5719.07, 5727.111, 5727.30, 5727.32, 5727.33, 5727.56, 5727.84, 5728.04, 5728.06, 5728.99, 5733.04, 5733.05, 5733.051, 5733.056, 5733.059, 5733.06, 5733.0611, 5733.09, 5733.121, 5733.18, 5733.22, 5733.45, 5733.98, 5735.05, 5735.14, 5735.142, 5735.15, 5735.19, 5735.23, 5735.26, 5735.291, 5735.30, 5735.99, 5739.01, 5739.011, 5739.012, 5739.02, 5739.021, 5739.022, 5739.023, 5739.025, 5739.026, 5739.03, 5739.032, 5739.033, 5739.10, 5739.12, 5739.121, 5739.122, 5739.17, 5739.21, 5739.33, 5741.01, 5741.02, 5741.021, 5741.022, 5741.023, 5741.121, 5743.05, 5743.21, 5743.45, 5745.01, 5745.02, 5745.04, 5747.02, 5747.12, 5747.31, 5901.021, 6101.09, 6103.02, 6109.21, 6111.06, 6115.09, 6117.02, 6119.06, 6119.10, 6301.05, and 6301.07; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 3301.33 (3301.40), 3701.145 (3701.0210), 4104.46 (4104.48), 5101.211 (5101.214), 5101.212 (5101.215), 5108.06 (5108.04), 5108.07 (5108.05), 5111.08 (5111.071), 5111.16 (5111.08), 5111.252 (5123.199), 5115.02 (5115.04), 5115.04 (5115.02), 5115.07 (5115.06), 5115.13 (5115.07), and 5115.15 (5115.23); to enact new sections 718.03, 3301.31, 3301.33, 3317.11, 3318.052, 4104.42, 4104.43, 4104.46, 5101.211, 5101.212, 5101.213, 5108.06, 5108.07, 5111.16, 5111.173, 5115.13, 5709.211, 5709.23, 5709.24, and 5739.034 and sections 9.24, 107.12, 107.31, 107.32, 107.33, 121.36, 121.482, 122.041, 122.90, 123.152, 124.183, 125.073, 145.381, 153.691, 173.08, 317.36, 319.63, 511.181, 718.021, 718.051, 718.121, 901.85, 927.701, 1346.04, 1346.05, 1346.06, 1346.07, 1346.08, 1346.09, 1346.10, 1501.25, 1711.131, 2113.041, 2117.061, 3301.34, 3301.35, 3301.36, 3301.37, 3301.38, 3511.059, 3314.033, 3314.083, 3318.024, 3333.16, 3333.38, 3333.50, 3379.11, 3501.011, 3701.029, 3701.61, 3702.63, 3721.561, 3741.15, 3770.073, 3781.071, 3781.072, 3781.22, 4104.47, 4115.21, 4141.201, 4511.198, 4707.24, 4723.063, 4723.81, 4723.82, 4723.83, 4723.84, 4723.85,



4723.86, 4723.87, 4723.88, 4755.031, 5101.12, 5101.1410, 5101.20, 5101.201, 5101.216, 5101.221, 5101.222, 5101.241, 5101.242, 5101.243, 5101.271, 5103.155, 5108.11, 5108.12, 5111.0113, 5111.025, 5111.151, 5111.161, 5111.172, 5111.174, 5111.175, 5111.206, 5111.222, 5111.65, 5111.66, 5111.661, 5111.67, 5111.671, 5111.672, 5111.673, 5111.674, 5111.675, 5111.676, 5111.677, 5111.68, 5111.681, 5111.682, 5111.683, 5111.684, 5111.685, 5111.686, 5111.687, 5111.688, 5111.689, 5111.6810, 5111.911, 5111.912, 5111.913, 5111.95, 5111.96, 5111.97, 5115.12, 5115.14, 5115.22, 5123.196, 5123.198, 5123.1910, 5123.38, 5123.851, 5126.058, 5139.44, 5502.03, 5703.56, 5703.57, 5703.58, 5703.80, 5709.201, 5709.212, 5717.011, 5733.0511, 5733.55, 5733.56, 5733.57, 5735.053, 5741.25, 5743.051, and 5747.026; and to repeal sections 122.12, 125.931, 125.932, 125.933, 125.934, 125.935, 131.38, 179.01, 179.02, 179.03, 179.04, 319.311, 504.21, 718.03, 1333.96, 1533.06, 1533.39, 1553.01, 1553.02, 1553.03, 1553.04, 1553.05, 1553.06, 1553.07, 1553.08, 1553.09, 1553.10, 1553.99, 2305.26, 3301.078, 3301.0719, 3301.0724, 3301.31, 3301.581, 3313.82, 3313.83, 3313.94, 3317.11, 3318.033, 3318.052, 3318.35, 3319.06, 3319.34, 3701.142, 3701.144, 3702.543, 3702.581, 4104.42, 4104.43, 4141.044, 4141.045, 5101.213, 5101.251, 5108.05, 5111.017, 5111.173, 5115.011, 5115.012, 5115.06, 5115.061, 5139.42, 5139.45, 5709.211, 5709.23, 5709.231, 5709.24, 5709.30, 5709.31, 5709.32, 5709.33, 5709.34, 5709.35, 5709.36, 5709.37, 5709.45, 5709.46, 5709.47, 5709.48, 5709.49, 5709.50, 5709.51, 5709.52, 5727.39, 5727.44, 5733.111, 5735.33, 5739.034, 5739.35, 5741.011, 5741.24, 5743.46, 5747.131, 5747.60, 6111.31, 6111.311, 6111.32, 6111.34, 6111.35, 6111.36, 6111.37, 6111.38, and 6111.39 of the Revised Code; to amend Sections 11 and 11.04 of Am. Sub. H.B. 87 of the 125th General Assembly; to amend Section 13.05 of Am. Sub. H.B. 87 of the 125th General Assembly; to amend Sections 1.09 and 35.03 of H.B. 675 of the 124th General Assembly; to amend Sections 18.03, 18.04, 19.39, and 19.52 of H.B. 675 of the 124th General Assembly; to amend Section 24.43 of Am. Sub. H.B. 524 of the 124th General Assembly; to amend Sections 10 and 14 of Am. Sub. S.B. 242 of the 124th General Assembly; to amend Section 3 of Am. Sub. S.B. 143 of the 124th General Assembly; to amend Section 3 of Am. Sub. H.B. 215 of the 122nd General Assembly, as subsequently amended; to amend Section 3 of Am. Sub. H.B. 621 of the 122nd General Assembly, as subsequently amended; to amend Section 6 of Am. Sub. S.B. 67 of the 122nd General Assembly; to amend Section 153 of Am. Sub. H.B. 117 of the 121st General Assembly, as subsequently amended; to amend Section 27 of Sub H.B. 670 of the 121st General Assembly, as subsequently amended; to amend Section 5 of Am. Sub. S.B. 50 of the 121st General Assembly, as subsequently amended; to amend Section 2 of Am. Sub. H.B. 71 of the 120th General Assembly; to repeal Section 16 of Am. Sub. H.B. 87 of the 125th General Assembly; to repeal Section 63.37 of Am. Sub. H.B. 94 of the 124th General Assembly, as subsequently amended; to repeal Section 129 of Am. Sub. H.B. 283 of the 123rd General Assembly, as subsequently amended; to repeal Section 3 of Am. Sub. S.B. 272 of the 123rd General Assembly, as subsequently amended; to repeal Section 72 of Am. Sub. H.B. 850 of the 122nd General Assembly;

and to repeal Section 11 of Am. Sub. S.B. 50 of the 121st General Assembly, as subsequently amended; to repeal Section 3 of Am. Sub. S.B. 238 of the 123rd General Assembly; to levy taxes and provide for implementation of those levies, to make operating appropriations for the biennium beginning July 1, 2003, and ending June 30, 2005, and to provide authorization and conditions for the operation of state programs; to amend the version of section 921.22 of the Revised Code that is scheduled to take effect July 1, 2004, to continue the provisions of this act on and after that effective date; to amend the version of section 2305.234 of the Revised Code that is scheduled to take effect January 1, 2004, to continue the provisions of this act on and after that effective date; to amend the version of section 3332.04 of the Revised Code that is scheduled to take effect July 1, 2003; to amend the version of section 3734.44 of the Revised Code that is scheduled to take effect January 1, 2004, to continue the provisions of this act on and after that effective date; to amend the versions of sections 307.93, 2152.19, 2929.38, 4506.14, 4506.15, 4506.16, 4506.20, 4511.33, 4511.62, 4511.63, and 4511.75 of the Revised Code that are scheduled to take effect January 1, 2004; to amend the version of section 5101.28 of the Revised Code that is scheduled to take effect January 1, 2004, to continue the provisions of this act on and after that effective date; to amend the version of section 5743.45 of the Revised Code that is scheduled to take effect January 1, 2004, to continue the provisions of this act on and after that effective date; to amend the version of section 5739.033 of the Revised Code as it results from Am. Sub. S.B. 143 of the 124th General Assembly, as amended by H.B. 675 of the 124th General Assembly; to terminate certain provisions of this act on December 31, 2013, by repealing section 4723.063 of the Revised Code on that date; and to terminate certain provisions of this act on October 1, 2005, by repealing section 5111.161 of the Revised Code on that date, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 95**, pass?"

Senator Harris moved to amend as follows:

In line 20666, after "section" insert ". In furnishing the practice versions of Ohio graduation tests prescribed by division (F) of section 3301.0710 of the Revised Code, the department shall make the tests available on its website for reproduction by districts"

In line 64718, after "state" insert ", or such property installed on or after November 1, 1993, at a petroleum refinery for the primary purpose of eliminating or reducing substances within fuel that otherwise would create the emission of air contaminants upon the combustion of fuel"

In line 64777, delete "a" and insert "an industrial water pollution control"

In line 64808, after "Code" insert "allowing the commissioner to assess any additional tax notwithstanding any other time limitations imposed by law on the denied portion of the applicant's claim"

In line 64812, after "means" insert "real and personal"

In line 64817, after "means" insert "personal"

In line 64821, delete "if the" and insert "with an"

In line 64822, delete "of such property" and insert "that"

In line 80226, correct the spelling of "Long"

In line 81281, delete the period and insert a comma

In line 81937, delete "\$10,805,625 \$10,805,625" and insert "\$10,905,625 \$10,905,625"

In line 81940, delete "\$45,955,391" and insert "\$45,953,391"

In line 81958, delete "\$38,990,815 \$41,190,815" and insert "\$38,890,815 \$41,090,815"

In line 81972, delete "\$7,438,357,757" and insert "\$7,438,355,757"

In line 82033, delete "\$9,772,644,898" and insert "\$9,772,642,898"

In line 82443, delete "\$250,000" and insert "\$350,000"

Delete lines 82888 through 82890

Delete lines 84371 through 84371c

Between lines 84373a and 84374, insert:

"4K9 440-632 Occupational Therapy, Physical Therapy, and Athletic Trainers Board \$ 771,391 \$ 801,480"

In line 84885, delete "\$8,672,725,588" and insert "\$4,676,725,588"

In line 84887, delete "\$14,342,303,633" and insert "\$10,346,303,633"

Delete lines 89510 through 89513

Between lines 89518 and 89519, insert:

"State Special Revenue Fund Group				
4M5 226-601	Work Study & Technology	\$	42,919	\$ 42,919
	Investments			
TOTAL SSR State Special Revenue				
Fund Group		\$	42,919	\$ 42,919"

Delete lines 89531 through 89536

Between lines 89543 and 89544, insert:

"State Special Revenue Fund Group				
4M0 221-601	Educational Program	\$	33,188	\$ 33,188
	Expenses			
5H6 221-609	Even Start Fees & Gifts	\$	98,500	\$ 98,500
TOTAL SSR State Special Revenue				

Fund Group	\$	131,688	\$	131,688"
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Delete lines 89704 through 89709

Between lines 89713 and 89714, insert:

"State Special Revenue Fund Group

4W9	228-630	Ohio SchoolNet Telecommunity Fund	\$	400,000	\$	400,000
4X1	228-634	Distance Learning	\$	1,750,000	\$	1,750,000
5T3	228-605	Gates Foundation Grants	\$	1,194,908	\$	1,194,908
TOTAL SSR State Special Revenue Fund Group			\$	3,344,908	\$	3,344,908"

Delete lines 89979 through 89995

Between lines 89999 and 90000, insert:

"State Special Revenue Fund Group

4C6	110-616	International Registration Plan	\$	706,855	\$	706,855
4R6	110-610	Tire Tax Administration	\$	65,000	\$	65,000
435	110-607	Local Tax Administration	\$	13,600,000	\$	13,700,000
436	110-608	Motor Vehicle Audit	\$	1,350,000	\$	1,350,000
437	110-606	Litter Tax and Natural Resource Tax Administration	\$	625,232	\$	625,232
438	110-609	School District Income Tax	\$	2,599,999	\$	2,599,999
5N5	110-605	Municipal Income Tax Administration	\$	650,000	\$	650,000
5N6	110-618	Kilowatt Hour Tax Administration	\$	85,000	\$	85,000
5V7	110-622	Motor Fuel Tax Administration	\$	3,734,036	\$	3,833,091
5V8	110-623	Property Tax Administration	\$	11,569,719	\$	11,938,362
5W4	110-625	Centralized Tax Filing and Payment	\$	3,000,000	\$	3,000,000
639	110-614	Cigarette Tax Enforcement	\$	168,925	\$	168,925
642	110-613	Ohio Political Party Distributions	\$	600,000	\$	600,000
688	110-615	Local Excise Tax Administration	\$	300,000	\$	300,000
TOTAL SSR State Special Revenue Fund Group			\$	39,054,766	\$	39,622,464"

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

The motion was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 95**, pass?"

Senator Harris moved to amend as follows:

Between lines 92320 and 92321, insert:

"Section \_\_\_\_\_. (A) Any person required to make accelerated tax payments

under section 5739.032, 5739.122, or 5741.121 of the Revised Code that makes full payment of the taxes for the April 2003 reporting period on or before May 23, 2003; makes full payment of the taxes for the May 2003 reporting period on or before June 23, 2003; and makes all three of the required accelerated tax payments for the June 2003 reporting period on or before June 25, 2003, shall not be subject to the additional charge imposed under division (D)(1) of section 5739.032, division (D)(1) of section 5739.122, or division (D)(1) of section 5741.121 of the Revised Code for the reporting periods of April 2003 and May 2003.

(B) Notwithstanding division (A) of this section, a person required to make accelerated tax payments under section 5739.032, 5739.122, or 5741.121 of the Revised Code that has not been notified by the Department of Taxation of the requirement to make accelerated payments under one of those sections shall not be subject to the additional charge imposed under division (D)(1) of section 5739.032, division (D)(1) of section 5739.122, or division (D)(1) of section 5741.121 of the Revised Code for any reporting period prior to the receipt of the notice, or until the reporting period of September 2003, whichever is earlier."

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

The motion was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 95**, pass?"

Senator Jordan moved to amend as follows:

Strike through line 74688 and insert "twenty-third day of each month.  
The"

In line 74689, strike through "(1) On or before each of the"; delete "fifteenth"

Strike through line 74690

In line 74691, strike through "an amount equal to"; after "~~one-fourth~~" delete the remainder of the line

Strike through lines 74692 through 74697

In line 74698, strike through "The"

In line 75179, strike through "following dates:" and insert "twenty-third day of each month. The"

In line 75180, strike through "(1) On or before the"; delete "fifteenth"; strike through the remainder of the line

Strike through line 75181

In line 75182, strike through "the first"; delete "eleven" and strike through "days of the month."

In line 75185, after "~~month~~." Strike through the remainder of the line

Strike through line 75186

In line 75187, delete "twelfth"; strike through the remainder of the line

Strike through lines 75188 and 75189

In line 75190, strike through "may, on or before each of the"; delete "fifteenth"; strike through "and"

Strike through line 75191

In line 75192, delete "thirty-seven and one-half per cent"; strike through the remainder of the line

Strike through lines 75193 through 75198

In line 75199, strike through "The"

Strike through line 76060 and insert "twenty-third day of each month.  
The"

In line 76061, strike through "(1)(a) On or before the"; delete "fifteenth"; strike through the remainder of the line

Strike through line 76062

In line 76063, strike through "the first"; delete "eleven"; strike through "days of the month."

In line 76066, after "~~month~~." Strike through the remainder of the line

Strike through line 76067

In line 76068, delete "twelfth"; strike through the remainder of the line

Strike through lines 76069 and 76070

In line 76071, strike through "may, on or before each of the"; delete "fifteenth"; strike through "and"

Strike through line 76072

In line 76073, delete "thirty-seven and one-half per cent"; strike through the remainder of the line

Strike through lines 76074 and 76075

In line 76076, strike through "(2) On or before each of the"; delete "fifteenth"

Strike through line 76077

In line 76078, strike through "amount equal to"; delete "thirty-seven and one-half per cent"; strike through "of"

Strike through lines 76079 through 76085

In line 76086, strike through "The"

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

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

A roll call was requested which was properly supported.

The question being, "Shall the amendment be laid on the table?"

The yeas and nays were taken and resulted - yeas 23, nays 10, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Blessing	Carey	Carnes
DiDonato	Fedor	Fingerhut	Randy Gardner
Robert Gardner	Goodman	Harris	Hottinger
Jacobson	Mallory	Miller	Mumper
Prentiss	Roberts	Schuler	Schuring
Spada	Stivers		White-23.

Those who voted in the negative were: Senators

Armbruster	Austria	Brady	Coughlin
Dann	Hagan	Herington	Jordan
Nein			Wachtmann-10.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 95**, pass?"

Senator Fedor moved to amend as follows:

Delete lines 86684 and 86685 and insert:

"GRF X01-321 Apple Creek \$ 10,471,921 \$ 10,611,969

Developmental Center

GRF X02-321 Cambridge\$ 6,100,747 \$ 6,188,719

Developmental Center

GRF X03-321 Columbus \$ 7,896,859 \$ 8,006,229

Developmental Center

GRF X04-321 Gallipolis \$ 12,408,525 \$ 12,571,645

Developmental Center

GRF X05-321 Montgomery \$ 5,150,630 \$ 5,227,283

Developmental Center

GRF X06-321 Mount Vernon \$ 13,630,487 \$ 13,808,164

Developmental Center

GRF X07-321 Northwest Ohio \$ 8,516,922 \$ 8,633,678

Developmental Center

GRF X08-321 Southwest Ohio \$ 5,647,412 \$ 5,729,982

Developmental Center

GRF X09-321 Springview \$ 4,895,321 \$ 4,968,932

Developmental Center

GRF X10-321 Tiffin \$ 10,599,730 \$ 10,741,299

Developmental Center

GRF X11-321 Warrensville \$ 12,221,822 \$ 12,382,716

Developmental Center

GRF X12-321 Youngstown \$ 5,862,374 \$ 5,947,505

Developmental Center"

Delete lines 89207 and 89207a

Delete line 89214

In line 89216, delete "Administrative" and insert "Central Office"

Delete line 89216a

Delete lines 89217 through 89219a

Between lines 89219a and 89220, insert:

"GRF X13-321 Allen Correctional \$ 27,517,026 \$ 27,915,333

Institution

GRF X14-321 Belmont Correctional \$ 37,661,468 \$ 38,195,668

Institution

GRF X15-321 Chillicothe Correctional \$ 46,889,937 \$ 47,547,760

Institution

GRF X16-321 Corrections Medical \$ 33,310,836 \$ 33,786,756

Center

GRF X17-321 Correctional Reception \$ 39,322,212 \$ 39,878,659

Center

GRF X18-321 Dayton Correctional \$ 15,091,275 \$ 15,323,129

Institution

GRF X19-321 Franklin Pre-Release \$ 11,313,827 \$ 11,495,079



## Center

GRF X20-321 Grafton Correctional \$ 30,517,362 \$ 30,955,861

## Institution

GRF X21-321 Hocking Correctional \$ 12,671,071 \$ 12,870,504

## Facility

GRF X22-321 Lake Erie Correctional \$ 20,673,292 \$ 20,979,922

## Institution

GRF X23-321 Lebanon Correctional \$ 42,437,035 \$ 43,035,208

## Institution

GRF X24-321 Lima Correctional \$ 36,066,751 \$ 36,579,589

## Institution

GRF X25-321 London Correctional \$ 42,287,809 \$ 42,883,983

## Institution

GRF X26-321 Lorain Correctional \$ 35,686,604 \$ 36,194,349

## Institution

GRF X27-321 Madison Correctional \$ 41,113,792 \$ 41,694,240

## Institution

GRF X28-321 Mansfield Correctional \$ 54,703,025 \$ 55,465,511

## Institution

GRF X29-321 Marion Correctional \$ 29,577,478 \$ 29,983,119

## Institution

GRF X30-321 Montgomery Education/ \$ 10,559,074 \$10,730,216

## Pre-Release Center

GRF X31-321 Noble Correctional \$ 35,305,872 \$ 35,808,517

## Institution

GRF X32-321 North Central \$ 34,909,691 \$ 35,407,029

## Correctional Institution

GRF X33-321 North Coast Correctional \$ 12,776,856 \$ 12,977,707

## Treatment Facility

GRF X34-321 Northeast Pre-Release \$ 14,453,305 \$ 14,676,612

## Center

GRF X35-321 Oakwood Correctional \$ 24,008,542 \$ 24,359,850  
Facility

GRF X36-321 Ohio Reformatory for \$ 42,163,235 \$ 42,757,740  
Women

GRF X37-321 Pickaway Correctional \$ 50,661,891 \$ 51,370,242  
Institution

GRF X38-321 Richland Correctional \$ 33,882,511 \$ 34,366,089  
Institution

GRF X39-321 Ross Correctional \$ 45,258,842 \$ 45,894,816  
Institution

GRF X40-321 Southeastern Correctional \$ 32,769,657 \$ 33,238,328  
Institution

GRF X41-321 Southern Ohio \$ 55,591,274 \$ 56,365,659  
Correctional Facility

GRF X42-321 Toledo Correctional \$ 25,543,060 \$ 25,914,924  
Institution

GRF X43-321 Trumbull Correctional \$ 31,842,468 \$ 32,298,718  
Institution

GRF X44-321 Warren Correctional \$ 30,575,614 \$ 31,014,894  
Institution

GRF X45-321 Ohio State Penitentiary \$ 29,321,480 \$ 29,743,960"

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

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

A roll call was requested which was properly supported.

The question being, "Shall the amendment be laid on the table?"

The yeas and nays were taken and resulted - yeas 17, nays 16, as follows:

Those who voted in the affirmative were: Senators

Armbruster	Blessing	Carey	Carnes
Randy Gardner	Robert Gardner	Goodman	Harris
Hottinger	Jacobson	Mumper	Nein
Schuler	Schuring	Spada	Stivers
			White-17.

Those who voted in the negative were: Senators

Amstutz	Austria	Brady	Coughlin
Dann	DiDonato	Fedor	Fingerhut
Hagan	Herington	Jordan	Mallory
Miller	Prentiss	Roberts	Wachtmann-16.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 95**, pass?"

Senator Hagan moved to amend as follows:

In line 415, after "319.63," insert "329.043,"

In line 425, after "5108.12," insert "5110.01, 5110.02, 5110.03, 5110.04, 5110.06, 5110.07, 5110.08, 5110.09, 5110.10, 5110.12, 5110.15, 5110.16, 5110.18, 5110.19, 5110.20, 5110.21, 5110.25, 5110.26, 5110.27, 5110.28, 5110.40, 5110.42, 5110.44, 5110.50, 5110.60, 5110.62,"

Between lines 9278 and 9279, insert:

**"Sec. 329.043. In addition to the powers and duties prescribed in section 329.04 of the Revised Code, the county department of job and family services shall accept applications for the Rx program created by section 5110.02 of the Revised Code and make eligibility determinations for the program."**

Between lines 54247 and 54248, insert:

**"Sec. 5110.01. As used in this chapter:**

**(A) "Manufacturer of dangerous drugs," "terminal distributor of dangerous drugs," and "wholesale distributor of dangerous drugs" have the same meanings as in section 4729.01 of the Revised Code.**

**(B) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.**

**(C) "Prescription drug" means a dangerous drug as defined in division (F)(1) of section 4729.01 of the Revised Code.**

**(D) "Rx program participant" means an individual determined eligible for the Rx program and issued an Rx program enrollment card.**

**(E) "State health program" means a health program that is funded in whole or part with state funds or administered by a state agency.**

**Sec. 5110.02. There is hereby established in the department of job and family services the Rx program. An Rx program participant shall receive an Rx program enrollment card to be presented to terminal distributors of dangerous drugs to receive discounts provided for under section 5110.15 of the Revised Code on prescription drugs covered by the program pursuant to section 5110.27 of the Revised Code.**

**Sec. 5110.03. The director of job and family services may coordinate the**

Rx program with other programs administered by the director or, pursuant to an interagency agreement, directors of other state departments, to enhance efficiency, reduce the cost of prescription drugs, and maximize the benefits of the Rx program and other programs. Coordination may include making participants of other programs eligible for the Rx program.

**Sec. 5110.04.** There is hereby created in the state treasury the Rx program fund. The fund shall consist of rebates made by manufacturers of dangerous drugs and wholesale distributors of dangerous drugs pursuant to rebate agreements entered into under section 5110.25 of the Revised Code and money the general assembly appropriates for the Rx program. The director of job and family services shall use money in the fund to reimburse a terminal distributor of dangerous drugs the amount of the discount the terminal distributor provides an Rx program participant on a prescription drug pursuant to section 5110.15 of the Revised Code and pay the terminal distributor a professional fee established by rules adopted under section 5110.06 of the Revised Code. The director shall also use money in the fund to pay the administrative costs of the Rx program, including administrative costs associated with contracted services, computers, and other reasonable administrative matters. Investment earnings of the fund shall be credited to the fund.

**Sec. 5110.06.** The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement the Rx program. The rules shall provide for all of the following:

(A) Simplified eligibility determination procedures for the Rx program;

(B) The manner in which a terminal distributor of dangerous drugs shall disclose to an Rx program participant the amount the program has saved the participant on the cost of a prescription drug covered by the Rx program that the participant purchases from the terminal distributor. The rules shall not require a terminal distributor of dangerous drugs to reveal any proprietary information.

(C) Claim forms to be used by a terminal distributor of dangerous drugs under section 5110.18 of the Revised Code;

(D) The amount of the professional fee to be paid to terminal distributors of dangerous drugs pursuant to section 5110.19 of the Revised Code. The professional fee shall be three dollars initially. The director shall review the professional fee amount periodically to determine whether it should be increased.

(E) A schedule for manufacturers of dangerous drugs and wholesale distributors of dangerous drugs to pay rebates to the director pursuant to a rebate agreement entered into under section 5110.25 of the Revised Code;

(F) Notwithstanding this chapter, adjustments to the requirements and terms of the Rx program to accommodate any federally funded prescription drug programs created after the effective date of this section.

**Sec. 5110.07.** The director of job and family services shall seek a waiver of federal law or regulation if necessary to implement the Rx program.

**Sec. 5110.08.** The director of job and family services shall report enrollment in and the financial status of the Rx program to the speaker and minority leader of the house of representatives and the president and minority leader of the senate not later than the second week of each January.

**Sec. 5110.09.** The director of job and family services shall undertake outreach efforts to publicize the Rx program and maximize enrollment in the program.

**Sec. 5110.10.** An individual who meets all of the following requirements is eligible to participate in the Rx program.

(A) The individual is a resident of this state.

(B) Except as provided in section 5110.03 of the Revised Code, the individual is not eligible for a program under which federal, state, or county funds are used to pay part or all of the cost of the individual's prescription drugs.

(C) The individual does not have prescription drug coverage through a third-party payer, as defined in section 3901.38 of the Revised Code.

**Sec. 5110.12.** An individual seeking to participate in the Rx program shall apply to the county department of job and family services of the county in which the individual resides.

**Sec. 5110.15.** Each terminal distributor of dangerous drugs shall discount the amount it charges an Rx program participant for a prescription drug covered by the program. The amount of the discount shall be the amount of the rebate a manufacturer of dangerous drugs or wholesale distributor of dangerous drugs pays the director of job and family services for the prescription drug pursuant to a rebate agreement entered into under section 5110.25 of the Revised Code.

**Sec. 5110.16.** In accordance with rules adopted under section 5110.06 of the Revised Code, a terminal distributor of dangerous drugs shall disclose to an Rx program participant the amount the program has saved the participant on the cost of a prescription drug covered by the program that the participant purchases from the terminal distributor.

**Sec. 5110.18.** A terminal distributor of dangerous drugs that provides an Rx program participant a discount on a prescription drug pursuant to section 5110.15 of the Revised Code shall submit a claim to the director of job and family services verifying the amount the terminal distributor charged the participant for the prescription drug. The terminal distributor shall use a claim form prescribed in rules adopted under section 5110.06 of the Revised Code.

**Sec. 5110.19.** Using claims submitted by a terminal distributor of dangerous drugs under section 5110.18 of the Revised Code, the director of job and family services shall reimburse a terminal distributor of dangerous drugs the amount of the discount the terminal distributor provides an Rx program participant on a prescription drug pursuant to section 5110.15 of the Revised Code and pay the terminal distributor the professional fee established by rules

adopted under section 5110.06 of the Revised Code for each claim. The director shall make the reimbursements and payments on a weekly or biweekly basis.

**Sec. 5110.20.** The director of job and family services shall not impose a transaction charge on a terminal distributor of dangerous drugs that submits a claim under section 5110.18 of the Revised Code.

**Sec. 5110.21.** The director of job and family services shall not release any information included on a claim submitted to the director under section 5110.18 of the Revised Code that is subject to confidentiality protection under federal or state law.

**Sec. 5110.25.** Each manufacturer of dangerous drugs and wholesale distributor of dangerous drugs that sells prescription drugs through a state health program shall enter into a rebate agreement with the director of job and family services under which the manufacturer or wholesale distributor is to make rebate payments to the director on a quarterly basis or in accordance with a schedule established by rules adopted under section 5110.06 of the Revised Code.

**Sec. 5110.26.** The director of job and family services shall negotiate with each manufacturer of dangerous drugs and wholesale distributor of dangerous drugs that enters into a rebate agreement with the director under section 5110.25 of the Revised Code the amount of the rebate the manufacturer or wholesale distributor shall pay to the director under that section. In the process of negotiations, the director shall do both of the following:

(A) Take into consideration rebates provided for under 42 U.S.C. 1396r-8, the average wholesale price of prescription drugs, and any other information on prescription drug prices and price discounts available to the director;

(B) Use the director's best efforts to obtain a rebate amount that is at least as much as the amount of the rebate provided for under 42 U.S.C. 1396r-8 or not less than the amount the federal government receives as a discount, rebate, or price reduction for prescription drugs.

**Sec. 5110.27.** The Rx program shall cover a prescription drug if the prescription drug is included in a rebate agreement entered into under section 5110.25 of the Revised Code.

**Sec. 5110.28.** The director of job and family services shall maintain a list of manufacturers of dangerous drugs and wholesale distributors of dangerous drugs that do not enter into a rebate agreement with the director under section 5110.25 of the Revised Code. The director shall make the list available to the public.

**Sec. 5110.40.** Not later than April 1, 2005, the director of job and family services shall do all of the following:

(A) Review medicaid recipients' use of prescription drugs and create a list of the one hundred prescription drugs most used by medicaid recipients and the one hundred prescription drugs for which the total cost was the highest. To make

this determination, the director shall use data from the most recent six-month period for which such data is available.

(B) Determine the average amount terminal distributors of dangerous drugs charged Rx program participants for each prescription drug included on the list created under division (A) of this section on a date selected by the director;

(C) Determine the average amount terminal distributors of dangerous drugs charged persons other than Rx program participants for each prescription drug included on the list created under division (A) of this section on the date selected by the director under division (B) of this section.

**Sec. 5110.42.** If the director of job and family services determines under section 5110.40 of the Revised Code that the average amount terminal distributors of dangerous drugs charged Rx program participants for one or more prescription drugs included on the list the director created under division (A) of that section is not reasonably comparable to the average amount terminal distributors charged persons other than Rx program participants for the same prescription drug, the director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing maximum amounts terminal distributors of dangerous drugs may charge in this state for any or all prescription drugs. If required to adopt the rules, the director shall adopt the rules not later than October 1, 2005. The rules shall permit a terminal distributor of dangerous drugs to appeal the maximum price a rule establishes for a prescription drug in accordance with Chapter 119. of the Revised Code.

**Sec. 5110.44.** (A) No terminal distributor of dangerous drugs shall charge more for a prescription drug than permitted by rules adopted under section 5110.42 of the Revised Code.

(B) A terminal distributor of dangerous drugs that violates division (A) of this section commits an unfair or deceptive act or practice in violation of section 1345.02 of the Revised Code.

**Sec. 5110.50.** If the director of job and family services determines that there is a severe shortage of prescription drugs in this state that could threaten the public health or welfare, the director may take actions the director determines necessary.

**Sec. 5110.60.** (A) No manufacturer of dangerous drugs, wholesale distributor of dangerous drugs, or terminal distributor of dangerous drugs shall do any of the following:

(1) Demand an unconscionable price for a prescription drug;

(2) Demand prices or terms for a prescription drug that lead to an unjust or unreasonable profit;

(3) Discriminate unreasonably against any person in the sale, exchange, distribution, or handling of a prescription drug dispensed or delivered in this state.

(B) A manufacturer of dangerous drugs, wholesale distributor of dangerous drugs, or terminal distributor of dangerous drugs that violates this section is liable in a civil action for all of the following:

(1) An amount equal to three times the amount of the injury caused by the violation;

(2) An amount not to exceed one hundred thousand dollars;

(3) The cost of bringing and prosecuting the action, including necessary and reasonable investigative costs, reasonable expert fees, and reasonable attorney's fees;

(4) In the case of a willful violation or a determination that the manufacturer of dangerous drugs, wholesale distributor of dangerous drugs, or terminal distributor of dangerous drugs previously has been found liable under this section, punitive damages.

**Sec. 5110.62.** On behalf of a person, group of persons, state agency, or political subdivision injured by a violation of section 5110.60 of the Revised Code, the attorney general may bring a civil action against the manufacturer of dangerous drugs, wholesale distributor of dangerous drugs, or terminal distributor of dangerous drugs whose violation of that section caused the injury. There is a right to a jury trial in a civil action brought under this section. In addition to the awards provided by division (B) of section 5110.60 of the Revised Code, the attorney general may obtain injunctive relief. If punitive damages are awarded, the attorney general shall equitably distribute the damages to all injured parties, less reasonable costs to the attorney general for distributing the damages."

Between lines 92667 and 92668, insert:

"**Section \_\_\_\_.** \*Sections 329.043, 5110.01, 5110.02, 5110.03, 5110.04, 5110.06, 5110.07, 5110.08, 5110.09, 5110.10, 5110.12, 5110.15, 5110.16, 5110.18, 5110.19, 5110.20, 5110.21, 5110.25, 5110.26, 5110.27, 5110.28, 5110.40, 5110.42, 5110.44, 5110.50, 5110.60, and 5110.62 of the Revised Code, as enacted by this act, shall take effect January 1, 2004."

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

A roll call was requested which was properly supported.

The question being, "Shall the amendment be laid on the table?"

The yeas and nays were taken and resulted - yeas 18, nays 15, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Blessing	Carey
Carnes	Coughlin	Randy Gardner	Robert Gardner
Goodman	Harris	Hottinger	Jordan
Mumper	Nein	Schuler	Stivers
Wachtmann			White-18.

Those who voted in the negative were: Senators



Austria	Brady	Dann	DiDonato
Fedor	Fingerhut	Hagan	Herington
Jacobson	Mallory	Miller	Prentiss
Roberts	Schuring		Spada-15.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 95**, pass?"

The yeas and nays were taken and resulted - yeas 24, nays 9, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Blessing
Brady	Carey	Carnes	DiDonato
Fedor	Fingerhut	Randy Gardner	Robert Gardner
Goodman	Harris	Jacobson	Mallory
Miller	Mumper	Nein	Prentiss
Roberts	Schuring	Stivers	White-24.

Those who voted in the negative were: Senators

Coughlin	Dann	Hagan	Herington
Hottinger	Jordan	Schuler	Spada
			Wachtmann-9.

So the bill passed.

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

Senator Harris moved to amend the title as follows:

Add the names : "Harris, DiDonato, Fingerhut, Miller, Mallory, Prentiss, White."

### MOTIONS

Senator Jacobson moved that Senators absent the week of Sunday, June 1, 2003, be excused, so long as a written explanation is on file with the Clerk pursuant to Senate Rule No. 17.

### OFFERING OF RESOLUTIONS

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

**S.R. No. 408** - Senators Blessing, White, Amstutz, Armbruster, Austria, Brady, Carey, Carnes, Coughlin, Dann, DiDonato, Fedor, Fingerhut, Randy Gardner, Robert Gardner, Goodman, Hagan, Harris, Herington, Hottinger, Jacobson, Jprdan, Mallory, Miller, Mumper, Nein, Prentiss, Roberts, Schuler, Schuring, Spada, Stivers, Wachtmann.

In memory of Gordon M. Scherer.

**S.R. No. 409** - Senator Carnes.

Honoring Frank and Lorena Engle on their Golden Wedding Anniversary.

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

So the resolutions were adopted.

On the motion of Senator Randy Gardner the Senate adjourned until Tuesday, June 10, 2003 at 1:30 p.m.

Attest:

MATTHEW T. SCHULER,  
Clerk.