

OHIO

SENATE

JOURNAL

MONDAY, JANUARY 3, 2005

FIRST DAY
Senate Chamber, Columbus, Ohio
Monday, January 3, 2005, 1:30 a.m.

This being the day fixed by law for the meeting of the General Assembly in the regular session, the Senators and Senators-elect of the One Hundred Twenty-Sixth General Assembly of the State of Ohio, met in the Senate Chamber and were called to order by Senator Doug White, President of the One Hundred Twenty-Fifth General Assembly.

Prayer was offered by Pastor Dan Allan, Grace Brethren Church of Ashland, Ashland, Ohio.

The Colors were presented by Servicemen of the United States Marine Corps and the Fleet Marine Force: Corporal Matthew Montgomery, Master Sergeant John Mitchell, Sergeant Harry Lewis, Corporal Thomas Ward, and FMF Hospital Corpsman Third Class Carl Price.

The Pledge of Allegiance was led by the children, grandchildren, nieces and nephews of the Senators and Senators-Elect.

The National Anthem was sung by Ms. Jane Roland, Veterans' Benefits Counselor, Veterans' Service Office for Ashland County.

The President directed the Clerk to call the Senatorial Districts in their numerical order when the following named persons presented their certificates of election as Senators from their respective districts to the One Hundred Twenty-Sixth General Assembly, and the following named persons who were previously elected in 2002:

First District - Composed of: Auglaize (part), Defiance, Fulton, Hancock, Hardin, Henry, Paulding, Putnam, Van Wert, Williams - Lynn R. Wachtmann.

Second District - Composed of: Erie, Lucas (part), Wood - Randy Gardner.

Third District - Composed of: Franklin (part) - David Goodman.

Fourth District - Composed of: Butler - Gary Cates.

Fifth District - Composed of: Darke (part), Miami, Montgomery (part) - Tom Roberts.

Sixth District - Composed of: Montgomery (part) - Jeff Jacobson.

Seventh District - Composed of: Hamilton (part) - Robert L. Schuler.

Eighth District - Composed of: Hamilton (part) - Patricia Clancy.

Ninth District - Composed of: Hamilton (part) - Mark Mallory.

Tenth District - Composed of: Clark, Greene, Madison - Stephen C. Austria.

Eleventh District - Composed of: Lucas (part) - Teresa Fedor.

Twelfth District - Composed of: Allen, Auglaize (part), Champaign, Darke, Mercer, Preble, Shelby - Jim Jordan.

Thirteenth District - Composed of: Huron, Lorain, Seneca (part) - Jeffrey J. Armbruster.

Fourteenth District - Composed of: Adams, Brown, Clermont, Lawrence (part), Scioto - Tom Niehaus.

Fifteenth District - Composed of: Franklin (part) - Ray Miller.

Sixteenth District - Composed of: Franklin (part) - Steve Stivers.

Seventeenth District - Composed of: Clinton, Fayette, Gallia, Highland, Jackson, Lawrence (part), Pickaway (part), Pike, Ross, Vinton - John Carey.

Eighteenth District - Composed of: Cuyahoga (part), Geauga, Lake - Timothy J. Grendell.

Nineteenth District - Composed of: Ashland (part), Delaware, Knox, Morrow, Richland - Bill M. Harris.

Twentieth District - Composed of: Athens, Coshocton, Guernsey, Meigs, Monroe, Morgan, Muskingum, Noble, Washington - Joy Padgett.

Twenty-First District - Composed of: Cuyahoga (part) - C.J. Prentiss.

Twenty-Second District - Composed of: Ashland (part), Holmes, Wayne - Ron Amstutz.

Twenty-Third District - Composed of: Cuyahoga (part) - Daniel R. Brady.

Twenty-Fourth District - Composed of: Cuyahoga (part) - Robert F. Spada.

Twenty-Fifth District - Composed of: Cuyahoga (part) - Eric. D. Fingerhut.

Twenty-Sixth District - Composed of: Crawford, Logan, Marion, Ottawa (part), Sandusky, Seneca (part), Union, Wyandot - Larry A. Mumper.

Twenty-Seventh District - Composed of: Summit (part) - Kevin J. Coughlin.

Twenty-Eighth District - Composed of: Portage, Summit (part) - Kimberly A. Zurz.

Twenty-Ninth District - Composed of: Stark (part) - J. Kirk Schuring.

Thirtieth District - Composed of: Belmont, Columbiana, Harrison, Jefferson, Tuscarawas (part) - Charles A. Wilson, Jr.

Thirty-First District - Composed of: Fairfield, Hocking, Licking, Perry, Pickaway (part) - Jay Hottinger.

Thirty-Second District - Composed of: Ashtabula, Trumbull - Marc Dann.

Thirty-Third District - Composed of: Carroll, Mahoning, Stark (part), Tuscarawas (part) - Robert F. Hagan.

The members affiliated with the Republican party, except for Senator Stivers, appeared at the bar of the Senate and were administered the oath of office by the Honorable Thomas J. Moyer, Chief Justice, Ohio Supreme Court.

The members affiliated with the Democrat party, except for Senator Roberts, appeared at the bar of the Senate and were administered the oath of office by the Honorable Joseph J. Vukovich, Judge, 7th District Court of Appeals.

CLERK'S NOTATION

Senator Roberts, a duly sworn member of the Ohio Senate, being unable to attend session, filed a request to be excused under the rule.

Senator Gardner moved that the oaths of office of absent members-elect be accepted and spread upon the pages of the journal.

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

The motion was agreed to.

I, STEVE STIVERS, do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of Ohio and will faithfully discharge and perform all of the duties incumbent upon me as a member of the Ohio Senate, according to the best of my ability and understanding and do this as I shall answer unto God.

/S/ STEVE STIVERS
STEVE STIVERS

SWORN to before me and by him subscribed in my presence this 3rd day of December, 2004

/S/ JEFFREY L. MARSTIN
JEFFREY L. MARSTIN
Notary Public,
Marion County.

The President announced that a quorum of the Senate was present and that the Senate was ready to transact business.

The President announced that the next order of business should be the election of the following officers: President, President Pro Tempore, Majority Floor Leader, Assistant Majority Floor Leader, Majority Whip, Assistant Majority Whip, Minority Leader, Assistant Minority Leader, Minority Whip, and Assistant Minority Whip.

The election of the President being the first order, the Chair appointed

Senator Mumper to preside during the election of the President.

Senator Spada nominated Senator Bill Harris of the Nineteenth District for President.

Senator Schuler seconded the nomination.

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

The question being, "Shall Senator Bill Harris be elected President?"

The yeas and nays were taken and resulted - yeas 30, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Brady
Carey	Cates	Clancy	Coughlin
Dann	Fedor	Fingerhut	Gardner
Goodman	Grendell	Hagan	Hottinger
Jacobson	Jordan	Mallory	Miller
Mumper	Niehaus	Padgett	Prentiss
Schuler	Schuring	Spada	Wachtmann
Wilson			Zurz-30.

Senator Harris having received a majority of the votes cast was declared elected President of the Ohio Senate.

Senator Harris appeared at the bar of the Senate and was administered the oath of office by the Honorable Doug White, former President of the Ohio Senate.

Senator Harris took the chair and addressed the Senate.

"As I take this chair, I would like my first action to be to lead a moment of silence in honor of the brave men and women serving in Operation Iraqi Freedom.

Today we remember those Ohioans who have been killed in action. We pray for the safe return of Ohio Army Reserve Spc. Keith "Matt" Maupin who is Missing in Action, and we honor our fellow Ohio legislators on active duty.

Please stand and join me in a moment of silence for Senator Steve Stivers who is currently serving in the Middle East, Representative John Bocchieri who will soon be redeployed, and all Ohioans who put their lives on the line for this great nation.

Thank you. Please be seated.

I would also like to recognize a very special guest in the chamber - Mrs. Carol Stivers, mother to Senator Steve Stivers. Mrs. Stivers - Steve and your entire family remain in our thoughts and prayers. Thank you for being with us today.

Chief Justice Moyer, Judge Vukovich, Auditor Montgomery, Senator and

Mrs. White, former Senate President Richard Finan, former Speaker of the House Jo Ann Davidson, former Senator Richard P. "Dick" Schafrath, former Senator and future Lieutenant Governor Bruce Johnson, fellow Senators, staff members, families and friends.

As the new president of the Ohio Senate, I am honored to welcome you to the first day of a new session.

I would also like to recognize and thank Pastor Dan Allan and our soloist Jane Roland who are both from my district, as well as our musicians Mick Szabo and Stephen Melroy and our outstanding Color Guard - servicemen of the United States Marine Corps.

I am honored to have been sworn-in by my predecessor and very good friend, Senator Doug White.

Senator White, I want to thank you for your leadership and example throughout the 125th General Assembly, and on behalf of the entire Senate, to wish you great success as you move on to the Governor's Cabinet and Director of the Commerce Department.

We will miss your composure and patience, your wit and wisdom, and most of all -- your ability to make a farm analogy out of every situation.

Now that we've heard them all - we can alert the Governor's Cabinet that they are in for a new education. Senator White in your new position, I don't think I'll be getting calls from you from your farm while I'm at the statehouse, letting me hear you on your tractor!!!

On this special day, I would be remiss without thanking the families once again gathered with us -- You make it possible for us to do what we do.

Though today we put on airs and make it all look very easy, there are many long nights and sacrifices given over the years and I think it's important that we all take a minute to thank the loved ones who are gathered with us today.

I especially want to thank my wife, Cay Harris. Many of you may know that between the two of us, we could almost form our own Senate. We have eleven children and sixteen grandchildren, many of whom we are pleased to have with us today.

My sons: Bill Jr., Lonnie and Scott and their families and two-step children, Mrs. Mary Skeen and Mr. Bill Paulson.

I would also like to thank Chief Justice Moyer and Judge Vukovich for helping to make today's ceremony official. On behalf of the Senate, we thank you for the positive rapport we have enjoyed with you over the years and look forward to continuing this rapport.

To my fellow Senators -- I am honored to have the opportunity to serve you, the members of the 126th General Assembly, as President of the Ohio Senate.

I am humbled by your vote of confidence and pledge to devote all my

efforts and energies to utilize each of your talents and interests to work to pass good legislation and to implement positive public policy for this great state.

I have been blessed to hold leadership positions throughout my life - in the United States Marine Corps, as a small business owner and in the Ohio General Assembly.

Through these experiences, I have always found the best success, to be, not in ruling with an iron fist, but to follow in the example of Jesus Christ and being a servant leader.

I pledge to you as a servant leader I will facilitate, encourage, motivate, recognize accomplishments and also critique when necessary - it is imperative that we work together and hold each-other accountable.

I assure you, my vision as a servant leader is focused exclusively on the Ohio Senate. I have no other political ambitions.

Recently on this floor, my good friend Senator Fingerhut recited a Bible verse from Micah to make a point.

When the prophet Micah was asked, "what does your God require of you", he replied in Micah 6:8 "Do justly, love mercy, and walk humbly with your Lord".

Though today grants us an entirely different context, I think these words are a wise reminder to all in public service and a fitting way to begin a new session as our individual and collective guiding principles.

"Do justly, love mercy, and walk humbly with your Lord."

It is essential that we remember the wisdom in these words as we work together with the Governor and the Ohio House of Representatives on the many issues sure to come before us.

I am excited for the possibilities as I continue a strong working relationship with Governor Taft and forge a continuing excellent working relationship with Speaker Husted and Minority Leader Senator C.J. Prentiss.

Together, we will walk humbly on a path that is riddled with many challenges - some of which may now seem insurmountable however, I submit to you that a balanced budget, an improved economy, tax reform, Medicaid reform, school funding, and a state energy policy are all within our reach, if we commit today, to stay focused, to work cooperatively and to always remember the binding promise of the oath we have given today.

Each of us has a responsibility to this institution - to the team that we must develop and to which I ask each of us today, on both sides of the aisle, to dedicate ourselves. That doesn't mean we'll always get along on every issue, nor have the same approach toward problem solving. However, continuing communications and treating each other, the way we expect to be treated, will guide us to success.

For all of us, our charge is to do the right thing, to give 110 percent and

always, to act in the best interests of our constituents and the people of Ohio.

As your President, I pledge to hold you accountable in these areas and I'm confident, you will do the same for me.

Thank you and God bless you and God bless the Ohio Senate!"

Senator Schuler nominated Senator Jeff Jacobson of the Sixth District for the office of President Pro Tempore.

Senator Cates seconded the nomination.

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

The question being, "Shall Senator Jeff Jacobson be elected President Pro Tempore?"

The yeas and nays were taken and resulted - yeas 30, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Brady
Carey	Cates	Clancy	Coughlin
Dann	Fedor	Fingerhut	Gardner
Goodman	Grendell	Hagan	Hottinger
Jordan	Mallory	Miller	Mumper
Niehaus	Padgett	Prentiss	Schuler
Schuring	Spada	Wachtmann	Wilson
Zurz			Harris-30.

Senator Jacobson having received a majority of the votes cast was declared the elected President Pro Tempore.

Senator Jordan nominated Senator Randy Gardner of the Second District for the office of Majority Floor Leader.

Senator Padgett seconded the nomination.

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

The question being, "Shall Senator Randy Gardner be elected Majority Floor Leader?"

The yeas and nays were taken and resulted - yeas 30, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Brady
Carey	Cates	Clancy	Coughlin
Dann	Fedor	Fingerhut	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Mallory	Miller	Mumper
Niehaus	Padgett	Prentiss	Schuler
Schuring	Spada	Wachtmann	Wilson
Zurz			Harris-30.

Senator Randy Gardner having received a majority of the votes cast was declared elected Majority Floor Leader.

Senator Armbruster nominated Senator Robert F. Spada of the Twenty-Fourth District for the office of Assistant Majority Floor Leader.

Senator Amstutz seconded the nomination.

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

The question being, "Shall Senator Robert F. Spada be elected Assistant Majority Floor Leader?"

The yeas and nays were taken and resulted - yeas 30, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Brady
Carey	Cates	Clancy	Coughlin
Dann	Fedor	Fingerhut	Gardner
Goodman	Grendell	Hagan	Hottinger
Jacobson	Jordan	Mallory	Miller
Mumper	Niehaus	Padgett	Prentiss
Schuler	Schuring	Wachtmann	Wilson
Zurz			Harris-30.

Senator Robert F. Spada having received a majority of the votes cast was declared elected Assistant Majority Floor Leader.

Senator Mumper nominated Senator Stephen C. Austria of the Tenth District for the office of Majority Whip.

Senator Carey seconded the nomination.

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

The question being, "Shall Senator Stephen C. Austria be elected Majority Whip?"

The yeas and nays were taken and resulted - yeas 30, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Brady	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Mallory	Miller	Mumper
Niehaus	Padgett	Prentiss	Schuler
Schuring	Spada	Wachtmann	Wilson
Zurz			Harris-30.

Senator Stephen C. Austria having received a majority of the votes cast was

declared elected Majority Whip.

Senator Coughlin nominated Senator Jay Hottinger of the Thirty-First District for the office of Assistant Majority Whip.

Senator Carey seconded the nomination.

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

The question being, "Shall Senator Jay Hottinger be elected Assistant Majority Whip?"

The yeas and nays were taken and resulted - yeas 30, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Brady
Carey	Cates	Clancy	Coughlin
Dann	Fedor	Fingerhut	Gardner
Goodman	Grendell	Hagan	Jacobson
Jordan	Mallory	Miller	Mumper
Niehaus	Padgett	Prentiss	Schuler
Schuring	Spada	Wachtmann	Wilson
Zurz			Harris-30.

Senator Jay Hottinger having received a majority of the votes cast was declared elected Assistant Majority Whip.

The duly elected officers of the Republican party appeared at the bar of the Senate and were administered the oath of office by the Honorable Thomas J. Moyer, Chief Justice, Ohio Supreme Court.

Senator Miller nominated Senator C. J. Prentiss of the Twenty-First District for the office of Minority Leader.

Senator Hagan seconded the nomination.

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

The question being, "Shall Senator C. J. Prentiss be elected Minority Leader?"

The yeas and nays were taken and resulted - yeas 30, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Brady
Carey	Cates	Clancy	Coughlin
Dann	Fedor	Fingerhut	Gardner
Goodman	Grendell	Hagan	Hottinger
Jacobson	Jordan	Mallory	Miller
Mumper	Niehaus	Padgett	Schuler
Schuring	Spada	Wachtmann	Wilson
Zurz			Harris-30.

Senator C. J. Prentiss having received a majority of the votes cast was declared elected Minority Leader.

Senator Hagan nominated Senator Mark Mallory of the Ninth District for the office of Assistant Minority Leader.

Senator Cates seconded the nomination.

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

The question being, "Shall Senator Mark Mallory be elected Assistant Minority Leader?"

The yeas and nays were taken and resulted - yeas 30, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Brady
Carey	Cates	Clancy	Coughlin
Dann	Fedor	Fingerhut	Gardner
Goodman	Grendell	Hagan	Hottinger
Jacobson	Jordan	Miller	Mumper
Niehaus	Padgett	Prentiss	Schuler
Schuring	Spada	Wachtmann	Wilson
Zurz			Harris-30.

Senator Mark Mallory having received a majority of the votes cast was declared elected Assistant Minority Leader.

Senator Brady nominated Senator Teresa Fedor of the Eleventh District for the office of Minority Whip.

Senator Wilson seconded the nomination.

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

The question being, "Shall Senator Teresa Fedor be elected Minority Whip?"

The yeas and nays were taken and resulted - yeas 30, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Brady
Carey	Cates	Clancy	Coughlin
Dann	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Mallory	Miller	Mumper
Niehaus	Padgett	Prentiss	Schuler
Schuring	Spada	Wachtmann	Wilson
Zurz			Harris-30.

Senator Teresa Fedor having received a majority of the votes cast was

declared elected Minority Whip.

Senator Dann nominated Senator Robert F. Hagan of the Thirty-Third District for the office of Assistant Minority Whip.

Senator Zurz seconded the nomination.

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

The question being, "Shall Senator Robert F. Hagan be elected Assistant Minority Whip?"

The yeas and nays were taken and resulted - yeas 30, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Brady
Carey	Cates	Clancy	Coughlin
Dann	Fedor	Fingerhut	Gardner
Goodman	Grendell	Hottinger	Jacobson
Jordan	Mallory	Miller	Mumper
Niehaus	Padgett	Prentiss	Schuler
Schuring	Spada	Wachtmann	Wilson
Zurz			Harris-30.

Senator Robert F. Hagan having received a majority of the votes cast was declared elected Assistant Minority Whip.

The duly elected officers of the Democrat party appeared at the bar of the Senate and were administered the oath of office by the Honorable Joseph J. Vukovich, Judge, 7th District Court of Appeals.

The President announced that the next order of business should be the election of a Senate Clerk.

Senator Harris nominated Matthew T. Schuler for the office of Clerk.

Senator Spada seconded the nomination.

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

The question being "Shall Matthew T. Schuler be elected Clerk."

The yeas and nays were taken and resulted - yeas 31, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Brady
Carey	Cates	Clancy	Coughlin
Dann	Fedor	Fingerhut	Gardner
Goodman	Grendell	Hagan	Hottinger
Jacobson	Jordan	Mallory	Miller
Mumper	Niehaus	Padgett	Prentiss
Schuler	Schuring	Spada	Wachtmann
Wilson	Zurz		Harris-31.

Mr. Schuler having received a majority of the votes cast was declared the elected Clerk.

Mr. Schuler appeared at the bar of the Senate and was administered the oath of office by the Honorable Thomas J. Moyer, Chief Justice, Ohio Supreme Court.

Message from the House of Representatives

Mr. President:

I am directed to inform the Senate that the House of Representatives is now in session and ready for the transaction of business.

Attest:

Laura P. Clemens,
Clerk.

On the motion of Senator Jacobson, the Senate adjourned until Tuesday, January 4, 2005 at 1:30 p.m.

Attest:

Matthew T. Schuler,
Clerk.