

OHIO

SENATE

JOURNAL

WEDNESDAY, JANUARY 26, 2005

TENTH DAY

Senate Chamber, Columbus, Ohio

Wednesday, January 26, 2005, 9:30 a.m.

The Senate met pursuant to adjournment.

Pursuant to Senate Rule No. 3, the Clerk called the Senate to order.

Senator Hagan was selected to preside according to the rule.

The journal of the last legislative day was read and approved.

INTRODUCTION AND FIRST CONSIDERATION OF BILLS

The following bills were introduced and considered the first time:

S. B. No. 20-Senators Goodman, Amstutz, Coughlin, Clancy, Schuler, Jacobson, Cates, Mumper, Austria, Schuring, Grendell, Wachtmann, Gardner, Carey, Padgett, Jordan, Spada, Hottinger.

To amend sections 2901.11 and 2901.12 of the Revised Code to clarify the application of the state's criminal jurisdiction statute to offenses committed in a jurisdiction other than Ohio that result from a conspiracy, an attempt, or complicity to commit the offense that occurs in Ohio and to offenses of violence or theft offenses that are committed in a jurisdiction other than Ohio subsequent to the kidnapping, abduction, unlawful restraint, or criminal child enticement of the victim in Ohio and removal to the other jurisdiction; to clarify that Ohio criminal specifications are applicable to persons who commit an offense in a jurisdiction other than Ohio but are subject to Ohio criminal jurisdiction; and to make other related changes to the state's criminal jurisdiction and venue statutes.

S. B. No. 21-Senators Hottinger, Carey, Wachtmann.

To amend sections 145.384, 145.46, 3307.60, 3309.46, and 5505.162 of the Revised Code regarding the election by a retirant of one of the state's public retirement systems who has married or remarried to change the plan under which a retirement benefit is paid.

S. B. No. 22-Senators Padgett, Amstutz, Hottinger, Wilson.

To enact section 4928.141 of the Revised Code to further state policy under the Electric Restructuring Law by providing for implementation of rate stabilizations plans where there is insufficient, generation market development or a lack of effective competition in an electric utility's service area and ensuring against any undue competitive disadvantage between Ohio and regional customers of an electric utility or its affiliates, and to declare an emergency.

S. B. No. 23-Senators Clancy, Cates, Gardner, Spada, Schuler.

To enact section 4511.86 of the Revised Code to provide that if a person is convicted of a state motor vehicle traffic offense and at the time of the offense the person's vehicle collided with a public service vehicle and the offense was the proximate cause of the accident, the offense is an offense of the next higher degree than the degree specified in the Revised Code for that offense.

S. B. No. 24-Senators Mumper, Jordan, Cates, Wachtmann.

To enact sections 3345.80 and 3345.81 of the Revised Code to establish the academic bill of rights for higher education.

S. B. No. 25-Senator Armbruster.

To amend sections 153.65, 153.67, 4743.05, and 4745.01 and to enact sections 4768.01 to 4768.10 and 4768.99 of the Revised Code to permit interior designers who meet certain requirements to be certified as Ohio Certified Interior Designers by the State Board for Certified Interior Designers, which is created.

S. B. No. 26-Senators Amstutz, Austria, Clancy, Carey, Coughlin, Gardner, Goodman, Harris, Hottinger, Jacobson, Mumper, Padgett, Schuring, Spada, Wachtmann, Zurz.

To amend sections 5739.031, 5739.033, and 5739.034 and to enact section 5739.035 of the Revised Code to establish a period during which vendors with total Ohio taxable sales of one million dollars or more must make the transition to destination-based sourcing of their sales and to allow origin-based siting for sales made under certain circumstances.

S. B. No. 27-Senators Amstutz, Clancy, Gardner, Jacobson, Padgett, Schuring.

To amend sections 303.02, 503.29, 519.02, 2505.08, 2506.01, 2506.02, 2506.03, 2506.04, 2907.01, and 4301.25, to amend, for the purpose of adopting a new section number as indicated in parentheses, section 503.29 (503.53), to enact new sections 503.51 and 503.52 and sections 2506.05, 2506.06, 2506.07, 2506.08, 2907.38, 3768.01, 3768.02, 3768.03, 3768.04, 3768.05, 3768.06, and 3768.99, and to repeal sections 503.51, 503.52, 503.53, 503.54, 503.55, 503.56, 503.57, 503.58, 503.59, 503.65, and 503.99 of the Revised Code to generally regulate adult entertainment establishments; to permit townships to regulate the location and operation of those establishments; to create an expedited appeal from orders, adjudications, or decisions denying an application for, or suspending or revoking, a license or permit to locate or operate such an establishment; to create an expedited

appeal in any case in which a court determines there is a threat of restraint of protected expression; and to create the offense of permitting unlawful operation of viewing booths depicting sexual conduct.

S. B. No. 28-Senator Coughlin.

To require the Department of Education to establish the Healthy Kids Pilot Project and to make an appropriation.

S. B. No. 29-Senators Coughlin, Clancy, Jordan, Hagan.

To amend section 5739.05 and to enact section 5739.029 of the Revised Code to provide a one-week period each year from 2005 to 2008 during which sales of personal computer systems are exempt from sales and use taxes.

S. B. No. 30-Senators Coughlin, Schuring, Gardner, Hagan, Mumper, Spada, Fedor, Clancy.

To amend section 5747.01 of the Revised Code to exempt from the personal income tax up to \$10,000 in local, state, and federal government employee and military retirement benefits.

S. B. No. 31-Senators Coughlin, Spada, Stivers, Schuler, Wachtmann.

To amend sections 4111.01, 4111.03, 4111.05, 4111.10, 4111.13, and 4111.99 and to enact sections 4111.031 and 4111.032 of the Revised Code to afford to private sector employers the option to offer and to employees the option to accrue and use compensatory time off and to afford to both public and private employees and employers the option to institute biweekly work schedule programs.

S. B. No. 32-Senators Spada, Gardner, Jacobson, Armbruster, Amstutz, Schuler, Padgett, Mumper.

To amend section 117.10 and to enact section 117.102 of the Revised Code regarding audits of Medicaid providers and a performance audit of the Medicaid program.

S. B. No. 33-Senators Spada, Jacobson, Amstutz, Schuler, Mumper.

To enact section 1349.19 of the Revised Code to prohibit the sale of a gift certificate that has an expiration date that is less than two years after the date the gift certificate is issued and to prohibit service charges or fees having the effect of reducing the value of the gift certificate.

S. B. No. 34-Senators Spada, Jacobson, Clancy.

To amend section 122.17 and to enact sections 5725.32 and 5729.032 of the Revised Code to extend the job creation tax credit to insurance companies.

S. B. No. 35-Senators Spada, Jacobson, Coughlin, Clancy, Mumper.

To amend sections 5747.08 and 5747.09 of the Revised Code to allow married couples to file joint or separate state income tax returns, regardless of their federal income tax filing status.

S. B. No. 36-Senators Spada, Jacobson, Armbruster, Schuler, Mumper.

To amend section 3505.18 of the Revised Code to generally require all electors who appear in a polling place to vote to provide identification before being permitted to cast a ballot.

S. B. No. 37-Senators Grendell, Jacobson, Clancy.

To amend sections 924.01, 924.04, 924.07, and 924.09 and to enact sections 924.011 and 924.071 of the Revised Code to enable certain persons associated with the equine industry to establish an equine marketing program.

S. B. No. 38-Senators Grendell, Jacobson.

To amend sections 109.71, 109.73, 109.79, 4973.17, and 4973.171 of the Revised Code relative to the appointment and commissioning of amusement park police officers and to the training of those officers.

S. B. No. 39-Senators Goodman, Gardner, Harris, Schuler, Jacobson, Padgett, Dann.

To enact sections 109.45, 109.46, 109.47, 109.48, and 109.49 of the Revised Code to prohibit and provide civil penalties for the filing of false or fraudulent claims with the state and for defrauding the state of money or property, to create a procedure for the investigation by the Attorney General of suspected violations, and to authorize the Attorney General and private persons to bring civil enforcement actions on behalf of the state.

S. B. No. 40-Senators Jordan, Spada.

To enact section 4734.162 of the Revised Code regarding solicitation of chiropractic business.

OFFERING OF RESOLUTIONS

Senator Coughlin offered the following joint resolution:

S. J. R. No. 3-Senator Coughlin.

Proposing to amend Sections 6 and 13 of Article IV and to enact Section 7 of Article IV of the Constitution of the State of Ohio to provide for the appointment of the Chief Justice and Justices of the Supreme Court of Ohio by the Governor for ten-year terms, subject to retention elections by the electors of the State, and to create a Supreme Court Nominating Commission to submit to the Governor the names of nominees to the Supreme Court.

The question being, "Shall the joint resolution, **S. J. R. No. 3**, be adopted?"

On motion of Senator Mallory, **S. J. R. No. 3**, was referred to the Committee on Reference.

COMMUNICATIONS FROM THE GOVERNOR

The President handed down the following messages from the Governor which were read by the Clerk:

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Hazel P. Flowers, from Columbus, Franklin County, Ohio, as a Member of the National Museum of Afro-American History and Culture Planning Council for a term beginning December 17, 2004, and ending at the close of business January 31, 2007, replacing Oney D. Temple, who resigned.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 21st day of December in the year of our Lord, two thousand and four.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Kenneth W. Goings, from Columbus, Franklin County, Ohio, as a Member of the National Museum of Afro-American History and Culture Planning Council for a term

beginning December 17, 2004, and ending at the close of business January 31, 2007, replacing Stephanie Shaw, who resigned.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 21st day of December in the year of our Lord, two thousand and four.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Robin C. Hovis, Republican, from Millersburg, Holmes County, Ohio, as a Member of the State Board of Education for a term beginning December 27, 2004, and ending at the close of business December 31, 2008, replacing Jo Thatcher, whose term expired.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 27th day of December in the year of our Lord, two thousand and four.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Eric C. Okerson, Republican, from Cincinnati, Hamilton County, Ohio, as a Member of the State Board of Education for a term beginning December 27, 2004, and ending at the close of business December 31, 2008, replacing James Turner, whose term expired.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 27th day of December in the year of our Lord, two thousand and four.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Barbara E. Riley, from Columbus, Franklin County, Ohio, as the Director of the Ohio Department of Job and Family Services for a term beginning December 18, 2004 and continuing at the pleasure of the Governor.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 20th day of December in the year of our Lord, two thousand and four.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Emerson J. Ross Jr., Democrat, from Toledo, Lucas County, Ohio, as a Member of the State Board of Education for a new term beginning December 27, 2004 and ending at the close of business December 31, 2008.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 27th day of December in the year of our Lord, two thousand and four.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Sue Westendorf, Republican, from Napoleon, Henry County, Ohio, as a Member of the State Board of Education for a new term beginning December 27, 2004 and ending at the close of business December 31, 2008.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this

27th day of December in the year of our Lord, two thousand and four.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Esther Williams, from Wilberforce, Greene County, Ohio, as a Member of the National Museum of Afro-American History and Culture Planning Council for a term beginning December 17, 2004, and ending at the close of business January 31, 2008, replacing Paul McStallworth, whose term expired.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 21st day of December in the year of our Lord, two thousand and four.

[Seal]

Bob Taft,
Governor.

Said appointments were referred to the Committee on Rules.

On motion of Senator Mallory, the Senate recessed until 2:30 p.m.

The Senate met pursuant to recess.

On the motion of Senator Gardner the Senate reverted to the First Order of Business, Reports of Reference and Bills for Second Consideration.

**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:

S. B. No. 11-Senator Prentiss.

To amend section 4111.02 of the Revised Code to raise the standard minimum wage to \$6.15 an hour beginning January 1, 2006, then to \$7.15 an hour beginning January 1, 2007, and to require an annual adjustment of the standard minimum wage each year based on the consumer price index for urban wage earners and clerical workers.

To the Committee on Insurance, Commerce and Labor.

S. B. No. 12-Senator Mallory.

To amend sections 5747.054 and 5747.98 and to enact sections 1315.57, 1315.58, 1315.59, 1315.60, and 5747.71 of the Revised Code to increase the child and dependent care credit for some taxpayers and increase the income eligibility limit for the credit; to grant a state earned income tax credit; and to specify requirements relating to refund anticipation loans, including consumer disclosures, prohibitions, and civil remedies.

To the Committee on Ways and Means and Economic Development.

S. B. No. 13-Senators Fedor, Brady, Dann, Fingerhut, Hagan, Miller, Mallory, Prentiss, Roberts, Wilson, Zurz.

To enact sections 125.112, 153.02, and 166.25 of the Revised Code to require that contracts with the state specify that labor or services are to be performed within the United States; to require a person performing a contract certify compliance with this requirement and that any supplies to be provided pursuant to the contract will be provided from a location within the United States; and to prohibit awarding contracts with the state or giving state financial assistance, including tax incentives, loans, loan guarantees, or grants, for five years to employers that have had a net loss of jobs due to the relocation of jobs from Ohio to locations outside the United States.

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

S. B. No. 14-Senators Hagan, Brady, Dann, Fedor, Fingerhut, Mallory, Miller, Prentiss, Roberts, Wilson, Zurz.

To enact section 4729.90 of the Revised Code to create the Drug Importation Program.

To the Committee on Health, Human Services and Aging.

S. B. No. 15-Senators Roberts, Brady, Dann, Fedor, Fingerhut, Hagan, Mallory, Miller, Prentiss, Wilson, Zurz.

To amend sections 121.24, 122.08, and 122.081 of the Revised Code to require that state agencies conduct a regulatory flexibility analysis and file an economic impact statement with the Joint Committee on Agency Rule Review

when adopting a rule that will affect small businesses.

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

S. B. No. 16-Senators Roberts, Brady, Dann, Fedor, Fingerhut, Hagan, Mallory, Miller, Prentiss, Wilson, Zurz.

To enact section 5919.31 of the Revised Code to require the adjutant general to reimburse active duty members of the Ohio National Guard for premiums the members pay for federal servicemember's group life insurance.

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

S. B. No. 17-Senators Spada, Jacobson, Fedor.

To amend sections 2151.421, 2317.02, and 2901.13 of the Revised Code to require a member of the clergy, rabbi, priest, minister, or any person or layperson acting as a leader, official, delegate, or other designated function on behalf of any church, religious society, or faith to report the abuse or neglect of a child and to toll the statute of limitations for violations involving abuse or neglect of a child if certain individuals fail to report the abuse or neglect of the child.

To the Committee on Judiciary - Criminal Justice.

S. B. No. 18-Senator Wachtmann.

To amend section 4729.01 of the Revised Code regarding the compounding of drugs by pharmacists.

To the Committee on Health, Human Services and Aging.

S. B. No. 19-Senators Schuler, Wachtmann, Mumper, Clancy, Hagan.

To amend section 2317.02 and to enact section 2305.2341 of the Revised Code to make the testimonial privilege against disclosure of certain communications applicable to critical incident stress management (CISM) team members and to provide CISM team members with immunity against tort or other civil liability arising from actions or omissions during debriefing sessions.

To the Committee on Judiciary - Civil Justice.

YES - 4: BILL HARRIS, MARK MALLORY, C. J. PRENTISS, J. KIRK SCHURING.

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.

Message from the House of Representatives

Mr. President:

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

H. B. No. 10 - Representatives Schneider, Seitz, Setzer, C. Evans, Allen, Book, Daniels, Gibbs, Hagan, Mason, S. Patton, G. Smith, S. Smith, J. Stewart, White, Barrett, Beatty, Blasdel, Blessing, Bubp, Buehrer, Calvert, Carano, Carmichael, Cassell, Chandler, Coley, Collier, Combs, Core, DeBose, Distel, Dolan, Domenick, Driehaus, D. Evans, Faber, Fende, Fessler, Flowers, Gilb, Hartnett, Hoops, Hughes, Kearns, Key, Koziura, Law, Martin, Mitchell, Oelslager, Otterman, T. Patton, Perry, Peterson, Raussen, Redfern, Reidelbach, Reinhard, Schaffer, Schlichter, Seaver, Skindell, D. Stewart, Sykes, Taylor, Uecker, Ujvagi, Wagoner, Walcher, Widener, Willamowski, Williams, Wolpert

To amend sections 145.384, 145.46, 742.3711, 3307.60, 3309.46, and 5505.162 of the Revised Code regarding an election by a retirant of one of the state's public retirement systems who has married or remarried to change the plan under which a retirement benefit is paid.

Am. Sub. H. B. No. 16 - Representatives Calvert, Allen, C. Evans, Flowers, Hartnett, McGregor, S. Patton, Trakas, Aslanides, Barrett, Beatty, Blessing, Book, Brown, Carano, Carmichael, Cassell, DeBose, Distel, Domenick, D. Evans, Fende, Hagan, Harwood, Hughes, Kearns, Key, Koziura, Law, Martin, Mason, Miller, Mitchell, T. Patton, Peterson, Schaffer, Schlichter, Schneider, Seitz, Setzer, G. Smith, J. Stewart, Walcher, White, Widowfield

To amend sections 9.98, 105.41, 123.10, 125.28, 126.11, 131.02, 133.01, 145.011, 151.01, 151.04, 154.01, 154.02, 154.07, 755.16, 755.18, 2716.11, 3305.01, 3307.01, 3318.01, 3318.02, 3318.03, 3318.04, 3318.11, 3318.37,

3318.41, 3333.045, 3334.01, 3345.04, 3345.12, 3345.17, 3345.31, 3345.32, 3345.50, 3345.71, 3350.01, 3350.02, 3350.03, 3350.04, 3350.05, 3383.01, 3383.02, 3383.07, 3770.073, 5537.01, 5540.01, 5709.61, 5709.62, 5709.632, 5709.75, 5709.91, 5733.121, and 5747.12, to enact sections 105.42, 122.012, 123.17, 131.021, 154.23, 1541.23, 2743.712, 3301.21, 3333.072, 3345.51, 5715.70, and 5715.701, and to repeal section 123.023 of the Revised Code and to amend Sections 6 and 31 of Am. Sub. H.B. 95 of the 125th General Assembly, to amend Sections 89, 89.04, and 89.08 of Am. Sub. H.B. 95 of the 125th General Assembly, as amended by Am. Sub. S.B. 189 of the 125th General Assembly, and to amend Sections 18.02, 18.16, 22, 26.10, 26.14, 26.19, 26.23, 26.48, and 27 of Am. Sub. S.B. 189 of the 125th General Assembly to make capital and other appropriations, to change the name of the Medical College of Ohio at Toledo to the Medical University of Ohio at Toledo, to amend the versions of sections 3305.01 and 3307.01 of the Revised Code that are scheduled to take effect August 1, 2005, to continue the provisions of this act on and after that effective date, and to provide authorization and conditions for the operation of state programs.

Attest:

Laura P. Clemens,
Clerk.

Said bills were considered the first time.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the House of Representatives has concurred in the adoption of the following:

S. C. R. No. 1 - Senators Jacobson, Spada Representatives Allen, Aslanides, Barrett, Beatty, Blasdel, Brown, Carano, Carmichael, Cassell, Chandler, Collier, DeBose, DeGeeter, Domenick, C. Evans, Fende, Fessler, Flowers, Gilb, Hartnett, Hoops, Kearns, Key, Latta, Law, McGregor, S. Patton, T. Patton, Perry, Redfern, Schaffer, Schlichter, G. Smith, Taylor, Uecker, Webster, Widowfield, Yates, Yuko

To adopt Joint Rules of the Senate and House of Representatives for the 126th General Assembly.

S. C. R. No. 2 - Senators Jacobson, Spada, Gardner Representatives Allen, Aslanides, Barrett, Blasdel, Book, Brown, Bulp, Buehrer, Calvert, Carano, Cassell, Chandler, Collier, Daniels, DeGeeter, Distel, Domenick, C. Evans, Fende, Flowers, Garrison, Gilb, Hartnett, Hoops, Kearns, Latta, Law, Martin,

Mason, McGregor, S. Patton, T. Patton, Perry, Redfern, Schaffer, Uecker, Willamowski

To adopt the Legislative Code of Ethics for the members and employees of both chambers of the 126th General Assembly, employees of any legislative agency, and candidates for the 127th General Assembly.

Attest: Laura P. Clemens,
Clerk.

On the motion of Senator Gardner, the Senate adjourned until Thursday, January 27, 2005 at 10:00 o'clock a.m.

Attest: MATTHEW T. SCHULER,
Clerk.