

**OHIO**

**SENATE**

**JOURNAL**

TUESDAY, FEBRUARY 1, 2005

TWELFTH DAY  
Senate Chamber, Columbus, Ohio  
**Tuesday, February 1, 2005, 1:30 p.m.**

The Senate met pursuant to adjournment.

Prayer was offered by Pastor Ken Kirk, Grove City United Methodist Church, Grove City, Ohio, followed by the Pledge of Allegiance to the Flag.

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

On the motion of Senator Jacobson, the Senate recessed until 2:05 p.m.

The Senate met pursuant to recess.

**REPORTS OF REFERENCE AND BILLS FOR SECOND  
CONSIDERATION**

Senator Schuring reports for the Standing Committee on Reference, recommending that the following joint resolution, standing in order for second consideration, be referred to committee as recommended:

**S. J. R. No. 4**-Senators Jordan, Hottinger.

Proposing to enact Sections 14 and 15 of Article XII of the Constitution of the State of Ohio to establish limitations on the state and local governments regarding expenditures, taxes, and other aspects of governmental finance.

To the Committee on Finance and Financial Institutions.

YES - 5: BILL HARRIS, MARK MALLORY, C. J. PRENTISS,  
JEFF JACOBSON, J. KIRK SCHURING.

NO - 0.

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

The report of the committee was accepted.

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

**REPORTS OF STANDING AND SELECT COMMITTEES**

Senator Carey submitted the following report:

The standing committee on Finance and Financial Institutions, to which was

referred **Am. Sub. H. B. No. 16**-Representative Calvert, et al., having had the same under consideration, reports it back and recommends its passage.

Co-Sponsors: Padgett, Clancy, Roberts.

YES - 13: JOHN A. CAREY , STEPHEN C. AUSTRIA, PATRICIA M. CLANCY, TOM ROBERTS, CHARLES A. WILSON, RAY MILLER, DANIEL R. BRADY, DAVID GOODMAN, TOM NIEHAUS, RANDY GARDNER, GARY W. CATES, JOY PADGETT, RON AMSTUTZ.

NO - 0.

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

The report of the committee was accepted.

### **BILLS FOR THIRD CONSIDERATION**

**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 Senators Padgett, Clancy, Roberts.

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, was considered the third time.

The question being, "Shall the bill, **Am. Sub. H. B. No. 16**, pass?"

Senator Fingerhut moved to amend as follows:

In lines 34 and 5540, after "755.18," insert "1541.03,"

Between lines 2102 and 2103, insert:

**"Sec. 1541.03.** All lands and waters dedicated and set apart for state park purposes shall be under the control and management of the division of parks and recreation, which shall protect, maintain, and keep them in repair. The division shall have the following powers over all such lands and waters:

- (A) To make alterations and improvements;
- (B) To construct and maintain dikes, wharves, landings, docks, dams, and other works;
- (C) To construct and maintain roads and drives in, around, upon, and to the lands and waters to make them conveniently accessible and useful to the public;
- (D) ~~To~~Except as otherwise provided in this section, to adopt, amend, and rescind, in accordance with Chapter 119. of the Revised Code, rules necessary for the proper management of state parks, bodies of water, and the lands adjacent to them under its jurisdiction and control, including the following:
  - (1) Governing opening and closing times and dates of the parks;
  - (2) Establishing fees and charges for admission to state parks and for use of facilities in them;
  - (3) Governing camps, camping, and fees for camps and camping;
  - (4) Governing the application for and rental of, rental fees for, and the use of cabins;
  - (5) Relating to public use of state park lands, and governing the operation of motor vehicles, including speeds, and parking on those lands;
  - (6) Governing all advertising within state parks and the requirements for the operation of places selling tangible personal property and control of food service sales on lands and waters under the control of the division, which rules shall establish uniform requirements;
  - (7) Providing uniform standards relating to the size, type, location, construction, and maintenance of structures and devices used for fishing or moorage of watercraft, rowboats, sailboats, and powercraft, as those terms are defined in section 1547.01 of the Revised Code, over waters under the control of the division and establishing reasonable fees for the construction of and annual use permits for those structures and devices;
  - (8) Governing state beaches, swimming, inflatable devices, and fees for

them;

(9) Governing the removal and disposition of any watercraft, rowboat, sailboat, or powercraft, as those terms are defined in section 1547.01 of the Revised Code, left unattended for more than seven days on any lands or waters under the control of the division;

(10) Governing the establishment and collection of check collection charges for checks that are returned to the division or dishonored for any reason.

The division shall not adopt rules establishing fees or charges for parking a motor vehicle in a state park.

Every resident of this state with a disability that has been determined by the veterans administration to be permanently and totally disabling, who receives a pension or compensation from the veterans administration, and who received an honorable discharge from the armed forces of the United States, and every veteran to whom the registrar of motor vehicles has issued a set of license plates under section 4503.41 of the Revised Code, shall be exempt from the fees for camping, provided that the resident or veteran carries in the state park such evidence of the resident's or veteran's disability as the chief of the division of parks and recreation prescribes by rule.

Every resident of this state who is sixty-five years of age or older or who is permanently and totally disabled and who furnishes evidence of that age or disability in a manner prescribed by division rule shall be charged one-half of the regular fee for camping, except on the weekends and holidays designated by the division. Such a person shall not be charged more than ninety per cent of the regular charges for state recreational facilities, equipment, services, and food service operations utilized by the person at any time of year, whether maintained or operated by the state or leased for operation by another entity.

As used in this section, "food service operations" means restaurants that are owned by the department of natural resources at Hocking Hills, Lake Hope, Malabar Farm, and Rocky Fork state parks or are part of a state park lodge. "Food service operations" does not include automatic vending machines, concession stands, or snack bars.

As used in this section, "prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the military forces of the United States who was captured, separated, and incarcerated by an enemy of the United States. Any person who has been a prisoner of war, was honorably discharged from the military forces, and is a resident of this state is exempt from the fees for camping. To claim this exemption, the person shall present written evidence in the form of a record of separation, a letter from one of the military forces of the United States, or such other evidence as the chief prescribes by rule that satisfies the eligibility criteria established by this section."

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

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

A roll call was requested which was properly supported.

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

The yeas and nays were taken and resulted - yeas 19, nays 13, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Hottinger	Jacobson	Mumper
Niehaus	Padgett	Schuler	Schuring
Spada	Wachtmann		Harris-19.

Those who voted in the negative were: Senators

Brady	Dann	Fedor	Fingerhut
Grendell	Hagan	Jordan	Mallory
Miller	Prentiss	Roberts	Wilson
			Zurz-13.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Am. Sub. H. B. No. 16**, pass?"

Senator Hottinger moved that he be excused from voting under Senate Rule No. 57.

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

The motion was agreed to.

The question recurred, "Shall the bill, **Am. Sub. H. B. No. 16**, pass?"

Senator Spada moved that he be excused from voting under Senate Rule No. 57.

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

The motion was agreed to.

The question recurred, "Shall the bill, **Am. Sub. H. B. No. 16**, pass?"

The yeas and nays were taken and resulted - yeas 29, nays 1, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Brady
Carey	Cates	Clancy	Coughlin
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Jacobson	Jordan
Mallory	Miller	Mumper	Niehaus
Padgett	Prentiss	Roberts	Schuler
Schuring	Wachtmann	Wilson	Zurz
			Harris-29.

Senator Dann voted in the negative-1.

So the bill passed.

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

Senator Carey moved to amend the title as follows:

Add the names: "Goodman, Jacobson, Mumper, Armbruster, Austria, Miller, Brady, Harris, Fedor, Zurz."

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

The motion was agreed to and the title so amended.

### **MOTIONS**

Senator Hottinger moved that Senators absent the week of Sunday, January 30, 2005, be excused, so long as a written explanation is on file with the Clerk pursuant to Senate Rule No. 17.

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

The motion was agreed to.

### **INTRODUCTION AND FIRST CONSIDERATION OF BILLS**

The following bill was introduced and considered the first time:

**S. B. No. 41**-Senators Clancy, Prentiss, Fedor, Cates, Spada, Wilson, Jr., Wachtmann, Mumper, Armbruster, Jacobson, Austria, Coughlin, Goodman, Gardner, Brady, Hagan, Miller.

To enact section 3781.55 of the Revised Code to require any place of public accommodation to allow a mother to breast-feed within the place of public accommodation.

### **OFFERING OF RESOLUTIONS**

Senator Hottinger offered the following resolution:

**S. R. No. 16**-Senator Hottinger.

Permitting the use of the Ohio Senate Chamber by the National Forensic League on April 16, 2005.

WHEREAS, The members of the Senate of the 126th General Assembly of Ohio are pleased to grant permission for the Ohio Senate Chamber to be used by the National Forensic League for its Student Congress competition on April 16, 2005; and

WHEREAS, As part of its annual Student Congress competition, the National Forensic League will use the Ohio Senate Chamber on April 16, 2005, for a mock legislative debate. This activity will provide a unique opportunity for participants to experience firsthand rules and procedures similar to those of the

state legislature and will help them to better understand the democratic process that is the cornerstone of our nation; and

WHEREAS, The knowledge that participants will gain through their involvement with the National Forensic League's Student Congress competition will not only enrich their total educational experience but will also prepare them to take a more active role in fulfilling their responsibilities as citizens of this great state and nation; and

WHEREAS, The Senate Chamber is an appropriate location for the National Forensic League's Student Congress activities. Following a true legislative format and held within the setting in which the lawmaking process normally takes place, the mock debates will provide the group's members with an excellent opportunity to engage in a simulation of government in action; therefore be it

RESOLVED, That we, the members of the Senate of the 126th General Assembly of Ohio, in adopting this Resolution, authorize the use of the Ohio Senate Chamber on April 16, 2005, by the National Forensic League for its Student Congress competition, contingent upon the availability of those facilities, and commend all those involved with this event on their civic responsibility; and be it further

RESOLVED, That the Clerk of the Senate transmit a duly authenticated copy of this Resolution to the National Forensic League.

The question being, "Shall the resolution, **S. R. No. 16**, be adopted?"

The yeas and nays were taken and resulted - yeas 32, 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
Roberts	Schuler	Schuring	Spada
Wachtmann	Wilson	Zurz	Harris-32.

So the resolution was adopted.

Senator Stivers offered the following resolution:

**S. R. No. 17**-Senators Stivers, Fingerhut.

Honoring Brigadier General Ronald G. Young on his retirement from the Ohio Army National Guard.



The question being, "Shall the resolution, **S. R. No. 17**, be adopted?"

So the resolution was adopted.

**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, Timothy B. Angel, Republican, from Portsmouth, Scioto County, Ohio, as a Member of the Radiation Advisory Council for a term beginning January 14, 2005, and ending at the close of business September 8, 2009, replacing Frances Veverka, 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 19th day of January in the year of our Lord, two thousand and five.

[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, Norman I. Barron, Republican, from Cincinnati, Hamilton County, Ohio, as Chair of the State Racing Commission for a term beginning January 14, 2005, and ending at the close of business March 31, 2005, replacing Scott Borgemenke, 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 19th day of January in the year of our Lord, two thousand and five.

[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, Pakkiri Rajagopal, Republican, from Cincinnati, Hamilton County, Ohio, as a Member of the Ohio Community Service Council for a term beginning January 14, 2005, and ending at the close of business April 21, 2006, replacing Carl Lavin, 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 19th day of January in the year of our Lord, two thousand and five.

[Seal]

Bob Taft,  
Governor.

Said appointments were referred to the Committee on Rules.

Message from the House of Representatives

Mr. President

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

**S. C. R. No. 1** - Senator Jacobson- et al.

**S. C. R. No. 2** - Senator Jacobson- et al.

Attest:

Laura P. Clemens,  
Clerk.

The President signed said concurrent resolutions.

On the motion of Senator Jacobson, the Senate adjourned until Thursday, February 3, 2005 at 11:00 o'clock a.m.

Attest:

MATTHEW T. SCHULER,  
Clerk.