

OHIO

SENATE

JOURNAL

WEDNESDAY, FEBRUARY 1, 2006

ONE HUNDRED FORTY-FOURTH DAY
Senate Chamber, Columbus, Ohio
Wednesday, February 1, 2006, 1:30 p.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 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. 262-Senators Goodman, Stivers, Clancy, Jacobson, Gardner, Padgett, Schuler, Fedor, Fingerhut, Miller.

To amend sections 2953.72, 2953.73, and 2953.82 of the Revised Code to eliminate the former two-year window for applications for post-conviction DNA testing and instead allow an eligible inmate to request post-conviction DNA testing at any time if specified criteria are met.

To the Committee on Judiciary - Criminal Justice.

S. B. No. 263-Senators Wilson, Hagan, Austria, Fingerhut.

To amend sections 1561.48, 1565.12, 1567.54, 1567.57, 1567.99, and 4931.41 and to enact section 1567.83 of the Revised Code to create the Mine and Industrial Accident Emergency Operations Center, to require mining accidents to be reported to the Center, and to require miners to wear wireless emergency communication and tracking devices.

To the Committee on Environment and Natural Resources.

S. B. No. 264-Senators Grendell, Carey, Clancy.

To enact section 3745.50 of the Revised Code to require that state environmental laws be construed to be no more stringent than the laws' federal counterparts.

To the Committee on Environment and Natural Resources.

S. B. No. 265-Senators Spada, Carey, Mumper, Niehaus, Amstutz, Fedor, Armbruster, Clancy, Stivers.

To amend sections 3704.02, 3704.03, and 3704.09 of the Revised Code to make changes in the Air Pollution Control Law regarding statutory construction, the costs of compliance with rules, permits to install, air quality monitoring, best available technology, and affirmative defenses in private civil actions.

To the Committee on Environment and Natural Resources.

S. B. No. 266-Senators Kearney, Miller, Wachtmann, Stivers, Jacobson, Austria, Brady, Fedor, Gardner, Hagan, Jordan, Fingerhut, Zurz, Clancy, Prentiss, Roberts, Schuler, Dann, Wilson, Armbruster, Harris, Goodman, Schuring, Mumper.

To enact section 5.2232 of the Revised Code to designate February as "Black History Month."

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

S. B. No. 267-Senators Gardner, Jacobson, Padgett, Spada, Schuler, Fingerhut, Clancy, Mumper, Fedor, Hagan.

To amend sections 2152.02, 2152.10, 2152.12, 2919.25, 2919.251, 2919.26, 3113.31, and 3113.33 of the Revised Code to include children under the age of eighteen with whom an offender has had or has a dating relationship as victims under the domestic violence laws and to require mandatory transfer for criminal prosecution of a case involving a juvenile offender who is fourteen years of age or older, commits a homicide offense against such a child, and previously committed domestic violence against that child.

To the Committee on Judiciary - Criminal Justice.

S. B. No. 268-Senators Stivers, Schuler, Mumper.

To amend section 3901.48 and to enact section 3915.16 of the Revised Code to adopt the Interstate Insurance Product Regulation Compact.

To the Committee on Insurance, Commerce and Labor.

YES - 4: J. KIRK SCHURING, KIMBERLY A. ZURZ, C. J. PRENTISS, BILL HARRIS.

NO - 0.

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

The report of the committee was accepted.

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

REPORTS OF STANDING AND SELECT COMMITTEES

Senator Armbruster submitted the following report:

The standing committee on Highways and Transportation, to which was referred **S. B. No. 227**-Senator Mumper, having had the same under consideration, reports it back and recommends its passage.

Co-Sponsors: Brady, Clancy, Coughlin, Padgett, Armbruster, Dann, Wachtmann.

YES - 9: DANIEL R. BRADY, J. KIRK SCHURING, JEFFRY J. ARMBRUSTER, PATRICIA M. CLANCY, KEVIN J. COUGHLIN, JOY PADGETT, MARC DANN, ROBERT F. HAGAN, LYNN R. WACHTMANN.

NO - 0.

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

The report of the committee was accepted.

Senator Padgett submitted the following report:

The standing committee on Education, to which was referred **Am. H. B. No. 455**-Representative Kilbane, et al., having had the same under consideration, reports it back and recommends its passage.

YES - 8: ERIC D. FINGERHUT, RAY MILLER, TERESA FEDOR, JOY PADGETT, RANDY GARDNER, JOHN A. CAREY, JEFF JACOBSON, LARRY A. MUMPER.

NO - 0.

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

The report of the committee was accepted.

On the motion of Senator Jacobson, the Senate advanced to the Ninth Order of Business, Offering of Resolutions.

OFFERING OF RESOLUTIONS

Senator Harris offered the following resolution:

S. R. No. 159-Senators Harris, Prentiss, Amstutz, Armbruster, Austria, Brady, Carey, Cates, Clancy, Coughlin, Dann, Fedor, Fingerhut, Gardner, Goodman, Grendell, Hagan, Hottinger, Jacobson, Jordan, Kearney, Miller, Mumper, Niehaus, Padgett, Roberts, Schuler, Schuring, Spada, Stivers, Wachtmann, Wilson, Zurz.

In memory of Coretta Scott King.

The question being, "Shall the resolution, **S. R. No. 159**, 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	Kearney	Miller	Mumper
Niehaus	Padgett	Prentiss	Roberts
Schuler	Schuring	Spada	Stivers
Wachtmann	Wilson	Zurz	Harris-32.

So the resolution was adopted.

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

The title was agreed to.

Senator Miller offered the following concurrent resolution:

S. C. R. No. 25-Senators Miller, Kearney, Stivers, Jacobson, Zurz, Hagan, Brady, Fingerhut, Clancy, Fedor, Prentiss, Roberts, Schuler, Dann, Wilson, Austria, Harris, Armbruster, Goodman, Schuring, Mumper.

Recognizing Black History Month in Ohio, February 2006.

WHEREAS, The members of the Senate of the 126th General Assembly of Ohio are pleased to recognize February 2006 as Black History Month in Ohio; and

WHEREAS, Originally founded by Dr. Carter G. Woodson in 1926,

Negro History Week was an initiative to bring national attention to the contributions of black individuals throughout American history, and it was celebrated annually during the second week of February. Renamed Black History Month, it is currently commemorated throughout the month of February, encouraging the study and remembrance of specific historical events, dates, and people that exemplify the legacy of African Americans in the United States; and

WHEREAS, As people across the nation learn about inspiring African-American leaders, including W.E.B. DuBois, Hiram R. Revels, Malcom X, and Jessie Jackson, and of the advancement of blacks in such fields as science, business, education, entertainment, and the arts, let us not forget the sacrifices that many made so that we could come to respect one another in an environment that fosters knowledge and understanding for all peoples; and

WHEREAS, The United States of America has been enriched immeasurably by the ethnic, racial, and cultural diversity of its populace, and because we, as Americans, appreciate and respect the backgrounds of each of our country's citizens, we are pleased to join in the celebration of Black History Month. We are proud to pay tribute to all individuals and recognize the contributions they have made to the Great State of Ohio and to our nation; therefore be it

RESOLVED, That we, the members of the Senate of the 126th General Assembly of Ohio, in adopting this Resolution, recognize February 2006 as Black History Month in Ohio and encourage all citizens to participate in activities commemorating this special occasion; and be it further

RESOLVED, That the Clerk of the Senate transmit duly authenticated copies of this Resolution to the news media of Ohio.

The question being, "Shall the concurrent resolution, **S. C. R. No. 25**, 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	Kearney	Miller	Mumper
Niehaus	Padgett	Prentiss	Roberts
Schuler	Schuring	Spada	Stivers
Wachtmann	Wilson	Zurz	Harris-32.

So the concurrent resolution was adopted.

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

Senator Miller moved to amend the title as follows:

Add the names: "Grendell, Coughlin, Carey, Hottinger, Gardner, Cates, Niehaus, Wachtmann, Spada, Jordan, Padgett, Amstutz."

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

The motion was agreed to and the title so amended.

On the motion of Senator Jacobson, the Senate reverted to the Sixth Order of Business, Bills for Third Consideration.

BILLS FOR THIRD CONSIDERATION

Am. H. B. No. 102-Representatives Wolpert, Faber, Core, Seaver, Willamowski, Raussen, Combs, G. Smith, Martin, Hoops, Reidelbach, Harwood, Allen, Buehrer, Cassell, Coley, Collier, Domenick, C. Evans, Flowers, Gibbs, Gilb, Hagan, Hood, Hughes, McGregor, Schaffer, Setzer, White, Williams.

To amend section 3111.03 and to enact section 3111.97 of the Revised Code to clarify the parentage of children born as a result of embryo donation, was considered the third time.

The question being, "Shall the bill, **Am. H. B. No. 102**, pass?"

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 | Brady |
| Carey | Cates | Clancy | Coughlin |
| Dann | Fedor | Fingerhut | Gardner |
| Goodman | Grendell | Hagan | Hottinger |
| Jacobson | Jordan | Kearney | Miller |
| Mumper | Niehaus | Padgett | Prentiss |
| Roberts | Schuler | Schuring | Spada |
| Stivers | Wachtmann | Wilson | Zurz |
| | | | Harris-33. |

So the bill passed.

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

Senator Coughlin moved to amend the title as follows:

Add the names: "Amstutz, Fedor, Grendell, Niehaus, Padgett."

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

The motion was agreed to and the title so amended.

Am. H. B. No. 455-Representatives Kilbane, Wolpert, Yuko, Fende, Domenick, Combs, Walcher, Williams, Collier, Chandler, McGregor, J., Fessler, Daniels, Wagner, Cassell, Distel, Flowers, Martin, Patton, T., Seitz, Taylor.

To amend section 3313.13 of the Revised Code to allow employees of a city director of law to serve on a board of education for which the city director of law is not the legal adviser, and to declare an emergency, was considered the third time.

The question being, "Shall the section, Section 3, setting forth the emergency features of the bill, stand as a part of the bill?"

The yeas and nays were taken and resulted - yeas 25, nays 8, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Fedor
Fingerhut	Gardner	Goodman	Grendell
Hottinger	Jacobson	Jordan	Mumper
Niehaus	Padgett	Schuler	Schuring
Spada	Stivers	Wachtmann	Wilson
			Harris-25.

Senators Brady, Dann, Hagan, Kearney, Miller, Prentiss, Roberts, and Zurz voted in the negative-8.

So the section, Section 3, setting forth the emergency features of the bill stood as a part of the bill.

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

The yeas and nays were taken and resulted - yeas 29, nays 4, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Fedor
Fingerhut	Gardner	Goodman	Grendell
Hottinger	Jacobson	Jordan	Kearney
Miller	Mumper	Niehaus	Padgett
Prentiss	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-29.

Senators Brady, Dann, Hagan, and Roberts voted in the negative-4.

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

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

Senator Spada moved to amend the title as follows:

Add the names: "Spada, Amstutz, Armbruster."

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 29, 2006, be excused, so long as a written explanation is on file with the Clerk pursuant to Senate Rule No. 17.

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

The motion was agreed to.

INTRODUCTION AND FIRST CONSIDERATION OF BILLS

The following bills were introduced and considered the first time:

S. B. No. 269-Senators Amstutz, Austria, Clancy, Gardner, Grendell, Jacobson, Jordan, Padgett, Schuler, Wachtmann, Zurz.

To amend section 5741.02 of the Revised Code to exempt from the use tax items held by a person, but not for that person's own use, and donated to a charitable organization.

S. B. No. 270-Senator Cates.

To amend sections 153.12, 153.13, 153.14, 4113.61, 4113.62, and 5559.14 and to enact section 4113.63 of the Revised Code to modify provisions governing the practice of withholding a percentage of payment from contractors, subcontractors, and material suppliers in the form of retainage.

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:

Sub. H. B. No. 254 - Representatives Collier, Allen, Aslanides, Coley, Daniels, DeWine, Dolan, Evans, C., Flowers, Hagan, Hartnett, Hood, Hoops, Law, Martin, McGregor, J., Peterson, Reidelbach, Reinhard, Seaver, Setzer, Smith, G., Taylor, Ujvagi, Wagner, Webster, Willamowski, Yates, Carano, Evans, D., Schlichter

To amend sections 2151.011, 3313.48, 3313.533, 3313.62, 3317.01, and 3317.029; to enact new section 3313.481; and to repeal sections 3313.481 and 3313.482 of the Revised Code to establish a minimum school year for school districts and chartered nonpublic schools based on hours, rather than days, of instruction.

Sub. H. B. No. 46 - Representatives Schaffer, McGregor, J., Fessler, Taylor, Reidelbach, Martin, Aslanides, Blessing, Brinkman, Buehrer, Cassell, Chandler, Collier, Combs, Core, Dolan, Domenick, Evans, C., Evans, D., Faber, Flowers, Gilb, Hagan, Hughes, Law, Patton, T., Raussen, Sayre, Schneider, Seitz, Setzer, Smith, G., Trakas, Wagoner, White, Willamowski, Wolpert, Yuko, Coley

To amend section 9.833 and to enact section 305.172 of the Revised Code to permit political subdivisions to offer and make contributions to health savings accounts for employees.

Sub. H. B. No. 137 - Representatives Gilb, Willamowski, Latta, Wagoner, McGregor, J., Fessler, Aslanides, Book, Combs, DeGeeter, Domenick, Evans, C., Gibbs, Key, Patton, T., Reidelbach, Seitz

To amend sections 2151.313, 2152.72, 2930.13, 3301.0714, 3313.64, 3313.662, 3314.03, 3323.01, and 4301.69; to amend, for the purpose of adopting a new section number as indicated in parentheses, section 2151.357 (2151.362); to enact new sections 2151.357 and 2151.358 and sections 2151.355 and 2151.356; and to repeal section 2151.358 of the Revised Code to revise the procedure by which a juvenile court may seal records of alleged and adjudicated delinquent and unruly children and adjudicated juvenile traffic offenders.

Sub. H. B. No. 374 - Representatives Hughes, Latta, Webster, Allen, Flowers, Uecker, Evans, D., McGregor, J., Skindell, Brown, Fende, Sayre, Combs, Otterman, Ujvagi, Wagoner, Yuko, Chandler, Barrett, Strahorn, Gilb, Seitz, Willamowski, Beatty, Book, Calvert, Cassell, Daniels, DeBose, DeGeeter, Domenick, Evans, C., Faber, Key, Law, Oelslager, Patton, T., Perry, Reidelbach, Schaffer, Schlichter, Schneider, Setzer, Smith, G., Stewart, D.

To amend sections 2917.46, 2933.41, 3313.206, 5502.61, and 5502.62 and to repeal section 3301.076 of the Revised Code to abolish the children's safety program known as the Block Parent Program in the State Board of Education, to establish in its place the McGruff House Program in the Division of Criminal Justice Services of the Department of Public Safety, to create the offense of unauthorized use of a McGruff house symbol, and if a citizens' reward program has entered into an agreement of affiliation with a board of county commissioners, to permit instead of require specified law enforcement agencies to pay 25 per cent of the proceeds from the sale of forfeited property to that citizens' reward program.

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 Speaker of the House of Representatives has signed the following bill:

Am. Sub. H. B. No. 3 - Representative DeWine - et al.

Attest:

Laura P. Clemens,
Clerk.

The President signed said bill.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the House of Representatives has concurred in the Senate amendments to:

Sub. H. B. No. 101 - Representative Wolpert - et al.

Attest:

Laura P. Clemens,
Clerk.

On the motion of Senator Jacobson, the Senate adjourned until Thursday, February 2, 2006 at 11:00 o'clock a.m.

Attest:

DAVID A. BATTOCLETTI,
Clerk.