

**OHIO**

**SENATE**

**JOURNAL**

**WEDNESDAY, FEBRUARY 16, 2005**

EIGHTEENTH DAY  
Senate Chamber, Columbus, Ohio  
**Wednesday, February 16, 2005, 1:30 p.m.**

The Senate met pursuant to adjournment.

Prayer was offered by Father Michael Gribble, St. Joseph's Cathedral, Columbus, 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. 56**-Senator Mumper.

To amend section 3318.31 of the Revised Code to enact as a separate act the provision of law exempting employees of the Ohio School Facilities Commission from the collective bargaining law.

To the Committee on Finance and Financial Institutions.

**S. B. No. 57**-Senators Wilson, Brady, Dann, Fedor, Fingerhut, Hagan, Mallory, Miller, Prentiss, Roberts, Zurz.

To enact section 6301.11 of the Revised Code to create the Outsourced Worker Assistance Fund to provide financial assistance to outsourced individuals to enroll in postsecondary education programs and to make an appropriation.

To the Committee on Finance and Financial Institutions.

**S. B. No. 58**-Senators Wilson, Brady, Dann, Fedor, Fingerhut, Hagan, Mallory, Miller, Prentiss, Roberts, Zurz.

To enact sections 115.01 and 115.02 of the Revised Code to create the Legislative Audit Commission and the office of Legislative Auditor to conduct program evaluations of state agencies and of specified state-funded or state-operated programs and activities and to make recommendations to the General Assembly on ways in which the agencies, programs, or activities can operate more efficiently.

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

**S. B. No. 59**-Senators Mallory, Jacobson, Fedor, Miller.

To enact sections 1315.57 to 1315.67 of the Revised Code to regulate under the Superintendent of Financial Institutions the facilitation of refund anticipation loans and refund anticipation checks; specifying loan or check transaction requirements; requiring that specified disclosures be made to consumers; and specifying civil remedies and administrative penalties.

To the Committee on Finance and Financial Institutions.

**S. B. No. 60**-Senators Schuring, Coughlin, Dann, Jacobson, Zurz, Gardner, Fedor, Fingerhut, Brady, Clancy.

To amend sections 5725.24, 5733.98, 5747.08, and 5747.98 and to enact sections 149.311, 5725.151, 5727.40, 5733.47, and 5747.76 of the Revised Code to authorize nonrefundable, transferable tax credits for rehabilitating historic buildings.

To the Committee on Ways and Means and Economic Development.

**S. B. No. 61**-Senator Wachtmann.

To amend sections 4169.01, 4169.03, 4169.08, and 4169.09 of the Revised Code to modify duties and liabilities of ski operators and skiers, including duties and liabilities relating to the use of freestyle terrain and tubing parks in ski areas.

To the Committee on Judiciary - Civil Justice.

YES - 4: BILL HARRIS, JEFF JACOBSON, C. J. PRENTISS,  
MARK MALLORY.

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 Jordan submitted the following report:

The standing committee on Judiciary - Criminal Justice, to which was referred **S. B. No. 8**-Senator Austria, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsor: Grendell.

YES - 8: JIM JORDAN, PATRICIA M. CLANCY, STEPHEN C. AUSTRIA, KIMBERLY A. ZURZ, TIMOTHY J. GRENDALL, MARC DANN, DAVID GOODMAN, MARK MALLORY.

NO - 0.

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

The report of the committee was accepted.

Senator Jordan submitted the following report:

The standing committee on Judiciary - Criminal Justice, to which was referred **S. B. No. 38**-Senators Grendell, Jacobson, having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Dann, Zurz.

YES - 8: JIM JORDAN, MARC DANN, PATRICIA M. CLANCY, STEPHEN C. AUSTRIA, TIMOTHY J. GRENDALL, KIMBERLY A. ZURZ, DAVID GOODMAN, MARK MALLORY.

NO - 0.

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

The report of the committee was accepted.

Senator Mumper submitted the following report:

The standing committee on Agriculture, to which was referred **S. B. No. 37**-Senator Grendell, et al., having had the same under consideration, reports it back with the following amendment and recommends its passage when so amended.

In line 43, delete the second "or"

Delete line 44

In line 45, delete "industry" and insert "and who purchases or produces equine feed"

Co-Sponsors: Padgett, Mumper.

YES - 6: TOM ROBERTS, CHARLES A. WILSON, TIMOTHY J. GRENDALL, JOY PADGETT, JOHN A. CAREY, LARRY A. MUMPER.

NO - 0.

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

The report of the committee was accepted.

Senator Schuring submitted the following report:

The standing committee on Rules to which were referred the appointments by the Governor of:

**John G. Ault**, Democrat, from Perrysburg, Wood County, Ohio as a member of the Owens State Community College Board of Trustees for a new term beginning December 3, 2004 and ending at the close of business October 22, 2010.

**Sally A. Banfield**, Independent, from Mount Perry, Muskingum County, Ohio, as a Member of the Environmental Education Council for a new term beginning December 3, 2004 and ending at the close of business October 1, 2006.

**Frances E. Beasley**, Democrat, from Columbus, Franklin County, Ohio, as a Member of the Environmental Education Council for a new term beginning December 3, 2004 and ending at the close of business October 1, 2006.

**James N. Doyle**, Republican, from South Charleston, Clark County, Ohio, as a Member of the Clark State Community College Board of Trustees for a new term beginning December 3, 2004 and ending at the close of business November 30, 2010.

**Daniel L. Ellington**, Democrat, from East Canton, Stark County, Ohio, as a Member of the Labor-Management Government Advisory Committee for a term beginning December 3, 2004 and ending at the close of business August 22, 2010, replacing Jack M. Fernandez, whose term expired.

**Faye M. Flack**, Republican, from Springfield, Clark County, Ohio, as a Member of the Clark State Community College Board of Trustees for a new term beginning December 3, 2004 and ending at the close of business

November 30, 2010.

**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.

**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.

**Thomas J. Hayes**, from Bay Village, Cuyahoga County, Ohio, as the Director of the Ohio Lottery Commission for a term beginning January 1, 2005 and continuing at the pleasure of the Governor.

**Joseph P. Koncelik**, from Hilliard, Franklin County, Ohio, as a Member of the Ohio Environmental Protection Agency for a term beginning January 7, 2005 and continuing at the pleasure of the Governor.

**James A. Landaker**, Republican, from Centerburg, Morrow County, Ohio, as a Member of the Accountancy Board for a term beginning December 3, 2004 and ending at the close of business October 20, 2011, replacing Constance R. Woods, whose term expired.

**Laura C. Leonard**, Republican, from Cincinnati, Hamilton County, Ohio, as a Member of the Cincinnati State Technical and Community College Board of Trustees for a term beginning December 17, 2004 and ending at the close of business August 31, 2010, replacing J. Roger Erwin, who resigned.

**David H. Madison**, Democrat, from Bexley, Franklin County, Ohio, as a Member of the Ohio Expositions Commissions for a new term beginning December 17, 2004 and ending at the close of business December 1, 2010.

**John C. Moore**, Republican, from Holland, Lucas County, Ohio, as a Member of the Owens State Community College Board of Trustees for a new term beginning December 3, 2004 and ending at the close of business October 22, 2010.

**Jay Mulligan**, Democrat, from Cortland, Trumbull County, Ohio, as a member of the Board of Building Appeals for a term beginning December 17, 2004 and ending at the close of business October 13, 2008, replacing Thomas J. Witucky, whose term expired.

**Lynn T. Nichols**, Republican, from Dublin, Franklin County, Ohio, as a Member of the Labor-Management Government Advisory Committee for a term beginning December 3, 2004 and ending at the close of business August 22, 2010.

**Rita Pennix**, Democrat, from Somerville, Preble County, Ohio, as a Member of the Financial Planning and Supervision Commission for the Village of West Elkton for a term beginning December 17, 2004 and continuing at the pleasure of the Governor.

**Thomas E. Price**, Republican, from Delaware, Delaware County, Ohio, as a Member of the Ohio Expositions Commissions for a term beginning December 17, 2004 and ending at the close of business December 1, 2010, replacing Nancy Patterson, whose term expired.

**H. Richard Rowe, Jr.**, Republican, from Findlay, Hancock County, Ohio, as a Member of the Owens State Community College Board of Trustees for a new term beginning December 3, 2004 and ending at the close of business October 22, 2010.

**Richard L. Shank**, Independent, from Columbus, Franklin County, Ohio, as a Member of the Environmental Education Council for a term beginning December 3, 2004 and ending at the close of business October 1, 2006.

**Lee M. Smith**, Democrat, from Columbus, Franklin County, Ohio, as a Member of the Ohio Expositions Commissions for a new term beginning December 17, 2004 and ending at the close of business December 1, 2010.

**O. Lester Smithers, Jr.**, Republican, from Enon, Clark County, Ohio, as a Member of the Clark State Community College Board of Trustees for a new term beginning December 3, 2004 and ending at the close of business November 30, 2010.

**Fred Specht**, Republican, from West Elkton, Preble County, Ohio, as a Member of the Financial Planning and Supervision Commission for the Village of West Elkton for a term beginning December 17, 2004 and continuing at the pleasure of the Governor.

**William R. Strohmenger**, Republican, from Canton, Stark County, Ohio, as a Member of the Stark State College of Technology Board of Trustees for a term beginning December 27, 2004 and ending at the close of business August 1, 2007, replacing William Schiltz, whose term expired.

**Roger W. Tracy**, Republican, from New Albany, Franklin County, Ohio, as a Member of the State Personnel Board of Review for a new term beginning February 9, 2005 and ending at the close of business February 8, 2011.

**Paul A. Watkins**, Republican, from Somerville, Preble County, Ohio, as a Member of the Financial Planning and Supervision Commission for the Village of West Elkton for a term beginning December 17, 2004 and continuing at the pleasure of the Governor.

**Doug White**, from Manchester, Adams County, Ohio, as Director of the Ohio Department of Commerce for a term beginning January 3, 2005 and continuing at the pleasure of the Governor.

**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.

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

YES - 10: BILL HARRIS, JEFF JACOBSON, RANDY GARDNER, ROBERT F. SPADA, STEPHEN C. AUSTRIA, JAY HOTTINGER, ROBERT F. HAGAN, TERESA FEDOR, MARK MALLORY, C. J. PRENTISS.

NO - 0.

The question being, "Shall the Senate advise and consent to the appointments by the Governor?"

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
Roberts	Schuler	Spada	Wachtmann
Wilson	Zurz		Harris-31.

So the Senate advised and consented to said appointments.

**RESOLUTIONS REPORTED BY COMMITTEE**

Senator Niehaus offered the following resolution:

**S. R. No. 20**-Senators Niehaus, Harris, Coughlin, Spada.

To urge the Congress of the United States to enact the Clear Skies Act of 2005.

WHEREAS, Although the nation's air quality has improved significantly since the early 1970's, pollutants such as sulfur dioxide, nitrogen oxide, and mercury continue at levels that cause environmental and public health concerns. Because of those concerns, the United States Environmental Protection Agency has established stricter National Ambient Air Quality Standards, most recently for ozone and particulate matter; and

WHEREAS, Currently, 474 counties, including 33 in Ohio, are in nonattainment with the ozone standard and 225 counties, including 32 in Ohio, are in nonattainment with the particulate matter standard. Nonattainment designations place a significant burden on state and local governments, which must develop plans to reduce emissions and come into attainment by a specified



date; and

WHEREAS, In order to ensure that the states have the most effective means of attaining the new standards, the Clear Skies Act of 2005 (S. 131) has been introduced in the United States Senate. This legislation not only is based on the successful Acid Rain Program, it also incorporates a multi-emissions approach that takes advantage of the benefits that would result from controlling multiple pollutants at the same time; and

WHEREAS, The Clear Skies Act balances environmental, energy, and economic needs. For example, it requires power plants to reduce emissions of sulfur dioxide, nitrogen oxide, and mercury by 70% by 2018 and allows the nation to continue burning coal, our most abundant and low-cost energy source, while improving our nation's air quality; now therefore be it

RESOLVED, That we, the members of the Senate of the 126th General Assembly of the State of Ohio, urge the Congress of the United States to enact the Clear Skies Act of 2005 in order to improve our nation's air quality and ensure our nation's economic stability; and be it further

RESOLVED, That the Clerk of the Senate transmit duly authenticated copies of this resolution to the President of the United States, the President Pro Tempore and Secretary of the United States Senate, the Speaker and Clerk of the United States House of Representatives, the members of the Ohio Congressional delegation, and the news media of Ohio.

The question being, "Shall the resolution, **S. R. No. 20**, be adopted?"

The yeas and nays were taken and resulted - yeas 23, nays 8, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Grendell	Hottinger	Jacobson
Jordan	Mumper	Niehaus	Padgett
Prentiss	Schuler	Spada	Wachtmann
Wilson	Zurz		Harris-23.

Senators Brady, Dann, Fedor, Fingerhut, Hagan, Mallory, Miller, and Roberts voted in the negative-8.

So the resolution was adopted.

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

Senator Niehaus moved to amend the title as follows:

Add the names: "Schuler, Grendell, Padgett, Cates, Carey, Mumper."

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

The motion was agreed to and the title so amended.

**BILLS FOR THIRD CONSIDERATION**

**Sub. S. B. No. 8**-Senators Austria, Jacobson, Gardner, Coughlin, Zurz, Mumper, Padgett, Clancy, Grendell.

To amend sections 1547.11, 1547.111, 1547.99, 1905.01, 1905.03, 1905.05, 1905.201, 2317.02, 2317.022, 2317.422, 2743.51, 2919.22, 2923.16, 2937.46, 2951.02, 3701.143, 3937.41, 4506.17, 4510.01, 4510.032, 4510.036, 4510.17, 4510.54, 4511.181, 4511.19, 4511.191, 4511.192, 4511.194, and 4766.15 of the Revised Code to prohibit the operation of a vehicle or vessel if a statutorily specified concentration of amphetamine, cocaine, cocaine metabolite, heroin, heroin metabolite (6-monoacetyl morphine), L.S.D., marihuana, marihuana metabolite, methamphetamine, or phencyclidine is present in the operator's blood or urine, subject to certain exceptions and to extend the time within which a chemical test of an arrested person's whole blood, blood serum or plasma, breath, or urine must be taken in order for the results of the test to be admissible as evidence, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 8**, pass?"

The yeas and nays were taken and resulted - yeas 30, nays 1, 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	Roberts
Schuler	Spada	Wachtmann	Wilson
Zurz			Harris-30.

Senator Prentiss voted in the negative-1.

So the bill passed.

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

Senator Austria moved to amend the title as follows:

Add the names: "Hottinger, Harris, Miller, Niehaus, Dann."

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, February 13, 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 bills were introduced and considered the first time:

**S. B. No. 62**-Senators Carey, Fingerhut, Wachtmann, Miller.

To amend sections 5101.75, 5101.752, 5111.204, 5111.62, and 5111.88; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 5101.75 (173.42) and 5101.752 (173.43); to enact section 5111.881; and to repeal sections 5101.751, 5101.753, 5101.754, and 5111.205 of the Revised Code to establish a program for providing long-term care consultations to residents and potential residents of nursing facilities and to require the identification of options for financing Medicaid long-term care services according to individual needs and preferences, including preferences for home and community-based services.

**S. B. No. 63**-Senators Carey, Goodman, Miller.

To amend sections 121.37, 2151.23, 2151.353, 2151.361, 2151.412, 2151.413, 2151.416, 2151.417, 5153.16, and 5153.19 and to enact sections 121.373, 121.374, 121.381, 121.382, 5103.40, 5103.41, 5103.42, 5103.43, 5103.44, 5103.45, 5103.46, 5103.47, 5103.48, 5103.49, 5103.50, 5103.51, 5103.52, 5103.53, and 5103.54 of the Revised Code to provide for voluntary placement agreements for children with mental illness, to prohibit a public children services agency from requiring that a parent or custodian relinquish legal custody in order to access services under a voluntary placement agreement, and to revise the law governing county families and children first councils.

**S. B. No. 64**-Senators Grendell, Schuring, Schuler, Mumper, Clancy.

To amend section 5731.09 of the Revised Code to exempt from the estate tax certain contributions to a trust or fund attributable to a decedent's former employer.

**S. B. No. 65**-Senators Coughlin, Schuler, Mumper, Hottinger.

To amend sections 109.57, 109.572, 3317.022, and 3317.03 and to enact sections 3310.01 to 3310.12 of the Revised Code to establish the Special Education Scholarship Program to provide scholarships for handicapped children to attend alternative public and nonpublic special education programs.

**OFFERING OF RESOLUTIONS**

Senator Harris offered the following resolution:

**S. R. No. 23**-Senator Harris.

Authorizing The Ohio Junior State of America to use the Ohio Senate Chambers to conduct its 2005 Ohio Spring State Convention.

WHEREAS, The members of the Senate of the 126th General Assembly of Ohio have learned that The Ohio Junior State of America has requested permission to use the Ohio Senate Chambers and four hearing rooms for its annual Ohio Spring State Convention, April 30-May 1, 2005; and

WHEREAS, A beneficial educational program, The Ohio Junior State of America provides students with the opportunity to better appreciate and understand government and its components, and the knowledge gained through this event will certainly be of value to participants in the years to come; and

WHEREAS, Utilizing the facilities which accommodate those involved in the state legislative process, The Ohio Junior State of America will effectively offer students an accurate depiction of state government and the manner in which legislation is processed; and

WHEREAS, Through participation in The Ohio Junior State of America's annual Ohio Spring State Convention, students will be better prepared to become productive members of our complex and ever-changing society. The maturity and experience participants will gain through their involvement in this program will not only enrich their total educational experience but also enable them to make better-informed decisions as they assume the responsibilities of adult citizenship; therefore be it

RESOLVED, That we, the members of the Senate of the 126th General Assembly of Ohio, in adopting this Resolution, permit The Ohio Junior State of America to use the Ohio Senate Chambers and four hearing rooms for its 2005 Ohio Spring State Convention, contingent upon the availability of those facilities, and salute its participants as some of Ohio's finest young citizens; and be it further

RESOLVED, That the Clerk of the Senate transmit a duly authenticated copy of this Resolution to The Ohio Junior State of America.

The question being, "Shall the resolution, **S. R. No. 23**, be adopted?"

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  
Roberts  
Wilson

Niehaus  
Schuler  
Zurz

Padgett  
Spada

Prentiss  
Wachtmann  
Harris-31.

So the resolution was adopted.

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

The title was agreed to.

#### Message from the House of Representatives

Mr. President:

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

**H. B. No. 11** - Representatives Schlichter, J. Stewart, Latta, Hartnett, C. Evans, S. Patton, Buehrer, Wolpert, Oelslager, Willamowski, Carano, Kearns, Setzer, Reidelbach, Combs, Hughes, Flowers, DeWine, Chandler, Brown, McGregor, Harwood, T. Patton, Calvert, Walcher, Taylor, Raga, Fessler, Seaver, Webster, Peterson, Wagner, Hood, Williams, Garrison, Barrett, Distel, Allen, Aslanides, Beatty, Blessing, Book, Bulp, Carmichael, Cassell, Coley, Collier, Core, Daniels, DeGeeter, Dolan, Domenick, Driehaus, D. Evans, Faber, Fende, Gibbs, Gilb, Hagan, Healy, Hoops, Key, Koziura, Law, Martin, Mason, Miller, Mitchell, Otterman, Perry, Redfern, Reinhard, Sayre, Schaffer, Skindell, G. Smith, D. Stewart, Strahorn, Sykes, Trakas, Uecker, Ujvagi, Wagoner, White, Widener, Widowfield

To amend section 3313.616 of the Revised Code to grant high school diplomas to certain veterans of the Vietnam Conflict.

Attest:

Laura P. Clemens,  
Clerk.

Said bill was considered the first time.

#### MESSAGE FROM THE PRESIDENT

Pursuant to Section 4121.12 (D) of the Ohio Revised Code, the President of the Senate appoints the following senators to serve on the Workers' Compensation Oversight Commission:

Senator Hottinger (as Chair of the Senate Insurance, Commerce and Labor Committee)

Senator Fingerhut (as Ranking Minority Member of the Senate Insurance, Commerce and Labor Committee)

On the motion of Senator Jacobson, the Senate adjourned until Thursday, February 17, 2005 at 11:00 o'clock a.m.

Attest:

MATTHEW T. SCHULER,  
Clerk.