

OHIO

SENATE

JOURNAL

WEDNESDAY, MARCH 1, 2006

ONE HUNDRED FIFTY-FIFTH DAY
Senate Chamber, Columbus, Ohio
Wednesday, March 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 yesterday was read and approved.

Senator Jacobson moved that the Senate advance to the Ninth Order of Business, Offering of Resolutions.

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

The motion was agreed to.

OFFERING OF RESOLUTIONS

S. R. No. 170-Senator Prentiss.

Relative to the appointment of Dale Miller to fill the vacancy in the membership of the Senate created by the resignation of Daniel Brady of the 23rd Senatorial District.

WHEREAS, Section 11 of Article II, Ohio Constitution, provides for the filling of a vacancy in the Senate by appointment by the members of the Senate who are affiliated with the same political party as the person last elected to the seat which has become vacant; and

WHEREAS, Daniel Brady of the 23rd Senatorial District has resigned as a member of the Senate effective February 28, 2006, thus creating a vacancy in the Senate; now therefore be it

RESOLVED, By the members of the Senate who are affiliated with the Democrat party, that Dale Miller (Democrat), having the qualifications set forth in the Ohio Constitution and the laws of Ohio to be a member of the Senate from the 23rd Senatorial District is hereby appointed, pursuant to Section 11 of Article II, Ohio Constitution, as a member of the Senate from the 23rd Senatorial District, to fill the vacancy created by Daniel Brady; and be it further

RESOLVED, That a copy of this Resolution be spread upon the journal of the Senate together with the yeas and nays of the members of the Senate affiliated with the Democrat party voting on the Resolution, and that the Clerk of the Senate shall certify the Resolution and the vote on its adoption to the Secretary of State.

The question being, "Shall the resolution, **S. R. No. 170**, be adopted?"

The yeas and nays were taken and resulted - yeas 9, nays 0, as follows:

Those who voted in the affirmative were: Senators

Dann	Fedor	Hagan	Kearney
Miller R	Prentiss	Roberts	Wilson
			Zurz-9.

So the resolution was adopted.

Senator-elect Miller appeared at the bar of the Senate and was administered the oath of office by the Honorable C. J. Prentiss, Senator of the Twenty-first District.

MESSAGE FROM THE PRESIDENT

The Honorable Bill Harris
Senate President
Ohio Senate
Statehouse
Columbus, OH 43215

Dear President Harris:

Effective today, March 1, 2006, I hereby resign my position as Assistant Minority Whip.

Sincerely,
/s/ ROBERT F. HAGAN
Robert F. Hagan

Senator Zurz nominated Senator Tom Roberts of the Fifth District for the office of Assistant Minority Whip.

Senator Kearney seconded the nomination.

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

The question being, "Shall Senator Tom Roberts be elected Assistant Minority Whip?"

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	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Gardner	Goodman	Grendell
Hagan	Hottinger	Jacobson	Jordan
Kearney	Miller D	Miller R	Mumper

Niehaus	Padgett	Prentiss	Roberts
Schuler	Schuring	Spada	Stivers
Wachtmann	Wilson	Zurz	Harris-32.

Senator Tom Roberts having received a majority of the votes cast was declared the elected Assistant Minority Whip.

Senator Roberts appeared at the bar of the Senate and was administered the oath of office by the Honorable C. J. Prentiss, Senator of the Twenty-first District.

Senator Jacobson moved that the Senate revert to the Second Order of Business, Reports of Standing and Select Committees.

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

The motion was agreed to.

REPORTS OF STANDING AND SELECT COMMITTEES

Senator Goodman submitted the following report:

The standing committee on Judiciary - Civil Justice, to which was referred **Sub. H. B. No. 235**-Representative Wagner, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

YES - 8: STEVE STIVERS, JAY HOTTINGER, LYNN R. WACHTMANN, RON AMSTUTZ, STEPHEN C. AUSTRIA, ERIC H. KEARNEY, MARC DANN, DAVID GOODMAN.

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. 262**-Senator Goodman, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Clancy, Dann, Kearney, Zurz.

YES - 9: JIM JORDAN, PATRICIA M. CLANCY, STEVE STIVERS, STEPHEN C. AUSTRIA, TIMOTHY J.

GRENDELL, J. KIRK SCHURING, MARC DANN, ERIC H. KEARNEY, KIMBERLY A. ZURZ.

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:

Pursuant to Senate Rule No. 37 the Standing Committee on Rules, recommends that **Sub. H. B. No. 259** - Representative Wagner, et al., having been referred to the Standing Committee on Judiciary - Criminal Justice, be recommitted to the Standing Committee on Judiciary - Criminal Justice.

YES - 10: BILL HARRIS, JEFF JACOBSON, STEPHEN C. AUSTRIA, TERESA FEDOR, RANDY GARDNER, ROBERT F. HAGAN, C. J. PRENTISS, J. KIRK SCHURING, ROBERT F. SPADA, KIMBERLY A. ZURZ.

NO - 0.

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

The report of the committee was accepted.

Senator Stivers submitted the following report:

The standing committee on Insurance, Commerce and Labor, to which was referred **S. B. No. 223**-Senator Niehaus, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsor: Clancy.

YES - 9: JEFFRY J. ARMBRUSTER, PATRICIA M. CLANCY, ERIC H. KEARNEY, RAY MILLER, LYNN R. WACHTMANN, ERIC D. FINGERHUT, STEPHEN C. AUSTRIA, STEVE STIVERS, GARY W. CATES.

NO - 0.

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

The report of the committee was accepted.

Senator Stivers submitted the following report:

The standing committee on Insurance, Commerce and Labor, to which was referred **Am. H. B. No. 82**-Representative Hughes, et al., having had the same under consideration, reports it back and recommends its passage.

Co-Sponsor: Stivers.

YES - 9: RAY MILLER, ERIC H. KEARNEY, ERIC D. FINGERHUT, JAY HOTTINGER, JEFFRY J. ARMBRUSTER, STEVE STIVERS, STEPHEN C. AUSTRIA, PATRICIA M. CLANCY, LYNN R. WACHTMANN.

NO - 1: GARY W. CATES.

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

The report of the committee was accepted.

BILLS FOR THIRD CONSIDERATION

Am. H. B. No. 214-Representatives Hughes, Combs, C. Evans, Latta, McGregor, Seitz, Setzer, Cassell, Domenick, Harwood, Oelslager, Patton, T., Reidelbach, Smith, G., Wagoner.

To amend section 2935.09 of the Revised Code to limit the role of clerks of court in the procedures regarding the filing by private persons of affidavits alleging that a person committed a criminal offense and to require that an appropriate official review affidavits filed by private persons to determine if a complaint should be filed, was considered the third time.

The question being, "Shall the bill, **Am. H. B. No. 214**, pass?"

The yeas and nays were taken and resulted - yeas 24, nays 8, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Gardner	Goodman	Hagan
Hottinger	Jordan	Kearney	Miller D
Miller R	Padgett	Prentiss	Schuring
Stivers	Wilson	Zurz	Harris-24.

Senators Grendell, Jacobson, Mumper, Niehaus, Roberts, Schuler, Spada, and Wachtmann voted in the negative-8.

So the bill passed.

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

The title was agreed to.

Sub. H. B. No. 288-Representatives Wagoner, Combs, Cassell, Latta, Stewart, J., Hartnett, Garrison, Coley, Collier, DeGeeter, Distel, Dolan, Domenick, Flowers, Gibbs, Hood, Hughes, Martin, McGregor, J., Reidelbach, Seitz, Willamowski Senator Schuler.

To amend sections 317.08, 1509.35, 1509.38, and 5301.56 of the Revised Code to revise the statute governing the vesting of abandoned mineral rights and to allow the chairperson of the Oil and Gas Commission to appoint temporary members to the Commission from the Technical Advisory Council on Oil and Gas when a quorum of the Commission cannot be obtained, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 288**, pass?"

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	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Gardner	Goodman	Grendell
Hagan	Hottinger	Jacobson	Jordan
Kearney	Miller D	Miller R	Mumper
Niehaus	Padgett	Prentiss	Roberts
Schuler	Schuring	Spada	Stivers
Wachtmann	Wilson	Zurz	Harris-32.

So the bill passed.

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

Senator Schuler moved to amend the title as follows:

Add the names: "Niehaus, Mumper."

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

The motion was agreed to and the title so amended.

Sub. H. B. No. 313-Representatives Stewart, J., Seitz, Webster, McGregor, J., Patton, T., Schneider, Wagoner, Widener, Hagan, Gibbs, Coley, Boccieri, Koziura, Buehrer, Domenick, Evans, C., Healy, Hughes, Martin, Otterman, Reidelbach, Schaffer, Stewart, D., Uecker Senators Carey, Stivers.

To amend sections 135.18, 135.181, and 135.353 and to enact section 135.144 of the Revised Code to reduce pledging requirements by public depositories securing repayment of public moneys; to specify debt and other obligations of certain out-of-state subdivisions as eligible to secure repayment

of state or political subdivision public moneys; and to authorize investment of certain political subdivision and county public moneys in certificates of deposit issued by federally insured banks and savings and loan associations, wherever located, provided certain conditions apply, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 313**, pass?"

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	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Gardner	Goodman	Grendell
Hagan	Hottinger	Jacobson	Jordan
Kearney	Miller D	Miller R	Mumper
Niehaus	Padgett	Prentiss	Roberts
Schuler	Schuring	Spada	Stivers
Wachtmann	Wilson	Zurz	Harris-32.

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, Schuring, Spada, Wilson, Zurz, Kearney, Schuler, Padgett."

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

The motion was agreed to and the title so amended.

S. B. No. 242-Senator Armbruster.

To amend sections 2151.011, 5103.13, and 5103.131 of the Revised Code regarding the certification of children's crisis care facilities, was considered the third time.

The question being, "Shall the bill, **S. B. No. 242**, pass?"

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	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Gardner	Goodman	Grendell
Hagan	Hottinger	Jacobson	Jordan
Kearney	Miller D	Miller R	Mumper
Niehaus	Padgett	Prentiss	Roberts

Schuler
Wachtmann

Schuring
Wilson

Spada
Zurz

Stivers
Harris-32.

So the bill passed.

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

Senator Armbruster moved to amend the title as follows:

Add the names: "Clancy, Fedor, Gardner, Hagan, Harris, Padgett, Roberts, Spada, Zurz, Wilson, Prentiss, Kearney."

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 26, 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. 277-Senators Jacobson, Kearney.

To create the National Statuary Collection Study Committee to recommend an individual to replace Governor William Allen as one of Ohio's representatives in the National Statuary Collection in the United States Capitol.

S. B. No. 278-Senators Stivers, Clancy, Wachtmann, Goodman, Austria, Schuring, Armbruster, Grendell, Mumper, Coughlin, Schuler, Gardner, Niehaus.

To amend section 1345.09 and to enact section 1345.091 of the Revised Code to limit the liability under the Consumer Sales Practices Act of a supplier that makes a cure offer.

OFFERING OF RESOLUTIONS

Senator Jacobson offered the following resolution:

S. R. No. 171-Senator Jacobson.

Relative to mileage reimbursement.

RESOLVED, Pursuant to section 101.27 of the Revised Code and S.R. No. 2--Senator Jacobson, Relative to mileage reimbursement, adopted January 4, 2005, the Clerk of the Senate is authorized to add the mileage for Dale Miller of 270 miles round trip.

The question being, "Shall the resolution, **S. R. No. 171**, 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	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Gardner	Goodman	Grendell
Hagan	Hottinger	Jacobson	Jordan
Kearney	Miller D	Miller R	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 Harris offered the following resolution:

S. R. No. 172-Senator Harris.

Permitting the use of the Ohio Senate Chambers by the National Forensic League on April 1, 2006.

WHEREAS, The members of the Senate of the 126th General Assembly of Ohio are pleased to grant permission for the Ohio Senate Chambers to be used by the National Forensic League for its Student Congress competition on April 1, 2006; and

WHEREAS, As part of its annual Student Congress competition, the National Forensic League will use the Ohio Senate Chambers on April 1, 2006, 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 Chambers are 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 Chambers on April 1, 2006, 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. 172**, 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	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Gardner	Goodman	Grendell
Hagan	Hottinger	Jacobson	Jordan
Kearney	Miller D	Miller R	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.

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, Janet L. Boeckman, Republican, from Mansfield, Richland County, Ohio, as a Member of the Board of Nursing for a term beginning February 24, 2006, and ending at the close of business December 31, 2009, replacing Yvonne Smith, 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 February in the year of our Lord, two thousand and six.

[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, Kathleen M. Driscoll, Democrat, from West Chester, Butler County, Ohio, as a Member of the Board of Nursing for a new term beginning February 24, 2006 and ending at the close of business December 31, 2009.

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 February in the year of our Lord, two thousand and six.

[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, Mary Jean Flossie, Democrat, from Massillon, Stark County, Ohio, as a Member of the Board of Nursing for a new term beginning February 24, 2006 and ending at the close of business December 31, 2009.

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 February in the year of our Lord, two thousand and six.

[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, Lisa R. Klenke, Republican, from Coldwater, Mercer County, Ohio, as a Member of the Board of Nursing for a new term beginning February 24, 2006 and ending at the close of business December 31, 2009.

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 February in the year of our Lord, two thousand and six.

[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, Mark B. LaPlace, Republican, from Columbus, Franklin County, Ohio, as a Member of the Accountancy Board for a term beginning February 24, 2006, and ending at the close of business October 20, 2012, replacing Tom Mulligan, 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 February in the year of our Lord, two thousand and six.

[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, J. Jane Tolles-McFee, Republican, from Perrysburg, Wood County, Ohio, as a Member of the Board of Nursing for a new term beginning February 24, 2006 and ending at the close of business December 31, 2009.

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 February in the year of our Lord, two thousand and six.

[Seal]

Bob Taft,
Governor.

Said appointments were referred to the Committee on Rules.

MESSAGE FROM THE PRESIDENT

Pursuant to Senate Rules 19 and 20, the President of the Senate makes the following appointment changes to the following Senate Standing Committees:

Appoints Senator Dale Miller as a member of the Standing Committee on Environment and Natural Resources.

Appoints Senator Dale Miller as a member of the Standing Committee on Finance and Financial Institutions.

Appoints Senator Dale Miller as a member of the Standing Committee on Highways and Transportation.

Appoints Senator Dale Miller as a member of the Standing Committee on State and Local Government and Veterans Affairs.

Appoints Senator Dale Miller as the Ranking Minority member on the Standing Committee on State and Local Government and Veterans Affairs.

Removes Senator Hagan from the Standing Committee on Rules.

Appoints Senator Roberts as a member of the Standing Committee on Rules.

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

Attest:

DAVID A. BATTOCLETTI,
Clerk.