

OHIO

SENATE

JOURNAL

TUESDAY, APRIL 5, 2005

THIRTY-SIXTH DAY
Senate Chamber, Columbus, Ohio
Tuesday, April 5, 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 and concurrent resolution, standing in order for second consideration, be referred to committee as recommended:

H. B. No. 42-Representatives Schaffer, McGregor, Reidelbach, Hoops, Taylor, Seitz, Raussen, J. Stewart, C. Evans, Beatty, Carano, D. Evans, Hartnett, Perry, Willamowski, Gilb, Allen, Hagan, Buehrer, Harwood, Mason, Wagoner, Coley, Latta, Oelslager, Book, Barrett, Brown, Bubp, Calvert, Cassell, Collier, Combs, Core, Daniels, DeBose, DeGeeter, Distel, Dolan, Domenick, Faber, Fende, Flowers, Garrison, Gibbs, Hughes, Kearns, Key, Law, Martin, Miller, Otterman, S. Patton, T. Patton, Sayre, Schlichter, Schneider, Seaver, Setzer, Skindell, G. Smith, S. Smith, D. Stewart, Strahorn, Sykes.

To amend sections 1702.01, 1702.02, 1702.08, 1702.11, 1702.17, 1702.18, 1702.19, 1702.20, 1702.22, 1702.25, 1702.27, 1702.31, 1702.33, 1702.38, 1702.39, 1702.42, 1702.47, and 1702.58 of the Revised Code relating to the use of authorized communications equipment, including electronic or telephonic transmissions, in certain meetings and votings of nonprofit corporations and the authority to take action on behalf of a nonprofit corporation without a meeting of incorporators, directors, or members.

To the Committee on Judiciary - Civil Justice.

S. B. No. 107-Senators Schuler, Padgett, Clancy, Schuring.

To amend sections 111.21, 111.22, 117.44, 133.01, 133.27, 149.42, 301.01, 306.32, 306.321, 319.51, 321.31, 321.32, 321.34, 345.01, 503.162, 503.25, 503.26, 503.29, 503.41, 503.52, 504.06, 504.07, 504.11, 504.12, 504.14, 504.19, 504.20, 505.03, 505.04, 505.07, 505.108, 505.11, 505.17, 505.24, 505.262, 505.31, 505.32, 505.33, 505.35, 505.37, 505.373, 505.47, 505.511, 505.73, 505.86, 507.01, 507.02, 507.021, 507.03, 507.04, 507.05, 507.051, 507.06, 507.07, 507.08, 507.09, 507.11, 509.02, 511.21, 511.22, 511.33,

513.04, 515.02, 515.04, 515.081, 515.12, 517.05, 517.06, 517.07, 519.16, 519.161, 519.211, 521.02, 521.03, 703.201, 707.28, 709.023, 709.024, 709.03, 709.033, 709.46, 711.05, 711.10, 715.691, 715.70, 715.71, 715.75, 715.76, 971.05, 971.06, 971.08, 971.09, 971.12, 971.35, 971.36, 1341.16, 1533.13, 1710.02, 2927.21, 3381.03, 3501.37, 3513.253, 3517.10, 3709.30, 3734.025, 3734.026, 3734.57, 4301.80, 4303.26, 4928.20, 4929.26, 4929.27, 5123.19, 5126.021, 5541.02, 5543.05, 5552.10, 5571.04, 5571.16, 5573.13, 5573.211, 5575.04, 5575.09, 5579.08, 5705.01, 5709.73, 5735.27, and 5747.061 of the Revised Code to replace the name "township clerk" with the name "township fiscal officer."

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

S. B. No. 108-Senators Gardner, Padgett.

To amend section 3314.08 of the Revised Code to eliminate the payment of state parity aid to community schools.

To the Committee on Education.

S. B. No. 109-Senators Coughlin, Jordan, Mumper.

To enact sections 1753.281 and 3923.651 of the Revised Code to require health care policies, contracts, and agreements that provide coverage for 9-1-1 emergency services to pay the provider of the services directly.

To the Committee on Insurance, Commerce and Labor.

S. B. No. 110-Senators Fedor, Schuring, Roberts, Brady.

To amend sections 3314.012, 3314.013, 3314.015, 3314.02, 3314.03, and 3314.17 and to enact sections 3314.12, 3314.18, 3314.19, 3314.21, and 3314.22 of the Revised Code to revise the Community School Law, to place a two-year moratorium on the establishment of new community schools sponsored by entities other than the school districts in which they would be located, and to create the Joint Study Committee on Ohio's Community Schools.

To the Committee on Education.

S. B. No. 111-Senators Dann, Fedor.

To establish a two-year moratorium on the issuance of licenses for new construction and demolition debris facilities.

To the Committee on Environment and Natural Resources.

S. B. No. 112-Senators Schuring, Fedor, Brady, Miller.

To amend sections 3313.60 and 3313.603 of the Revised Code to require one unit of business instruction in high school as a graduation requirement.

To the Committee on Education.

S. B. No. 113-Senators Armbruster, Coughlin, Gardner.

To amend section 1751.01 and to enact sections 1751.69, 3923.71, and 3923.72 of the Revised Code to require certain health care policies, contracts, agreements, and plans to provide benefits for equipment, supplies, and medication for the diagnosis, treatment, and management of diabetes and for diabetes self-management education.

To the Committee on Insurance, Commerce and Labor.

S. B. No. 114-Senators Goodman, Harris, Coughlin, Amstutz, Spada, Wachtmann, Gardner, Jordan, Carey, Schuler, Schuring, Padgett, Fedor, Dann.

To amend section 5533.09 of the Revised Code to designate Interstate Routes 70 and 71 as the "Purple Heart Trail."

To the Committee on Highways and Transportation.

S. B. No. 115-Senator Jacobson.

To amend sections 3501.38, 3503.06, 3503.14, 3513.07, and 3513.261 and to enact sections 3501.381 and 3599.111 of the Revised Code to cure omissions in and otherwise clarify the law regarding circulation of election petitions.

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

S. B. No. 116-Senators Spada, Gardner, Schuring, Hottinger, Fedor, Fingerhut, Miller, Hagan, Dann, Zurz.

To amend sections 1739.05, 1751.01, 1751.02, 3923.28, 3923.30, and 3923.51 and to enact sections 3923.281 and 3923.282 of the Revised Code to prohibit, subject to certain exceptions, discrimination in group health care policies, contracts, and agreements in the coverage provided for the diagnosis, care, and treatment of biologically based mental illnesses.

To the Committee on Insurance, Commerce and Labor.

S. B. No. 117-Senators Mallory, Dann, Fedor, Jacobson, Miller.

To amend section 2307.60 of the Revised Code to provide that a final judgment, entered after a trial or upon a plea of guilty in certain criminal actions generally precludes the offender from denying any fact essential to sustain that judgment when entered in evidence in a civil proceeding that is based on the criminal act.

To the Committee on Judiciary - Civil Justice.

S. B. No. 118-Senator Mumper.

To amend section 3901.386 of the Revised Code to require insurers and other third-party payers to accept and honor assignment-of-benefit agreements entered into between plan beneficiaries and treating health care providers.

To the Committee on Insurance, Commerce and Labor.

S. C. R. No. 14-Senators Spada, Armbruster, Clancy, Carey, Coughlin, Padgett, Schuler, Zurz, Fingerhut.

To memorialize the Congress of the United States and the United States Secretary of Health and Human Services to reform the Medicaid program to ensure the program's solvency for future generations.

To the Committee on Health, Human Services and Aging.

YES - 5: J. KIRK SCHURING, JEFF JACOBSON, BILL HARRIS,
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 and concurrent resolution were considered a second time and referred to committee as recommended.

REPORTS OF STANDING AND SELECT COMMITTEES

Senator Schuring submitted the following report:

The standing committee on Rules to which was referred the appointment by the Governor of:

William L. Bicking, Independent, from Granville, Licking County, Ohio, as Director of the Ohio Public Works Commission for a new term beginning February 7, 2005 and ending at the close of business March 19, 2009.

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

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

NO - 0.

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

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 Senate advised and consented to said appointment.

BILLS FOR THIRD CONSIDERATION

Am. S. B. No. 37-Senators Grendell, Jacobson, Clancy, Padgett, Mumper.

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, was considered the third time.

The question being, "Shall the bill, **Am. S. B. No. 37**, 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	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 bill passed.

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

Senator Grendell moved to amend the title as follows:

Add the names: "Harris, Niehaus, Armbruster, Gardner, Miller, Wilson, Cates."

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, April 3, 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. 119-Senators Hagan, Jacobson, Harris, Spada, Coughlin, Mumper, Cates, Carey, Padgett, Amstutz, Jordan, Zurz, Fingerhut, Dann, Miller.

To amend sections 3517.092 and 3517.992 of the Revised Code to prohibit county elective officers and candidates for county elective office from accepting contributions from certain county employees, to prohibit municipal elective officers and candidates for municipal elective office from soliciting or accepting contributions from certain employees of the municipal corporation, and to prohibit township elective officers and candidates for township elective office from soliciting or accepting contributions from certain township employees.

OFFERING OF RESOLUTIONS

Senator Harris offered the following resolution:

S. R. No. 51-Senator Harris.

Authorizing The Junior Statesmen Foundation to use the Ohio Senate Chambers to conduct its 2005 Ohio Symposium on Leadership and Politics.

WHEREAS, The members of the Senate of the 126th General Assembly of Ohio have learned that The Junior Statesmen Foundation has requested permission to use the Ohio Senate Chambers for its annual Ohio Symposium on Leadership and Politics, August 8-11, 2005; and

WHEREAS, A beneficial educational program, The Junior Statesmen Foundation 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 Junior Statesmen Foundation will effectively offer students an accurate depiction of state government and the manner in which legislation is processed; and

WHEREAS, Through participation in The Junior Statesmen Foundation's annual Ohio Symposium on Leadership and Politics, 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 Junior Statesmen Foundation to use the Ohio Senate Chambers for its 2005 Ohio Symposium on

Leadership and Politics, 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 Junior Statesmen Foundation.

The question being, "Shall the resolution, **S. R. No. 51**, 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 Harris offered the following resolution:

S. R. No. 52-Senator Harris.

Authorizing the YMCA Youth in Government program to use the Ohio Senate Chambers to conduct its model legislature, April 7-9, 2005.

WHEREAS, The members of the Senate of the 126th General Assembly of Ohio have learned that the Ohio-West Virginia YMCA Youth in Government program has requested permission to use the Ohio Senate Chambers for its model legislature event, April 7-9, 2005; and

WHEREAS, A beneficial educational event, the YMCA Youth in Government program provides students with the opportunity to better appreciate and understand government and its components, and the knowledge gained through this presentation will certainly be of value to all participants throughout their lifetime; and

WHEREAS, By utilizing the facilities that accommodate those involved in the state legislative process, the YMCA Youth in Government program will offer students an accurate depiction of state government and the manner in which legislation is created and processed; and

WHEREAS, Through participation in the YMCA Youth in Government program, 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-West Virginia YMCA Youth in Government program to use the Ohio Senate Chambers for its model legislature event, contingent upon the availability of those facilities, and salute its participants as conscientious young citizens; and be it further

RESOLVED, That the Clerk of the Senate transmit a duly authenticated copy of this Resolution to the YMCA Youth in Government program.

The question being, "Shall the resolution, **S. R. No. 52**, 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.

Pursuant to Senate Rule No. 54, the following resolutions were offered:

S. R. No. 53 -Senators Harris, Grendell, Austria, Schuring, Hagan, Mumper, Gardner, Wachtmann, Jordan, Carey, Miller, Clancy, Mallory, Goodman, Cates, Spada, Dann, Jacobson, Amstutz, Coughlin, Fingerhut, Brady, Wilson, Zurz, Armbruster, Fedor, Hottinger, Niehaus, Padgett, Prentiss, Roberts, Schuler.

Honoring Lee Leonard on his retirement.

S. R. No. 54-Senator Hottinger.

Recognizing the National Day of Prayer, May 5, 2005.

The question being, "Shall the resolutions listed under the President's prerogative 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, Larry A. Caldwell, Republican, from Cambridge, Guernsey County, Ohio, as a Member of the Savings and Loan Associations and Savings Banks Board for a new term beginning March 11, 2005 and ending at the close of business January 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 11th day of March 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, Bruce E. Duke, Independent, from Kettering, Montgomery County, Ohio, as a Member of the State Fire Commission for a term beginning March 11, 2005, and ending at the close of business October 31, 2009, replacing Wendolyn Grant, 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 11th day of March 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, William E. Dunlap, Jr., Republican, from Upper Arlington, Franklin County, Ohio, as a

Member of the Board of Tax Appeals for a term beginning March 11, 2005, and ending at the close of business February 8, 2011, replacing Louise A. Jackson, 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 11th day of March 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, Ellen H. Hardyman, Republican, from Delaware, Franklin County, Ohio, as a member of the Savings and Loan Associations and Savings Banks Board for a term beginning March 11, 2005, and ending at the close of business January 31, 2006, replacing Charles A. Thigpen, 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 11th day of March 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, Neal E. Hubbard, Republican, from Elyria, Lorain County, Ohio, as a Member of the Savings and Loan Associations and Savings Banks Board for a new term beginning March 11, 2005 and ending at the close of business January 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 11th day of March 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, Gwen McFarlin, Democrat, from Cincinnati, Hamilton County, Ohio, as a Member of the State Fire Commission for a term beginning March 11, 2005, and ending at the close of business October 31, 2007, replacing Colene S. Conley, 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 11th day of March 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, Gregory A. Schneider, Republican, from Strongsville, Cuyahoga County, Ohio, as a Member of the State Fire Commission for a new term beginning March 11, 2005 and ending at the close of business October 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 11th day of March 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, Rajesh K. Soin, Republican, from Dayton, Montgomery County, Ohio, as a Member of the Ohio Venture Capital Authority for a new term beginning March 11, 2005

and ending at the close of business January 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 11th day of March 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, Judy J. Tolles, Republican, from Perrysburg, Wood County, Ohio, as a Member of the Board of Nursing for a term beginning March 11, 2005, and ending at the close of business October 31, 2005, replacing T. Diann Caudill, 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 11th day of March in the year of our Lord, two thousand and five.

[Seal]

Bob Taft,
Governor.

Said appointments were referred to the Committee on Rules.

On the motion of Senator Gardner, the Senate adjourned until Thursday, April 7, 2005 at 11:00 o'clock a.m.

Attest:

MATTHEW T. SCHULER,
Clerk.