

**OHIO**

**SENATE**

**JOURNAL**

TUESDAY, JANUARY 15, 2008

ONE HUNDRED TWENTY-EIGHTH DAY  
Senate Chamber, Columbus, Ohio  
**Tuesday, January 15, 2008, 1:30 p.m.**

The Senate met pursuant to adjournment.

Prayer was offered by Pastor Brian Hanson, Grace Baptist Church, Cedarville, Ohio, followed by the Pledge of Allegiance to the Flag.

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

Senator Jacobson moved that the Senate advance to the ninth order of business, Offering of Resolutions.

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

The motion was agreed to.

**OFFERING OF RESOLUTIONS**

**S. R. No. 160**-Senator Jacobson.

Relative to the appointment of Mark D. Wagoner, Jr., to fill the vacancy in the membership of the Senate created by the resignation of Randy Gardner of the 2nd 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, Randy Gardner of the 2nd Senatorial District has resigned as a member of the Senate effective January 9, 2008, thus creating a vacancy in the Senate; now therefore be it

RESOLVED, By the members of the Senate who are affiliated with the Republican party, that Mark D. Wagoner, Jr. (Republican), having the qualifications set forth in the Ohio Constitution and the laws of Ohio to be a member of the Senate from the 2nd Senatorial District is hereby appointed, pursuant to Section 11 of Article II, Ohio Constitution, as a member of the Senate from the 2nd Senatorial District, to fill the vacancy created by Randy Gardner; 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 Republican 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. 160**, be adopted?"

The yeas and nays were taken and resulted - yeas 20, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Buehrer	Carey
Cates	Coughlin	Faber	Goodman
Grendell	Jacobson	Mumper	Niehaus
Padgett	Schaffer	Schuler	Schuring
Seitz	Spada	Stivers	Harris-20.

So the resolution was adopted.

Senator elect Wagoner appeared at the well of the Senate and was administered the oath of office by the Honorable Bill Harris, President of the Senate.

**S. R. No. 161**-Senator Jacobson.

Relative to mileage reimbursement.

RESOLVED, Pursuant to section 101.27 of the Revised Code and S.R. No. 5--Senator Jacobson, Relative to mileage reimbursement, adopted January 2, 2007, the Clerk of the Senate is authorized to add the mileage for Mark D. Wagoner, Jr., of 288 miles round trip.

The question being, "Shall the resolution, **S. R. No. 161**, 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	Austria	Bocchieri	Buehrer
Cafaro	Carey	Cates	Coughlin
Faber	Fedor	Goodman	Grendell
Jacobson	Kearney	Mason	Miller D
Miller R	Morano	Mumper	Niehaus
Padgett	Roberts	Sawyer	Schaffer
Schuler	Schuring	Seitz	Smith
Spada	Stivers	Wilson	Harris-32.

So the resolution was adopted.

The Senate proceeded to elect a Majority Floor Leader.

Senator Spada nominated Senator Niehaus of the Fourteenth District for said office.

Senator Schuring seconded the nomination.

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

The yeas and nays were taken and resulted - yeas 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Buehrer
Cafaro	Carey	Cates	Coughlin
Faber	Fedor	Goodman	Grendell
Jacobson	Kearney	Mason	Miller D
Miller R	Morano	Mumper	Padgett
Roberts	Sawyer	Schaffer	Schuler
Schuring	Seitz	Smith	Spada
Stivers	Wagoner	Wilson	Harris-32.

Senator Niehaus having received a majority of the votes cast was declared elected Majority Floor Leader.

The Majority Floor Leader appeared at the well of the Senate and was administered the oath of office by the Honorable Bill Harris, Senate President.

The Senate proceeded to elect a Minority Leader.

Senator Smith nominated Senator Ray Miller of the Fifteenth District for said office.

Senator Mason seconded the nomination.

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

The yeas and nays were taken and resulted - yeas 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Buehrer
Cafaro	Carey	Cates	Coughlin
Faber	Fedor	Goodman	Grendell
Jacobson	Kearney	Mason	Miller D
Morano	Mumper	Niehaus	Padgett
Roberts	Sawyer	Schaffer	Schuler
Schuring	Seitz	Smith	Spada
Stivers	Wagoner	Wilson	Harris-32.

Senator Ray Miller having received a majority of the votes cast was declared elected Minority Leader.

The Minority Leader appeared at the well of the Senate and was administered the oath of office by the Honorable Bill Harris, Senate President.

The Senate proceeded to elect a Assitant Minority Leader.

Senator Ray Miller nominated Senator Smith of the Twenty-first District for said office.

Senator Dale Miller seconded the nomination.

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

The yeas and nays were taken and resulted - yeas 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Buehrer
Cafaro	Carey	Cates	Coughlin
Faber	Fedor	Goodman	Grendell
Jacobson	Kearney	Mason	Miller D
Miller R	Morano	Mumper	Niehaus
Padgett	Roberts	Sawyer	Schaffer
Schuler	Schuring	Seitz	Spada
Stivers	Wagoner	Wilson	Harris-32.

Senator Smith having received a majority of the votes cast was declared elected Assistant Minority Leader.

The Assistant Minority Leader appeared at the well of the Senate and was administered the oath of office by the Honorable Bill Harris, Senate President.

Senator Ray Miller, having been elected as the Senate Minority Leader, created a vacancy in the post of Minority Whip.

The Senate proceeded to elect a Minority Whip.

Senator Kearney nominated Senator Mason of the Twenty-fifth District for said office.

Senator Roberts seconded the nomination.

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

The yeas and nays were taken and resulted - yeas 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Buehrer
Cafaro	Carey	Cates	Coughlin
Faber	Fedor	Goodman	Grendell
Jacobson	Kearney	Miller D	Miller R
Morano	Mumper	Niehaus	Padgett
Roberts	Sawyer	Schaffer	Schuler
Schuring	Seitz	Smith	Spada
Stivers	Wagoner	Wilson	Harris-32.

Senator Mason having received a majority of the votes cast was declared

elected Minority Whip.

The Minority Whip appeared at the well of the Senate and was administered the oath of office by the Honorable Bill Harris, Senate President.

Senator Mason, having been elected as the Minority Whip, created a vacancy in the post of Assistant Minority Whip.

The Senate proceeded to elect a Assistant Minority Whip.

Senator Boccieri nominated Senator Cafaro of the Thirty-second District for said office.

Senator Morano seconded the nomination.

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

The yeas and nays were taken and resulted - yeas 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Buehrer
Carey	Cates	Coughlin	Faber
Fedor	Goodman	Grendell	Jacobson
Kearney	Mason	Miller D	Miller R
Morano	Mumper	Niehaus	Padgett
Roberts	Sawyer	Schaffer	Schuler
Schuring	Seitz	Smith	Spada
Stivers	Wagoner	Wilson	Harris-32.

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

The Assistant Minority Whip appeared at the well of the Senate and was administered the oath of office by the Honorable Bill Harris, Senate President.

Senator Jacobson moved that the Senate revert to the first order of business, Reports of Reference and Bills for Second Consideration.

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

The motion was agreed to.

### **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:

**Sub. H. B. No. 332**-Representative Wagoner.

Cosponsors: Representatives Combs, Webster, Seitz, Yates, Latta,

McGregor, J., Hite, Stebelton, Oelslager, Coley, Hughes, Bacon, Barrett, Batchelder, Beatty, Blessing, Bolon, Book, Boyd, Brown, Budish, Chandler, Collier, DeBose, Distel, Dolan, Domenick, Evans, Fende, Fessler, Flowers, Foley, Garrison, Gerberry, Gibbs, Harwood, Huffman, Koziura, Letson, Luckie, Lundy, Mallory, McGregor, R., Mecklenborg, Okey, Patton, Sayre, Schindel, Setzer, Sykes, Szollosi, Ujvagi, Wolpert, Yuko, Zehringer.

To amend sections 111.16, 1329.01, 1329.04, and 2329.66 and to enact sections 1775.66, 1776.01 to 1776.08, 1776.10 to 1776.12, 1776.21 to 1776.24, 1776.31 to 1776.38, 1776.41 to 1776.58, 1776.61 to 1776.79, 1776.81 to 1776.89, 1776.91, 1776.92, 1776.95, 1776.96, 1777.07, 1779.12, 1782.64, and 2307.30 of the Revised Code to adopt the Revised Uniform Partnership Act to be known as the "Ohio Uniform Partnership Act (1997)," to establish that on and after January 1, 2009, the act governs new partnerships and partnerships that elect to be governed by the act, to establish that effective January 1, 2010, the act governs all partnerships in Ohio, and to establish that effective January 1, 2010, the existing Ohio Partnership Law no longer governs partnerships.

To the Committee on Judiciary - Civil Justice.

**S. B. No. 270**-Senator Cates.

Cosponsor: Senator Padgett.

To amend sections 2953.33, 3313.31, 3314.03, 3319.01, 3319.20, 3319.302, 3319.304, 3319.31, 3319.311, 3319.313, 3319.314, 3319.52, 3326.11, 5126.253, and 5126.254 and to enact sections 109.66, 3314.101, 3314.40, 3314.401, 3314.402, 3319.292, 3319.316, 3319.40, 3326.081, 3326.24, 3326.241, and 3326.242 of the Revised Code regarding the reporting of and discipline for school employee misconduct.

To the Committee on Education.

**S. B. No. 271**-Senator Mumper.

To amend sections 1547.14, 1547.24, 1547.99, and 1548.032 and to enact sections 1547.072 and 1547.132 of the Revised Code to make changes to the laws governing watercraft.

To the Committee on Environment and Natural Resources.

**S. B. No. 272**-Senator Stivers.

Cosponsors: Senators Schuring, Miller, R., Padgett, Cafaro.

To amend section 173.50 of the Revised Code to specify areas the Program of All-Inclusive Care for the Elderly (PACE) is to serve.

To the Committee on Health, Human Services and Aging.

YES - 4: J. KIRK SCHURING, TOM ROBERTS, BILL HARRIS,  
JEFF JACOBSON.

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 Schuring submitted the following report:

The Standing Committee on Rules to which were referred the appointments by the Governor of:

**William A. Burga**, Democrat, from Westerville, Franklin County, Ohio, as a Member of the Unemployment Compensation Advisory Council for a new term beginning August 28, 2007 and ending at the close of business July 7, 2010.

**Andrew E. Doehrel**, Republican, from Galena, Delaware County, Ohio, as a Member of the Unemployment Compensation Advisory Council for a new term beginning September 6, 2007 and ending at the close of business July 7, 2011.

**Thomas W. Weeks**, Democrat, from Bexley, Franklin County, Ohio, as a Member of the Unemployment Compensation Advisory Council for a term beginning August 28, 2007 and ending at the close of business July 7, 2011, replacing Patrick J. Darrow, whose term expired.

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

YES - 8: BILL HARRIS, JEFF JACOBSON, ROBERT F. SPADA,  
STEPHEN C. AUSTRIA, JOHN A. CAREY, J. KIRK  
SCHURING, RAY MILLER, TOM ROBERTS.

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 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Buehrer
Cafaro	Carey	Cates	Coughlin
Faber	Fedor	Goodman	Grendell
Jacobson	Kearney	Mason	Miller D
Miller R	Morano	Mumper	Niehaus
Padgett	Roberts	Sawyer	Schaffer
Schuler	Schuring	Seitz	Smith
Spada	Stivers	Wagoner	Wilson
			Harris-33.

So the Senate advised and consented to said appointments.

**BILLS FOR THIRD CONSIDERATION**

**Am. S. B. No. 186**-Senator Stivers.

Cosponsors: Senators Miller, D., Miller, R., Gardner.

To amend sections 1739.05 and 1751.01 and to enact section 3923.80 of the Revised Code to prohibit insurers, public employee benefit plans, and multiple employer welfare arrangements from excluding coverage for routine patient care administered as part of a cancer clinical trial, was considered the third time.

The question being, "Shall the bill, **Am. S. B. No. 186**, pass?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Buehrer
Cafaro	Carey	Cates	Coughlin
Faber	Fedor	Goodman	Grendell
Jacobson	Kearney	Mason	Miller D
Miller R	Morano	Mumper	Niehaus
Padgett	Roberts	Sawyer	Schaffer
Schuler	Schuring	Seitz	Smith
Spada	Stivers	Wagoner	Wilson
			Harris-33.

So the bill passed.

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

Senator Stivers moved to amend the title as follows:

Add the names: "Cafaro, Carey, Cates, Fedor, Goodman, Harris, Kearney, Mason, Morano, Mumper, Niehaus, Padgett, Roberts, Sawyer, Schuring, Seitz, Smith, Spada, Wagoner, Wilson."

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

The motion was agreed to and the title so amended.

### MOTIONS

Senator Austria moved that Senators absent the week of Sunday, January 13, 2008, 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. 273**-Senator Niehaus.

Cosponsors: Senators Mumper, Buehrer.

To calculate an alternate equity list for fiscal year 2008 for purposes of determining school districts' eligibility for assistance under the Classroom Facilities Assistance Program and their local shares in fiscal year 2009.

**S. B. No. 274**-Senator Amstutz.

Cosponsors: Senators Mumper, Schuring, Harris, Seitz, Miller, D.

To amend sections 5739.033 and 5739.24 of the Revised Code and later to repeal section 5739.24 of the Revised Code to authorize a vendor required to utilize destination-based sourcing to determine the appropriate sales tax jurisdiction to convert to origin-based sourcing on or after January 1, 2009, and to discontinue compensation of impacted counties for sales tax losses incurred under destination-based sourcing.

### OFFERING OF RESOLUTIONS

Pursuant to Senate Rule No. 54, the following resolution was offered:

**S. R. No. 162**-Senator Grendell.

Cosponsors: Senators Harris, Mason, Miller, D., Sawyer.

Recognizing January 2008 as National Stalking Awareness Month.

The question being, "Shall the resolution listed under the President's

prerogative be adopted?"

So the resolution was adopted.

**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:

**Am. H. B. No. 295** -Representative Wagoner

Cosponsors: Representatives Ujvagi, Szollosi, Peterson, Latta, Stebelton, Brown, Uecker, Chandler, McGregor, J., Combs, Celeste, Yuko, Fende, Mallory, Bolon, Bacon, Collier, Dyer, Evans, Flowers, Foley, Gardner, Garrison, Goyal, Hagan, R., Harwood, Hughes, Letson, Lundy, Otterman, J., Patton, Sayre, Setzer, Stewart, J., Williams, B., Williams, S., Zehringer

To amend sections 133.20 and 307.041 of the Revised Code to require that the amount spent by counties on energy conservation measures be unlikely to exceed the amount saved in energy and operating costs over the average system life of the measures, and to require that financed measures be paid for within the lesser of their average system life or thirty years.

Attest:

Laura P. Clemens,  
Clerk.

Said bill was considered the first time.

**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. 169** -Representative Wagner - et al.

Attest:

Laura P. Clemens,  
Clerk.

**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. S. B. No. 25** -Senator Carey - et al.

Attest:

Laura P. Clemens,  
Clerk.

The President signed said bill.

#### **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 Tom Niehaus as a member of the Standing Committee on Rules.

Appoints Senator Tom Niehaus as a member of the Standing Committee on Education.

Appoints Senator Mark Wagoner as a member of the Standing Committee on Finance and Financial Institutions.

Appoints Senator Mark Wagoner as a member of the Standing Committee on Health, Human Services and Aging.

Appoints Senator Mark Wagoner as Vice Chair of the Standing Committee on Health, Human Services and Aging.

Removes Senator Tom Niehaus as a member of the Standing Committee on State and Local Government and Veterans Affairs.

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

On the motion of Senator Jacobson, the Senate adjourned until Thursday, January 17, 2008 at 11:00 o'clock a.m.

Attest:

VINCENT L. KEERAN,  
Clerk.