

OHIO

SENATE

JOURNAL

TUESDAY, FEBRUARY 5, 2008

ONE HUNDRED THIRTY-SEVENTH DAY
Senate Chamber, Columbus, Ohio
Tuesday, February 5, 2008, 1:30 p.m.

The Senate met pursuant to adjournment.

Prayer was offered by Pastor Steven Smith, 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:

Am. H. B. No. 55-Representative McGregor, J.

Cosponsors: Representatives Evans, Hughes, Latta, Setzer, Skindell, Dodd, Book, Brown, Domenick, Schneider, Batchelder, Collier, Dolan, Gibbs, Jones, Stebelton, Stewart, D.

To enact section 5.2238 of the Revised Code to designate April 29 of each year "Heritage and Freedom Flag of the Former Republic of Vietnam Day."

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

Sub. H. B. No. 293-Representative Goodwin.

Cosponsors: Representatives McGregor, J., Wachtmann, Yuko, Evans, Reinhard, Latta, Huffman, Peterson, Chandler, Dodd, Seitz, Stebelton, Fende, Sayre, Hughes, Aslanides, Combs, Domenick, Otterman, Bacon, Barrett, Batchelder, Beatty, Bolon, Celeste, Daniels, Dolan, Dyer, Flowers, Gardner, Gibbs, Goyal, Hagan, J., Harwood, Heard, Hite, Hottinger, Letson, Oelslager, Okey, Patton, Schindel, Schlichter, Setzer, Strahorn, Uecker, Wagner, Webster, Widener, Yates, Zehringer.

To amend sections 4503.77 and 4503.78 and to enact sections 901.90 and 4503.503 of the Revised Code to create "Ohio Agriculture" license plates and to create the Ohio Agriculture License Plate Scholarship Program, and to establish a threshold of 500 annual special license plate registrations for those license plates whose contributions are required to be used for educational or scholarship purposes.

To the Committee on Agriculture.

H. B. No. 352-Representative Patton.

Cosponsors: Representatives Schlichter, Gibbs, Aslanides, Sayre, Okey, Luckie, Domenick, Batchelder, Chandler, Collier, Dyer, Evans, Fessler, Flowers, Hagan, J., Hite, Hughes, Letson, Mallory, McGregor, J., Schindel, Setzer, Stebelton, Webster, Widowfield, Yates.

To amend sections 901.41, 901.70, 903.01, 943.01, and 947.01 of the Revised Code to include alpacas in certain statutory definitions of "agricultural animal" and "livestock."

To the Committee on Agriculture.

Am. Sub. H. B. No. 404-Representatives Hottinger, Barrett.

Cosponsors: Representatives Koziura, Driehaus, DeBose, Fende, Celeste, Aslanides, Bacon, Batchelder, Beatty, Bolon, Boyd, Brown, Budish, Collier, DeGeeter, Dodd, Domenick, Dyer, Evans, Flowers, Foley, Garrison, Gerberry, Huffman, Hughes, Letson, Luckie, Lundy, Mallory, McGregor, J., Mecklenborg, Patton, Sayre, Schindel, Sears, Setzer, Stewart, D., Szollosi, Williams, S., Wolpert, Yates, Yuko, Zehringer.

To amend sections 3916.01 to 3916.03, 3916.05 to 3916.20, and 3916.99 and to enact sections 3916.031 and 3916.171 of the Revised Code to make changes to the law governing viatical settlements.

To the Committee on Insurance, Commerce and Labor.

S. B. No. 284-Senator Bocchieri.

Cosponsors: Senators Mason, Seitz, Miller, R., Miller, D., Schuring, Mumper, Smith, Roberts, Padgett, Faber, Morano, Buehrer, Grendell, Cates, Kearney, Schaffer, Wagoner.

To amend section 5747.01 of the Revised Code to exempt from the personal income tax grants provided to individuals from the Military Injury Relief Fund.

To the Committee on Ways and Means and Economic Development.

S. B. No. 285-Senator Wilson.

Cosponsors: Senators Cates, Fedor, Cafaro, Carey, Miller, D., Seitz, Kearney, Padgett.

To enact section 5.2236 of the Revised Code to designate the calendar week

including February 8 as "Ohio Boy Scout Week."

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

S. B. No. 286-Senator Cates.

To amend section 3506.21; to amend, for the purpose of adopting a new section number as indicated in parentheses, section 3505.25 (3599.07); and to enact new section 3505.25 of the Revised Code to clarify that an optical scan ballot with more than the proper number of selections for a particular office, issue, or question is invalidated only for that office, issue, or question; to permit midday collection and delivery to the board of elections of optical scan ballots that will be counted at a central location for the March 4, 2008, primary election; to generally prohibit the central counting of optical scan ballots; to terminate the provisions of this act authorizing the midday collection and delivery of optical scan ballots on May 1, 2008, by repealing section 3505.25 of the Revised Code on that date; and to declare an emergency.

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

YES - 5: JEFF JACOBSON, J. KIRK SCHURING, SHIRLEY A. SMITH, BILL HARRIS, RAY MILLER.

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 Buehrer submitted the following report:

The standing committee on Highways and Transportation, to which was referred **S. B. No. 249**-Senator Faber, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsor: Miller, D..

YES - 7: STEPHEN BUEHRER, DALE MILLER, CAPRI S. CAFARO, TIMOTHY O. SCHAFFER, JASON H.

WILSON, KEVIN J. COUGHLIN, J. KIRK SCHURING.

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:

David M. Beam, Republican, from Sabina, Clinton County, Ohio, as a Member of the Reclamation Commission for a term beginning October 23, 2007 and ending at the close of business June 28, 2012, replacing Wanda Stratton, whose term expired.

Elizabeth A. Bernard, Democrat, from Canfield, Mahoning County, Ohio, as a Member of the Ohio Quarter Horse Development Commission for a term beginning October 23, 2007 and ending at the close of business June 30, 2011, replacing Jim Barney, whose term expired.

Bill W. Dingus, Republican, from South Point, Lawrence County, Ohio, as a Member of the Ohio Quarter Horse Development Commission for a term beginning August 28, 2007 and ending at the close of business June 30, 2011, replacing Neil Schnecker, whose term expired.

Thomas L. Fries, Jr., Democrat, from Columbus, Franklin County, Ohio, as Member of the Ohio Standardbred Development Committee for a term beginning July 27, 2007, and ending at the close of business June 30, 2011, replacing Walter White, whose term expired.

Joseph P. Logan, Democrat, from Kinsman, Trumbull County, Ohio, as a Member of the Agricultural Financing Commission for a term beginning April 27, 2007, and ending at the close of business January 31, 2013, replacing William Morgan, whose term expired.

Robert K. Schmitz, Republican, from Bexley, Franklin County, Ohio, as a Member of the Ohio Standardbred Development Committee for a new term beginning August 8, 2007 and ending at the close of business June 30, 2011.

Loree K. Soggs, Democrat, from North Royalton, Cuyahoga County, Ohio, as a Member of the Ohio Water Development Authority for a term beginning October 17, 2007 and ending at the close of business July 1, 2015, replacing Richard Rench, 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, TOM NIEHAUS,

ROBERT F. SPADA, STEPHEN C. AUSTRIA, JOHN A. CAREY, J. KIRK SCHURING, CAPRI S. CAFARO, SHIRLEY A. SMITH, RAY MILLER.

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	Austria	Boccieri	Buehrer
Cafaro	Carey	Cates	Coughlin
Faber	Fedor	Goodman	Grendell
Jacobson	Kearney	Miller D	Miller R
Morano	Mumper	Niehaus	Roberts
Sawyer	Schaffer	Schuler	Schuring
Seitz	Smith	Spada	Stivers
Wagoner	Wilson		Harris-31.

So the Senate advised and consented to said appointments.

Senator Schuring submitted the following report:

The Standing Committee on Rules to which was referred the appointment by the Administrator of the Bureau of Workers Compensation:

Raymond R. Mazzotta, New Albany, Franklin County, Ohio, as Chief Operating Officer of the Ohio Bureau of Workers' Compensation. Appointment to be effective following advise and consent of the Ohio Senate.

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

YES - 10: BILL HARRIS, JEFF JACOBSON, TOM NIEHAUS, ROBERT F. SPADA, STEPHEN C. AUSTRIA, JOHN A. CAREY, J. KIRK SCHURING, CAPRI S. CAFARO, SHIRLEY A. SMITH, RAY MILLER.

NO - 0.

The question being, "Shall the Senate advise and consent to the appointment by the Administrator of the Bureau of Workers Compensation?"

The yeas and nays were taken and resulted - yeas 31, 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	Miller D	Miller R
Morano	Mumper	Niehaus	Roberts
Sawyer	Schaffer	Schuler	Schuring
Seitz	Smith	Spada	Stivers
Wagoner	Wilson		Harris-31.

So the Senate advised and consented to said appointment.

BILLS FOR THIRD CONSIDERATION

Am. Sub. H. B. No. 214-Representatives Wagner, Combs.

Cosponsors: Representatives Seitz, McGregor, J., Stebelton, Brown, Aslanides, Batchelder, Blessing, Collier, Flowers, Goodwin, Hagan, J., Letson, Raussen, Wachtmann. Senator Seitz.

To amend sections 149.43, 2151.152, 2151.23, 2151.39, 3313.64, 5101.29, 5103.031, 5103.032, 5103.035, 5103.0312, 5103.0313, 5103.16, 5103.391, 5126.04, 5153.122, and 5153.123 and to enact sections 5103.23, 5103.231, 5103.232, 5103.233, 5103.234, 5103.235, 5103.236, and 5103.237 of the Revised Code relative to training for foster caregivers, the public record status of identifying information of current and prospective foster caregivers, petitioning Congress for expanded usage of Title IV-E funding, the Interstate Compact on the Placement of Children, and the coordination of the provision of services for foster children with mental retardation or developmental disabilities, was considered the third time.

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

The yeas and nays were taken and resulted - yeas 31, 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	Miller D	Miller R
Morano	Mumper	Niehaus	Roberts
Sawyer	Schaffer	Schuler	Schuring
Seitz	Smith	Spada	Stivers
Wagoner	Wilson		Harris-31.

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: "Austria, Buehrer, Carey, Cates, Fedor, Harris, Kearney, Miller, D., Miller, R., Mumper, Niehaus, Roberts, Sawyer, Schaffer, Schuler, Smith, Spada, Wagoner, Wilson, Cafaro, Faber, Bocchieri."

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

The motion was agreed to and the title so amended.

S. B. No. 243-Senator Schaffer.

Cosponsors: Senators Gardner, Jacobson, Bocchieri, Carey, Harris, Seitz, Smith, Goodman, Faber, Cates, Grendell, Niehaus.

To enact section 5.2236 of the Revised Code to designate October 22 of each year "U.S.S. Hocking Day, was considered the third time.

The question being, "Shall the bill, **S. B. No. 243**, pass?"

Senator Schaffer moved to amend as follows:

In line 4, delete "5.2236" and insert "5.2239"

In line 6, delete " 5.2236" and insert " 5.2239"

In line 1 of the title, delete "5.2236" and insert "5.2239"

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

The amendment was agreed to.

The question recurred, "Shall the bill, **S. B. No. 243**, pass?"

The yeas and nays were taken and resulted - yeas 31, 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	Miller D	Miller R
Morano	Mumper	Niehaus	Roberts
Sawyer	Schaffer	Schuler	Schuring
Seitz	Smith	Spada	Stivers
Wagoner	Wilson		Harris-31.

So the bill passed.

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

Senator Schaffer moved to amend the title as follows:

Add the names: "Buehrer, Fedor, Mumper, Spada, Wagoner, Wilson."

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

The motion was agreed to and the title so amended.

Sub. S. B. No. 245-Senator Schuring.

Cosponsor: Senator Miller, D.

To amend sections 4762.02, 4762.03, 4762.031, 4762.04 to 4762.06, 4762.08 to 4762.11, 4762.13, 4762.131, 4762.132, 4762.15, 4762.16, and 4762.18 and to enact section 4762.22 of the Revised Code to modify the laws regarding the practice of acupuncturists, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 245**, pass?"

The yeas and nays were taken and resulted - yeas 30, nays 1, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Bocchieri	Buehrer
Cafaro	Carey	Cates	Coughlin
Faber	Fedor	Goodman	Grendell
Kearney	Miller D	Miller R	Morano
Mumper	Niehaus	Roberts	Sawyer
Schaffer	Schuler	Schuring	Seitz
Smith	Spada	Stivers	Wagoner
Wilson			Harris-30.

Senator Jacobson voted in the negative-1.

So the bill passed.

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

Senator Cates moved to amend the title as follows:

Add the name: "Spada."

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

The motion was agreed to and the title so amended.

INTRODUCTION AND FIRST CONSIDERATION OF BILLS

The following bills were introduced and considered the first time:

S. B. No. 287-Senator Stivers.

Cosponsors: Senators Harris, Cates, Wagoner, Seitz, Schaffer, Schuler, Schuring.

To amend section 4123.29 of the Revised Code to allow an employer to reimburse the Administrator of Workers' Compensation for the first fifteen thousand dollars of medical bills incurred in any type of workers' compensation claim rather than allow an employer to pay directly only those

medical bills incurred in medical-only claims.

S. B. No. 288-Senator Wilson.

Cosponsors: Senators Mason, Coughlin, Morano, Miller, R., Miller, D., Roberts, Boccieri, Fedor, Kearney.

To enact sections 901.90 to 901.94 of the Revised Code to establish the healthy farms and healthy schools grant program for the purpose of providing grants to schools to establish nutrition education and agricultural education programs for kindergarteners.

S. B. No. 289-Senator Spada.

Cosponsors: Senators Harris, Stivers, Grendell, Schuler, Schuring, Seitz, Padgett, Fedor, Niehaus, Austria, Mumper.

To amend sections 121.02, 121.03, 3313.616, 5901.02, 5901.021, 5901.07, 5901.09, 5902.01, 5902.02, 5902.03, 5902.04, 5902.05, 5902.06, 5902.07, 5902.08, 5902.15, 5904.01, 5907.01, 5907.02, and 5910.02 and to enact sections 5902.021 and 5902.09 of the Revised Code to create a Department of Veterans Affairs and a Director of Veterans Affairs, to create duties for the department and the director, to transfer the duties of the Governor's Office of Veterans Affairs to the department, and to place the Ohio Veterans' Home Agency and the Ohio War Orphans Scholarship Board under the department.

OFFERING OF RESOLUTIONS

Senator Harris offered the following resolution:

S. R. No. 168-Senator Harris.

Authorizing The Ohio Junior State of America and The Junior Statesmen Foundation to use the Ohio Senate Chambers to conduct their 2008 Ohio Spring State Convention.

The question being, "Shall the resolution, **S. R. No. 168**, 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 | Boccieri | Buehrer |
| Cafaro | Carey | Cates | Coughlin |
| Faber | Fedor | Goodman | Grendell |
| Jacobson | Kearney | Mason | Miller D |
| Miller R | Morano | Mumper | Niehaus |
| Roberts | Sawyer | Schaffer | Schuler |
| Schuring | Seitz | Smith | Spada |
| Stivers | Wagoner | Wilson | 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. 169-Senator Harris.

Authorizing The Ohio Junior State of America and The Junior Statesmen Foundation to use the Ohio Senate Chambers to conduct their 2008 Ohio Symposium on Leadership and Politics.

The question being, "Shall the resolution, **S. R. No. 169**, 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	Boccieri	Buehrer
Cafaro	Carey	Cates	Coughlin
Faber	Fedor	Goodman	Grendell
Jacobson	Kearney	Mason	Miller D
Miller R	Morano	Mumper	Niehaus
Roberts	Sawyer	Schaffer	Schuler
Schuring	Seitz	Smith	Spada
Stivers	Wagoner	Wilson	Harris-32.

So the resolution was adopted.

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

Senator Jacobson moved to amend the title as follows:

Add the name: "Schuler."

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

The motion was agreed to and the title so amended.

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

S. R. No. 170-Senator Faber.

Honoring the Coldwater High School football team as the 2007 Division IV State Champion.

S. R. No. 171-Senator Faber.

Honoring the Versailles High School girls cross country team on winning the 2007 Division III State Championship.

The question being, "Shall the resolutions listed under the President's prerogative be adopted?"

So the resolutions were adopted.

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:

H. B. No. 48 -Representative Gibbs

Cosponsors: Representatives Fessler, Seitz, McGregor, J., Setzer, Brown, Collier, Wagner, Wagoner, Combs, Aslanides, Bacon, Bolon, Chandler, Driehaus, Evans, Flowers, Hagan, R., Hite, Schlichter, Batchelder, Blessing, Domenick, Gardner, Hagan, J., Hughes, Luckie, Mecklenborg, Patton, Raussen, Schindel, Schneider, Stewart, D., Wachtmann, Williams, B., Zehringer

To amend sections 4707.02, 4707.20, 4707.21, and 4707.26 of the Revised Code to exempt certain tax exempt organizations and schools that sell at auction items donated to them from license and contract requirements for such an auction, to require those organizations and schools to maintain records of the auction for two years, and to preclude claims against the Auction Recovery Fund for any loss associated with those types of auctions.

H. B. No. 281 -Representative Schlichter

Cosponsors: Representatives Gibbs, McGregor, J., Brown, Wagoner, Combs, Webster, Stebelton, Collier, Aslanides, Domenick, Evans, Batchelder, Book, Daniels, Flowers, Gardner, Hagan, R., Harwood, Hottinger, Patton, Setzer, Zehringer

To amend sections 955.12, 955.14, 955.27, 955.29, 955.32, 955.34, 955.35, 955.37, and 955.38; to amend, for the purpose of adopting a new section number as indicated in parentheses, section 955.34 (955.351); and to repeal sections 955.31 and 955.33 of the Revised Code to provide for the uniform determination of the fair market value of certain animals killed by a dog.

Attest:

Laura P. Clemens,
Clerk.

Said bills were considered the first time.

On the motion of Senator Jacobson, the Senate adjourned until Wednesday, February 6, 2008 at 11:30 a.m.

Attest:

VINCENT L. KEERAN,
Clerk.