

**OHIO**

**SENATE**

**JOURNAL**

TUESDAY, MARCH 20, 2007

TWENTY-FIFTH DAY  
Senate Chamber, Columbus, Ohio  
**Tuesday, March 20, 2007, 1:30 p.m.**

The Senate met pursuant to adjournment.

Prayer was offered by Reverend John Trumbule, Celebration Christian Church, Marion, 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. 116**-Senator Padgett.

Cosponsors: Senators Coughlin, Niehaus, Stivers, Faber, Clancy, Jacobson, Goodman, Smith, Miller, D., Schuler, Grendell, Mumper, Schuring, Buehrer.

To amend section 4141.312 of the Revised Code to specify conditions under which a claimant's unemployment compensation benefits are not reduced by the amount the claimant concurrently receives in social security retirement benefits.

To the Committee on Finance and Financial Institutions.

**S. B. No. 117**-Senator Jacobson.

Cosponsors: Senators Miller, R., Spada, Buehrer, Mumper, Niehaus, Stivers, Mason.

To amend sections 153.64, 4939.01, 4939.03, 4939.04, 4939.05, 4939.08, and 5739.01, to enact sections 1332.21, 1332.22, 1332.23, 1332.24, 1332.25, 1332.26, 1332.27, 1332.28, 1332.29, 1332.30, 1332.31, 1332.32, 1332.33, 1332.34, and 1332.35, and to repeal sections 505.90, 505.91, and 505.92 of the Revised Code to provide for the issuance of video service authorizations by the Director of Commerce.

To the Committee on Energy and Public Utilities.

YES - 5: J. KIRK SCHURING, TERESA FEDOR, TOM ROBERTS, JEFF JACOBSON, BILL HARRIS.

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 Cates submitted the following report:

The standing committee on State and Local Government and Veterans' Affairs, to which was referred **S. B. No. 40**-Senator Schuler, et al., having had the same under consideration, reports it back and recommends its passage.

Co-Sponsor: Cates.

YES - 8: GARY W. CATES, TIMOTHY J. GRENDALL, JOHN A. CAREY, TOM NIEHAUS, ROBERT L. SCHULER, JOHN A. BOCCIERI, CAPRI S. CAFARO, SHIRLEY A. SMITH.

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 **S. B. No. 108** - Senator Schaffer, having been referred to the standing committee on Judiciary-Civil Justice, be re-referred to the standing committee on Judiciary-Criminal Justice.

YES - 11: BILL HARRIS, JEFF JACOBSON, STEPHEN C. AUSTRIA, JOHN A. CAREY, TERESA FEDOR, RANDY GARDNER, LANCE T. MASON, RAY MILLER, TOM ROBERTS, J. KIRK SCHURING, ROBERT F. SPADA.

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:

**Phillip L. Ennen**, Republican, from Bryan, Williams County, Ohio, as a Member of the Northwest State Community College Board of Trustees for a term beginning January 2, 2007, and ending at the close of business June 10, 2009, replacing William S. Pepple, Jr., who resigned.

**Mark A. Forni**, Democrat, from Woodsfield, Monroe County, Ohio, as a Member of the Clean Ohio Council for a new term beginning January 2, 2007 and ending at the close of business November 23, 2008.

**Tom Fries, Sr.**, Democrat, from Dublin, Franklin County, Ohio, as a Member of the Ohio Building Authority for a term beginning January 5, 2007 and ending at the close of business December 31, 2009, replacing C. Jay Matthews, who resigned.

**Cheryl L. Grossman**, Republican, from Grove City, Franklin County, Ohio, as a Member of the Ohio Retirement Study Council for a new term beginning January 2, 2007 and ending at the close of business June 30, 2009.

**Jerome W. James**, Democrat, from Columbus, Franklin County, Ohio, as a Member of the Development Financing Advisory Council for a term beginning December 31, 2006 and ending at the close of business December 31, 2009, replacing Todd Ritterbusch, who resigned.

**Charles A. Knight**, Republican, from Fostoria, Seneca County, Ohio, as a Member of the Terra State Community College Board of Trustees for a new term beginning December 21, 2006 and ending at the close of business December 31, 2012.

**Matthew J. Kridler**, Independent, from Springfield, Clark County, Ohio, as a Member of the Clean Ohio Council for a new term beginning January 2, 2007 and ending at the close of business November 23, 2008.

**Thomas J. Linneman**, Independent, from Cincinnati, Hamilton County, Ohio, as a Member of the Savings and Loan Association and Savings Banks Board for a term beginning January 2, 2007 and ending at the close of business January 31, 2008, replacing Larry A. Caldwell, who resigned.

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

YES - 11: BILL HARRIS, JEFF JACOBSON, RANDY GARDNER, ROBERT F. SPADA, STEPHEN C. AUSTRIA, JOHN A. CAREY, J. KIRK SCHURING, RAY MILLER, TOM ROBERTS, TERESA FEDOR, LANCE T. MASON.

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

So the Senate advised and consented to said appointments.

### BILLS FOR THIRD CONSIDERATION

**Sub. S. B. No. 33**-Senator Schuring.

Cosponsors: Senators Gardner, Clancy, Padgett, Mumper, Spada, Schaffer, Fedor, Cafaro, Miller, D., Morano, Buehrer.

To amend sections 1701.03, 1705.03, 1705.04, 1705.53, 1785.01, 1785.02, 1785.03, 1785.08, 3715.87, 3715.871, 3715.872, 3715.873, 4723.16, 4725.33, 4729.161, 4731.226, 4731.23, 4731.65, 4732.28, 4734.10, 4734.15, 4734.16, 4734.17, 4734.19, 4734.31, 4734.311, 4734.34, 4734.36, 4734.37, 4734.38, 4734.39, 4734.47, 4734.49, 4734.50, 4734.55, 4734.99, 4755.471, 4762.01, 4762.02, 4762.09, 4762.10, 4762.11, 4762.12, and 4762.18 and to enact sections 4734.141, 4734.142, 4734.211, 4734.28, 4734.281, 4734.282, 4734.283, 4734.284, 4734.285, and 4734.286 of the Revised Code regarding the practice of acupuncture by chiropractors, the State Medical Board's use of private attorneys as temporary hearing examiners, and to modify the immunity from liability that applies under the Drug Repository Program, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 33**, pass?"

The yeas and nays were taken and resulted - yeas 32, nays 1, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Bocchieri	Buehrer
Cafaro	Carey	Cates	Clancy
Coughlin	Faber	Fedor	Gardner
Goodman	Grendell	Kearney	Mason
Miller D	Miller R	Morano	Mumper
Niehaus	Padgett	Roberts	Sawyer
Schaffer	Schuler	Schuring	Smith

Spada

Stivers

Wilson

Harris-32.

Senator Jacobson voted in the negative-1.

So the bill passed.

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

Senator Schuring moved to amend the title as follows:

Add the names: "Schuler, Wilson, J.."

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

The motion was agreed to and the title so amended.

**Am. S. B. No. 53**-Senator Clancy.

Cosponsors: Senators Miller, D., Padgett, Spada.

To amend section 5122.10 of the Revised Code to permit a licensed professional clinical counselor to take certain persons into custody and transport those persons to a hospital, was considered the third time.

The question being, "Shall the bill, **Am. S. B. No. 53**, pass?"

The yeas and nays were taken and resulted - yeas 26, nays 7, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Bocchieri	Buehrer
Carey	Clancy	Coughlin	Faber
Gardner	Goodman	Grendell	Jacobson
Miller D	Miller R	Morano	Mumper
Niehaus	Padgett	Roberts	Sawyer
Schaffer	Schuler	Schuring	Stivers
Wilson			Harris-26.

Senators Cafaro, Cates, Fedor, Kearney, Mason, Smith, and Spada voted in the negative-7.

So the bill passed.

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

The title was agreed to.

**Am. S. B. No. 58**-Senator Coughlin.

Cosponsors: Senators Mumper, Gardner, Miller, D., Clancy.

To amend sections 4729.01, 4729.17, and 4729.41 of the Revised Code to modify the authority of pharmacists to administer immunizations and to make changes in certain voting procedures of the State Board of Pharmacy, was considered the third time.

The question being, "Shall the bill, **Am. S. B. No. 58**, 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	Clancy
Coughlin	Faber	Fedor	Gardner
Goodman	Grendell	Jacobson	Kearney
Mason	Miller D	Miller R	Morano
Mumper	Niehaus	Padgett	Roberts
Sawyer	Schaffer	Schuler	Schuring
Smith	Spada	Stivers	Wilson
			Harris-33.

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: "Cafaro, Carey, Niehaus, Schaffer, Schuler, 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. 118**-Senator Gardner.

Cosponsors: Senators Coughlin, Miller, D., Mumper, Boccieri, Spada, Grendell.

To amend sections 3301.0718, 3313.60, 3313.603, 3314.03, and 3314.21 and to enact sections 3314.40 and 3319.076 of the Revised Code to require daily physical education instruction in grades kindergarten to six, to require completion of one unit of physical education in grades seven to twelve, to require physical education teachers to be licensed in their subject area, and to make other changes relative to physical education.

**S. B. No. 119**-Senator Schuler.

Cosponsor: Senator Schuring.

To amend sections 323.25, 323.31, 323.67, 5721.06, 5721.10, 5721.13, 5721.14, 5721.18, 5721.25, 5721.31, 5721.34, 5722.01, 5722.02, 5722.05, 5722.06, 5722.07, 5722.08, 5722.10, 5722.14, 5722.15, 5722.21, and 5723.06, to enact new sections 5722.03 and 5722.04, and to repeal sections 323.77, 5722.03, 5722.04, and 5722.13 of the Revised Code to modify the tax-delinquent land reutilization law by authorizing political subdivisions to

prosecute property tax foreclosures, acquire such land through foreclosures before the land is offered at a tax sale, and sell such property at less than appraised market value; and to impose a one-year limit on property owners' option to obtain a delinquent tax installment payment contract.

**S. B. No. 120**-Senator Goodman.

Cosponsors: Senators Stivers, Austria.

To amend section 3727.05 and to enact sections 3727.50 and 3727.51 of the Revised Code to require hospitals to operate emergency departments and maintain Medicaid and Medicare provider agreements, to provide exemptions to these requirements, and to permit the Director of Health to seek an injunction for violation of these requirements.

**S. B. No. 121**-Senator Stivers.

Cosponsors: Senators Gardner, Faber, Schuler, Harris, Schaffer.

To amend sections 5111.011 and 5111.0118 and to enact section 5111.182 of the Revised Code to establish a Medicaid program for individuals who exhaust benefits under a qualified long-term care insurance policy.

**S. B. No. 122**-Senator Miller, D.

Cosponsors: Senators Cafaro, Boccieri, Morano, Mason, Miller, R.

To amend section 122.075 and to enact section 5537.29 of the Revised Code to establish a schedule for E85 blend fuel to be made available at service stations located on the Ohio Turnpike and to permit the Ohio Turnpike Commission to apply for grants made by the Department of Development under the Alternative Fuel Transportation Grant Program.

**S. B. No. 123**-Senator Miller, D.

Cosponsors: Senators Smith, Cafaro, Miller, R.

To amend sections 4510.036, 4511.98, 4513.03, and 5501.27 of the Revised Code to require that vehicles display lighted lights within construction zones during the hours of actual work within such zones.

### OFFERING OF RESOLUTIONS

Senator Miller, D. offered the following concurrent resolution:

**S. C. R. No. 3**-Senator Miller, D.

Cosponsors: Senators Roberts, Boccieri, Mason, Miller, R.

To urge the President and the Congress of the United States to amend the No Child Left Behind Act of 2001 to ensure more flexibility and to fully fund



the appropriations authorized in the Act.

The question being, "Shall the concurrent resolution, **S. C. R. No. 3**, be adopted?"

On the motion of Senator Jacobson, **S. C. R. No. 3**, was referred to the Committee on Reference.

Senator Miller, D. offered the following concurrent resolution:

**S. C. R. No. 4**-Senator Miller, D.  
Cosponsors: Senators Smith, Morano, Mason.

To memorialize the United States Congress not to renew Fast Track authority on proposed trade agreements and to create a system that ensures that trade agreements are developed and implemented using a democratic, inclusive mechanism that enshrines the principles of federalism and state sovereignty.

The question being, "Shall the concurrent resolution, **S. C. R. No. 4**, be adopted?"

On the motion of Senator Jacobson, **S. C. R. No. 4**, was referred to the Committee on Reference.

Senator Padgett offered the following concurrent resolution:

**S. C. R. No. 5**-Senator Padgett.  
Cosponsors: Senators Cates, Clancy, Gardner, Boccieri, Schuler, Miller, D., Schaffer, Kearney.

To urge the Congress of the United States to recognize the significance of the eastern states, including Ohio, in the preparation for, and return of, the Lewis and Clark Expedition by enacting legislation extending the Lewis and Clark National Historic Trail east to its origin at Monticello.

The question being, "Shall the concurrent resolution, **S. C. R. No. 5**, be adopted?"

On the motion of Senator Jacobson, **S. C. R. No. 5**, was referred to the Committee on Reference.

#### **MESSAGE FROM THE PRESIDENT**

Pursuant to Section 3727.31 (E) of HB No. 197 of the 126th General Assembly, the President of the Senate appoints the following members to serve on the Hospital Measures Advisory Council:

Senator Schuring  
Senator Morano

#### **MESSAGE FROM THE PRESIDENT**

Pursuant to Section 3727.31 (G) of HB No. 197 of the 126th General Assembly, the President of the Senate appoints the following public members to serve on the Hospital Measures Advisory Council:

Dr. Teresa C. Long, M.D., M.P.H.  
(representing physicians specializing in public health)  
Columbus, Ohio 43215

J. Michael Henderson, M.D.  
(representing hospitals)  
Cleveland Clinic  
Cleveland, Ohio 44195

Ronnie Horner  
(representing health services researchers)  
University of Cincinnati  
Department of Neurology  
Cincinnati, Ohio 45267-0525

Brian Pack  
(representing health care consumers)  
Ohio Public Employees Retirement Systems  
Columbus, Ohio 43215-4642

Chris Goff  
(representing large employers)  
Employers Health Purchasing Corporation of Ohio  
Canton, Ohio 44718

#### **MESSAGE FROM THE PRESIDENT**

Pursuant to Section 122.98 (A) (4) of the Ohio Revised Code, the President of the Senate appoints the following senators to serve as non-voting members on the Ohio Aerospace and Defense Advisory Council:

Senator Austria  
Senator Boccieri

#### **MESSAGE FROM THE PRESIDENT**

Pursuant to Section 4112.12 (A) of the Ohio Revised Code, the President of the Senate appoints the following senators to serve on the Commission on African-American Males:

Senator Goodman  
Senator Schaffer

Senator R. Miller

**MESSAGE FROM THE PRESIDENT**

Pursuant to Section 149.306 (A) (3) of the Ohio Revised Code, the President of the Senate appoints the following senators to serve on the Ohio African-American Hall of Fame Governing Board:

Senator Mumper  
Senator Smith

**MESSAGE FROM THE PRESIDENT**

Pursuant to Section 4906.02 of the Ohio Revised Code, the President of the Senate appoints the following senators to serve on the Power Siting Board:

Senator Schuler  
Senator Jacobson (alternate)  
  
Senator Wilson  
Senator R. Miller (alternate)

**MESSAGE FROM THE PRESIDENT**

Pursuant to Section 1501.25 of the Ohio Revised Code, the President of the Senate appoints the following members to serve on the Muskingum River Advisory Council:

Senator Padgett  
Senator Wilson

**MESSAGE FROM THE PRESIDENT**

Pursuant to Section 125.833 (B) of the Ohio Revised Code, the President of the Senate appoints the following members to serve on the Vehicle Management Commission (within the Department of Administrative Services):

Senator Clancy  
Senator Roberts

**MESSAGE FROM THE PRESIDENT**

Pursuant to Section 103.71 of the Ohio Revised Code, the President of the Senate appoints the following senators to serve on the Correctional Institution Inspection Committee:

Senator Austria  
Senator Grendell  
Senator Mason  
Senator Smith

**MESSAGE FROM THE PRESIDENT**

Pursuant to Section 181.21 of the Ohio Revised Code, the President of the Senate appoints the following senators to serve on the State Criminal Sentencing Commission:

Senator Grendell  
Senator Mason

**MESSAGE FROM THE PRESIDENT**

Pursuant to Section 755.03 (A) of HB No. 530 of the 126th General Assembly, the President of the Senate appoints the following members to serve on the Ohio Transportation Task Force:

Senator Schuring (co-chair)  
Senator Austria  
Senator Cafaro

**MESSAGE FROM THE PRESIDENT**

Pursuant to Section 755.03 (A) of HB No. 530 of the 126th General Assembly, the President of the Senate and the Speaker of the House of Representatives jointly appoint the following public members to the Ohio Transportation Task Force:

Dennis Garrison  
(representing the Ohio Aggregates & Industrial Minerals Assc.)  
The Melvin Stone Co.  
Wilmington, Ohio 45177

Keith Stimpert  
(representing the Ohio Farm Bureau Federation)  
Ohio Farm Bureau Federation  
Columbus, Ohio 43218-2383

Larry Davis  
(representing the Ohio Trucking Association)  
The Ohio Trucking Association  
Columbus, Ohio 43215-3318

Raymond A. Huber  
(representing the County Engineer Association)  
Wood County Engineer  
Bowling Green, Ohio 43402

Jim DeSanto  
(representing the Ohio Municipal League)  
Engineer/City of Mansfield  
Mansfield, Ohio 44902

Michael Cochran  
(representing the Ohio Township Association)  
Ohio Township Association  
Columbus, Ohio 43232

Donald R. Spang  
(representing the Ohio Association of Regional Councils)  
Miami Valley Regional Planning Comm.  
Dayton, OH, 45402

Steve Sobat  
(representing the Ohio Manufacturers' Association)  
U.S. Steel  
Pittsburg, PA 15219

Art Arnold  
(representing freight by rail)  
Ohio Railroad Association  
Columbus, Ohio 43215

Larry Przybylski  
(representing freight by air)  
DHL Express  
Wilmington, Ohio 45177

Mr. Tracy V. Drake  
(representing freight by water)  
Columbiana County Port Authority  
East Liverpool, Ohio 43920

Brian Newbacher  
(representing the general public)  
AAA Ohio East Central Club  
Independence, Ohio 44131

#### **MESSAGE FROM THE PRESIDENT**

Pursuant to Section 5537.24 of the Ohio Revised Code, the President of the Senate appoints the following senators to serve on the Ohio Turnpike Oversight Committee:

Senator Clancy (as Chair of the Senate Standing Committee on Highways & Transportation)  
Senator Buehrer  
Senator Boccieri

#### **MESSAGE FROM THE PRESIDENT**

Pursuant to Section 5123.60 (D) of the Ohio Revised Code, the President of the Senate reappoints the following public members to serve a three-year term

on the Ohio Legal Rights Service Commission:

William Bauer, Ph.D. CRC  
(term beginning April 17, 2007 and ending April 17, 2010)  
Marietta, Ohio 45750

Wayne Cocchi  
(term beginning April 17, 2007 and ending April 17, 2010)  
Columbus, Ohio 43215

Theodore L. Sipes  
(term beginning April 17, 2007 and ending April 17, 2010)  
Bowling Green, Ohio 43402

On the motion of Senator Jacobson, the Senate adjourned until Wednesday,  
March 21, 2007, 1:30 p.m.

Attest:

DAVID A. BATTOCLETTI,  
Clerk.