

**OHIO**

**SENATE**

**JOURNAL**

**WEDNESDAY, APRIL 30, 2008**

ONE HUNDRED SIXTY-SEVENTH DAY  
Senate Chamber, Columbus, Ohio  
**Wednesday, April 30, 2008, 1:30 p.m.**

The Senate met pursuant to adjournment.

Prayer was offered by Rabbi Hillel Fox, Beth Jacob Congregation, Dayton, 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:

**Sub. H. B. No. 318**-Representative Gibbs.

Cosponsors: Representatives Aslanides, Domenick, Bacon, Batchelder, Bolon, Chandler, Combs, Daniels, DeBose, Dyer, Evans, Flowers, Garrison, Goyal, Hagan, J., Hagan, R., Harwood, Hughes, Luckie, McGregor, J., Patton, Sayre, Schindel, Schneider, Setzer, Uecker, Zehringer.

To amend sections 5541.05, 5571.20, and 5735.27 of the Revised Code to make changes relative to the provisions that govern the placing of county and township roads on nonmaintained status.

To the Committee on Highways and Transportation.

**Sub. H. B. No. 499**-Representative Oelslager.

Cosponsors: Representatives McGregor, J., Hughes, Combs, Barrett, Huffman, Mecklenborg, Coley, DeGeeter, Dyer, Harwood, Letson, Luckie.

To amend sections 2109.01, 5801.01, 5801.02, 5801.06, 5801.10, 5803.02, 5803.03, 5804.02, 5804.11, 5804.13, 5804.14, 5804.17, 5805.01, 5805.03, 5806.01, 5806.02, 5806.03, 5806.04, 5808.13, 5808.14, 5808.16, 5810.05, 5810.11, 5810.13, and 5815.35, to enact section 5801.11, and to repeal section 2109.022 of the Revised Code to modify the Ohio Trust Code and the Fiduciary Law.

To the Committee on Judiciary - Civil Justice.

**S. B. No. 325**-Senator Kearney.

To enact section 5.2239 of the Revised Code to designate May as "Foster Care Month."

To the Committee on Health, Human Services and Aging.

**S. B. No. 326**-Senator Seitz.

To amend sections 102.02, 183.021, 183.30, 183.33, and 2151.87; to enact section 3701.84; to repeal sections 183.03, 183.04, 183.05, 183.06, 183.061, 183.07, 183.08, 183.09, and 183.10 of the Revised Code; to repeal Section 3 of Am. S.B. 192 of the 127th General Assembly, to repeal Section 4 of S.B. 209 of the 127th General Assembly, and to repeal Section 205.10 of Sub. S.B. 321 of the 126th General Assembly to abolish the Tobacco Use Prevention and Control Foundation and transfer certain powers of the Foundation to the Department of Health, to make an appropriation, and to declare an emergency.

To the Committee on Finance and Financial Institutions.

YES - 4: JEFF JACOBSON, BILL HARRIS, RAY MILLER,  
SHIRLEY A. SMITH.

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 Carey submitted the following report:

The standing committee on Finance and Financial Institutions, to which was referred **S. B. No. 314**-Senator Carey, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Stivers, Niehaus, Padgett, Wagoner, Cafaro, Kearney.

YES - 13: JOHN A. CAREY, STEVE STIVERS, RON AMSTUTZ,  
TOM NIEHAUS, STEPHEN C. AUSTRIA, KEITH L.  
FABER, JOY PADGETT, MARK D. WAGONER, CAPRI

S. CAFARO, THOMAS SAWYER, JASON H. WILSON,  
ERIC H. KEARNEY, GARY W. CATES.

NO - 0.

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

The report of the committee was accepted.

Senator Goodman submitted the following report:

The standing committee on Judiciary - Civil Justice, to which was referred **H. B. No. 13**-Representative Fessler, et al., having had the same under consideration, reports it back and recommends its passage.

Co-Sponsors: Seitz, Kearney, Fedor, Mason, Goodman.

YES - 7: DAVID GOODMAN, BILL SEITZ, KEITH L. FABER,  
ERIC H. KEARNEY, TERESA FEDOR, LANCE T.  
MASON, J. KIRK SCHURING.

NO - 0.

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

The report of the committee was accepted.

#### **HOUSE AMENDMENTS TO SENATE BILLS AND RESOLUTIONS**

The amendments of the House of Representatives to:

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

Cosponsors: Senators Miller, D., Miller, R., Gardner, Cafaro, Carey, Cates, Fedor, Goodman, Harris, Kearney, Mason, Morano, Mumper, Niehaus, Padgett, Roberts, Sawyer, Schuring, Seitz, Smith, Spada, Wagoner, Wilson. Representatives Adams, Barrett, DeBose, Batchelder, Aslanides, Beatty, Blessing, Bolon, Book, Boyd, Brady, Brown, Budish, Carmichael, Celeste, Chandler, Combs, Daniels, DeGeeter, Dodd, Dolan, Domenick, Dyer, Evans, Fende, Fessler, Flowers, Foley, Gardner, Garrison, Gerberry, Gibbs, Goodwin, Goyal, Hagan, J., Hagan, R., Harwood, Heard, Hite, Hottinger, Hughes, Jones, Letson, Luckie, Lundy, Mallory, McGregor, J., McGregor, R., Mecklenborg, Newcomb, Oelslager, Okey, Otterman, J., Patton, Peterson, Reinhard, Sayre, Schindel, Schlichter, Schneider, Setzer, Skindell, Slesnick, Stewart, D., Stewart, J., Strahorn, Sykes, Szollosi, Uecker, Ujvagi, White, Widener, Williams, B., Williams, S., Yates, Yuko, Zehringer.

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, were taken up.

The question being, "Shall the Senate concur in the House amendments to **Sub. S. B. No. 186?**"

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	Smith
Stivers	Wagoner	Wilson	Harris-32.

So the Senate concurred in the amendments of the House of Representatives.

### **BILLS FOR THIRD CONSIDERATION**

**S. B. No. 302**-Senator Goodman.

Cosponsors: Senators Schuler, Seitz, Kearney, Fedor.

To amend sections 2107.03 and 2107.24 of the Revised Code to require a will to be attested and subscribed by the witnesses in the conscious presence, instead of in the presence, of the testator and to provide that a decedent who signs a document that is a purported will sign in the conscious presence of the witnesses, was considered the third time.

The question being, "Shall the bill, **S. B. No. 302**, pass?"

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	Smith
Stivers	Wagoner	Wilson	Harris-32.

So the bill passed.

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

Senator Goodman moved to amend the title as follows:

Add the names: "Carey, Grendell, Harris, Padgett, Roberts, Sawyer, Schaffer, Wagoner, Buehrer."

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

The motion was agreed to and the title so amended.

**Sub. S. B. No. 314-Senator Carey.**

Cosponsors: Senators Mason, Spada, Harris, Roberts, Miller, D., Wilson, Fedor, Sawyer, Smith, Stivers, Niehaus, Padgett, Wagoner, Cafaro, Kearney.

To amend sections 135.61, 135.63, 135.65, and 135.66 and to enact sections 135.101, 135.102, 135.103, 135.104, 135.105, and 135.106 of the Revised Code to authorize the Treasurer of State to administer a linked deposit program designed to encourage personal savings and promote personal financial education and to revise the determination of interest rates under the Small Business Linked Deposit Program, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 314**, pass?"

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
Stivers	Wagoner	Wilson	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: "Austria, Cates, Goodman, Grendell, Miller, R., Morano, Mumper, Schaffer, Seitz."

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, April 27, 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.

**OFFERING OF RESOLUTIONS**

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

**S. R. No. 212**-Senator Faber.

Honoring the Versailles High School girls basketball team as the 2008 Division III State Champion.

The question being, "Shall the resolution 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, Ted Strickland, Governor of the State of Ohio, do hereby appoint, Cheryl Roberto, Democrat, from Upper Arlington, Franklin County, Ohio, as a Member of the Public Utilities Commission of Ohio for a term beginning April 11, 2008 and ending at the close of business April 10, 2013, replacing Donald L. Mason, 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 28th day of March in the year of our Lord, two thousand and eight.

[Seal]

Ted Strickland,  
Governor.

**STATE OF OHIO  
EXECUTIVE DEPARTMENT  
OFFICE OF THE GOVERNOR  
COLUMBUS**

I, Ted Strickland, Governor of the State of Ohio, do hereby appoint, David Todt, Democrat, from Friendship, Scioto County, Ohio, as a Member of the E-Tech Ohio Commission for a term beginning February 25, 2008 and ending at the close of business July 1, 2011, replacing Susan Turben, 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 25th day of February in the year of our Lord, two thousand and eight.

[Seal]

Ted Strickland,  
Governor.

Said appointment were referred to the Committee on Rules.

**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:

**Sub. H. B. No. 544** -Representative Hottinger  
Cosponsors: Representatives Hagan, R., Yates, McGregor, J.

To amend sections 102.02, 183.021, 183.30, 183.33, and 2151.87; to enact sections 3701.84 and 3701.841; to repeal sections 183.03, 183.04, 183.05, 183.06, 183.061, 183.07, 183.08, 183.09, and 183.10 of the Revised Code; to repeal Section 3 of Am. S.B. 192 of the 127th General Assembly, to repeal Section 4 of S.B. 209 of the 127th General Assembly, and to repeal Section 205.10 of Sub. S.B. 321 of the 126th General Assembly to abolish the Tobacco Use Prevention and Control Foundation and transfer certain powers of the Foundation to the Department of Health, to make an appropriation, and to declare an emergency.

Attest:

Laura P. Clemens,  
Clerk.

Said bill was considered the first time.

Senator Jacobson moved that Article II, Section 15(c) of the Ohio Constitution, requiring a bill to be considered on three different days, be suspended with respect to the second consideration of **Sub. H. B. No. 544**.

The question being, "Shall the motion suspending Article II Section 15 (c) of the Ohio Constitution, with respect to the second consideration of **Sub. H. B. No. 544**, be agreed to?"

Senator Miller, R. moved that he be excused from voting under Senate Rule No. 57.

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

The motion was agreed to.

The question recurred, "Shall the motion suspending Article II Section 15 (c) of the Ohio Constitution, with respect to the second consideration of **Sub. H. B. No. 544**, be agreed to?"

The yeas and nays were taken and resulted - yeas 29, nays 2, 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	Morano
Mumper	Niehaus	Padgett	Sawyer
Schaffer	Schuler	Schuring	Seitz
Smith	Stivers	Wagoner	Wilson
			Harris-29.

Senators Miller D and Roberts voted in the negative-2.

The motion was agreed to.

Senator Jacobson moved that **Sub. H. B. No. 544** be referred to the Committee on Finance and Financial Institutions.

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

The motion was agreed to.

On the motion of Senator Jacobson, the Senate adjourned until Thursday, May 1, 2008 at 11:00 o'clock a.m.

Attest:

VINCENT L. KEERAN,  
Clerk.