

OHIO

SENATE

JOURNAL

WEDNESDAY, OCTOBER 10, 2007

NINETY-FOURTH DAY
Senate Chamber, Columbus, Ohio
Wednesday, October 10, 2007, 1:30 p.m.

The Senate met pursuant to adjournment.

Prayer was offered by Reverend Cinda Gorman, Westwood First Presbyterian Church, Cincinnati, Ohio, followed by the Pledge of Allegiance to the Flag.

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

On the motion of Senator Jacobson the Senate advanced to the Ninth Order of Business, Offering of Resolutions.

OFFERING OF RESOLUTIONS

Senator Jacobson offered the following resolution:

S. R. No. 131-Senator Jacobson.

Relative to the appointment of Bill Seitz to fill the vacancy in the membership of the Senate created by the resignation of Patricia Clancy of the 8th 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, Patricia Clancy of the 8th Senatorial District has resigned as a member of the Senate effective October 9, 2007, 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 Bill Seitz (Republican), having the qualifications set forth in the Ohio Constitution and the laws of Ohio to be a member of the Senate from the 8th Senatorial District is hereby appointed, pursuant to Section 11 of Article II, Ohio Constitution, as a member of the Senate from the 8th Senatorial District, to fill the vacancy created by Patricia Clancy; 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. 131**, be adopted?"

The yeas and nays were taken and resulted - yeas 18, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Buehrer	Carey
Cates	Coughlin	Faber	Gardner
Jacobson	Mumper	Niehaus	Padgett
Schaffer	Schuler	Schuring	Spada
Stivers			Harris-18.

So the resolution was adopted.

Senator Seitz appeared at the bar of the Senate and was administered the oath of office by the Honorable Bill Harris, Senate President.

On the motion of Senator Jacobson the Senate reverted to the First Order of Business, Reports of Reference and Bills for Second Consideration.

REPORTS OF REFERENCE AND BILLS FOR SECOND CONSIDERATION

Senator Schuring reports for the Standing Committee on Reference, recommending that the following bill, standing in order for second consideration, be referred to committee as recommended:

S. B. No. 238-Senator Boccieri.

Cosponsors: Senators Coughlin, Fedor, Cafaro, Harris, Schuring, Carey, Schaffer, Mason.

To enact section 5533.76 of the Revised Code to designate a portion of United States Route 62 located within Stark, Columbiana, and Mahoning counties as the "Lance Corporal Daniel McVicker Memorial Highway."

To the Committee on Highways and Transportation.

YES - 5: J. KIRK SCHURING, TERESA FEDOR, 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 bill was 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:

Sandra J. Anderson, from Dublin, Franklin County, Ohio, as a Member of the Ohio University Board of Trustees for a term beginning June 1, 2007, and ending at the close of business May 13, 2016, replacing Gregory Browning, whose term expired.

Otto M. Budig, Jr., Republican, from Cincinnati, Hamilton County, Ohio, as a Member of the Ohio Cultural Facilities Commission for a new term beginning April 4, 2007, and ending at the close of business December 31, 2009.

Debra Van Camp, from Columbus, Franklin County, Ohio, as a Member of The Ohio State University Board of Trustees for a term beginning July 5, 2007, and ending at the close of business May 13, 2009, replacing Yoonhee Ha, whose term expired.

Thomas L. Conlan, Jr., from Cincinnati, Hamilton County, Ohio, as a Member of the Ohio Tuition Trust Authority for a term beginning June 6, 2007, and ending at the close of business January 31, 2011, replacing Virginia Shimrock, whose term expired.

Edward W. Curry, from Greenville, Darke County, Ohio, as a Member of the Edison State Community College Board of Trustees for a term beginning June 12, 2007, and ending at the close of business January 18, 2013, replacing Richard Graeff, whose term expired.

Diane Marie Daniels, from Akron, Summit County, Ohio, as a Member of the Ohio Community Service Council for a term beginning June 28, 2007, and ending at the close of business April 21, 2010, replacing Jeff King, whose term expired.

Robert L. Dean, Jr., Democrat, from Warren, Trumbull County, Ohio, as a Member of the Ohio Veterans Home Board of Trustees for a term beginning April 4, 2007, and ending at the close of business June 30, 2011, replacing John S. Martin, whose term expired.

Dennis E. Eckart, from Concord, Lake County, Ohio, as a Member of the Kent State University Board of Trustees for a term beginning June 1, 2007, and ending at the close of business May 16, 2016, replacing James M. Biggar, whose term expired.

William A. Erdos, Republican, from Creston, Wayne County, Ohio, as a Member of the Ohio Cultural Facilities Commission for a term beginning May 23, 2007, and ending at the close of business December 31, 2009, replacing Roger Booker, whose term expired.

Robert W. Garbo, from Glouster, Athens County, Ohio, as a Member of

the Ohio Community Service Council for a term beginning June 28, 2007, and ending at the close of business April 21, 2010, replacing Margaret Wildi, whose term expired.

Scott C. Green, from Columbus, Franklin County, Ohio as a Member of the Savings and Loan Association and Savings Banks Board for a term beginning June 28, 2007, and ending at the close of business January 31, 2010.

Joan K. Lukey, Democrat, from Sidney, Shelby County, Ohio, as a Member of the Edison State Community College Board of Trustees for a term beginning June 6, 2007, and ending at the close of business January 18, 2013, replacing Cynthia S. Helman, whose term expired.

Jason Snider, from Radcliff, Vinton County, Ohio, as a Member of the Rio Grande Community College Board of Trustees for a term beginning June 12, 2007, and ending at the close of business October 10, 2010, replacing Bonny Huffman, who resigned.

Francis C. Voll, from Marion, Marion County, Ohio, as a Member of the Bowling Green State University Board of Trustees for a term beginning June 6, 2007, and ending at the close of business May 17, 2016, replacing Sharon S. Cook, whose term expired.

Ronald Walker, from Ashland, Ashland County, Ohio, as a Member of the North Central State College Board of Trustees for a new term beginning June 6, 2007, and ending at the close of business January 16, 2010.

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, LANCE T. MASON, RAY MILLER, TOM ROBERTS, TERESA FEDOR.

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 | Bocchieri | Buehrer |
| Cafaro | Carey | Cates | Coughlin |
| Faber | Fedor | Gardner | Jacobson |
| Kearney | Mason | Miller D | Miller R |
| Morano | Mumper | Niehaus | Padgett |
| Roberts | Sawyer | Schaffer | Schuler |
| Schuring | Seitz | Smith | Spada |
| Stivers | Wilson | | Harris-31. |

So the Senate advised and consented to said appointments.

BILLS FOR THIRD CONSIDERATION

S. B. No. 132-Senator Schuring.

Cosponsors: Senators Harris, Padgett, Gardner, Spada, Clancy, Schaffer, Faber, Miller, D., Cafaro, Goodman, Buehrer.

To enact section 4503.433 of the Revised Code to authorize the display of combat battle stars on certain special combat or military license plates , was considered the third time.

The question being, "Shall the bill, **S. B. No. 132**, 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	Gardner	Jacobson
Kearney	Mason	Miller D	Miller R
Morano	Mumper	Niehaus	Padgett
Roberts	Sawyer	Schaffer	Schuler
Schuring	Seitz	Smith	Spada
Stivers	Wilson		Harris-31.

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: "Amstutz, Austria, Bocchieri, Carey, Cates, Fedor, Kearney, Mumper, Niehaus, Roberts, Seitz, Stivers, Schuler, 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, October 7, 2007, 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. 239-Senator Gardner.

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 their average system life.

S. B. No. 240-Senator Grendell.

To enact section 5.033 of the Revised Code to adopt the spotted salamander as the state amphibian.

S. B. No. 241-Senator Cates.

Cosponsors: Senators Carey, Mumper, Schuring, Faber, Padgett.

To amend section 301.28 of the Revised Code to modify the law governing payment of county expenses by a financial transaction device.

On the motion of Senator Jacobson, the Senate recessed.

The Senate met pursuant to the recess.

OFFERING OF RESOLUTIONS

Senator Niehaus offered the following concurrent resolution:

S. C. R. No. 19-Senator Niehaus.

To urge the Congress of the United States to reauthorize the State Children's Health Insurance Program in a manner that enables Ohio to implement an expansion authorized by Am. Sub. H.B. 119 of the 127th General Assembly and the President of the United States to sign the reauthorization into law.

WHEREAS, The State Children's Health Insurance Program (SCHIP) was established by the Balanced Budget Act of 1997 to enable states to initiate and expand health assistance to uninsured, low-income children in an effective and efficient manner that is coordinated with other sources of health benefits coverage for children; and

WHEREAS, Current law authorizing federal matching funds for SCHIP expires November 16, 2007; and

WHEREAS, Ohio's programs funded in part with federal SCHIP matching funds currently serve about 145,000 children; and

WHEREAS, Am. Sub. H.B. 119 of the 127th General Assembly, the main appropriations act for state fiscal years 2008 and 2009, authorizes the Director of Job and Family Services to seek federal approval to utilize federal SCHIP matching funds to serve an estimated 20,000 additional children, those with family income above 200% and below 300% of the federal poverty guidelines; and

WHEREAS, A lack of adequate federal funds for Ohio's programs funded with federal SCHIP matching funds could create a \$98.6 million shortfall in federal fiscal year 2009; now therefore be it

RESOLVED, That we, the members of the 127th General Assembly of the State of Ohio, memorialize Congress to ensure timely reauthorization of SCHIP to assure continued federal SCHIP matching funds in Ohio and other states; and be it further

RESOLVED, That we, the members of the 127th General Assembly of the State of Ohio, urge that the reauthorization (1) enable Ohio to expand SCHIP pursuant to Am. Sub. H.B. 119 of the 127th General Assembly, (2) include cost-sharing requirements for families with higher incomes, and (3) provide for SCHIP to be fiscally solvent; and be it further

RESOLVED, That we, the members of the 127th General Assembly of the State of Ohio, urge that the reauthorization not increase taxes; and be it further

RESOLVED, That we, the members of the 127th General Assembly of the State of Ohio, urge that the President of the United States sign into law legislation that so reauthorizes SCHIP; and be it further

RESOLVED, That the Clerk of the Senate transmit duly authenticated copies of this resolution to the Speaker and Clerk of the United States House of Representatives, to the President Pro Tempore and Secretary of the United States Senate, to the members of the Ohio Congressional delegation, to the President of the United States, and to the news media of Ohio.

The question being, "Shall the concurrent resolution, **S. C. R. No. 19**, be adopted?"

Senator Fedor moved to amend as follows:

Delete the body of the resolution and insert:

"WHEREAS, The Balanced Budget Act of 1997 established the State Children's Health Insurance Program (SCHIP), the purpose of which is to enable states to initiate and expand health assistance to uninsured, low-income children in an effective and efficient manner that is coordinated with other sources of health benefits coverage for children; and

WHEREAS, Current law authorizing federal matching funds for SCHIP expires November 16, 2007; and

WHEREAS, The members of the 127th General Assembly of the State of Ohio regard the health of our children to be very important to families in our state and recognize that a child's health is important to educational achievement as well as the child's social and psychological well-being; and

WHEREAS, Ohio's programs funded with federal SCHIP matching funds currently serve about 145,000 children; and

WHEREAS, Am. Sub. H.B. 119 of the 127th General Assembly, the main appropriations act for state fiscal years 2008 and 2009, authorizes the Director of Job and Family Services to seek federal approval to utilize federal SCHIP matching funds to serve an estimated 20,000 additional children with family income above 200% and below 300% of the federal poverty guidelines; and

WHEREAS, A lack of adequate federal funds for Ohio's programs funded with federal SCHIP matching funds could create a \$6.8 million budget shortfall for Ohio in federal fiscal year 2008 and a \$98.6 million shortfall in federal fiscal year 2009; and

WHEREAS, The United States House of Representatives and United States Senate have passed the Children's Health Insurance Reauthorization Act of 2007, which would provide the states with an additional \$35 billion for a total of \$60 billion for SCHIP through federal fiscal year 2012; and

WHEREAS, President Bush has vetoed the Children's Health Insurance Reauthorization Act of 2007; now therefore be it

RESOLVED, That we, the members of the 127th General Assembly of the State of Ohio, memorialize the United States Congress to override the President's veto of the Children's Health Insurance Reauthorization Act of 2007; and be it further

RESOLVED, That the Clerk of the Senate transmit duly authenticated copies of this resolution to the Speaker and Clerk of the United States House of Representatives, to the President Pro Tempore and Secretary of the United States Senate, to the members of the Ohio Congressional delegation, and to the news media of Ohio."

Delete the title of the resolution and insert:

"To urge Congress to override President Bush's veto of the Children's Health Insurance Reauthorization Act of 2007."

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

Senator Jacobson moved that the amendment be laid on the table.

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

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 19, nays 12, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Buehrer	Carey
Cates	Coughlin	Faber	Gardner
Jacobson	Mumper	Niehaus	Padgett
Schaffer	Schuler	Schuring	Seitz
Spada	Stivers		Harris-19.

Those who voted in the negative were: Senators

Boccieri	Cafaro	Fedor	Kearney
Mason	Miller D	Miller R	Morano
Roberts	Sawyer	Smith	Wilson-12.

The amendment was laid on the table.

The question recurred, "Shall the concurrent resolution, **S. C. R. No. 19**, be adopted?"

Senator Fedor moved to amend as follows:

After line 44 insert:

RESOLVED, That we, the members of the Ohio Senate, respectfully urge the Senate President, pursuant to his authority in Senate Rule 5, to file an amicus brief in support of the multi-state litigation filed against the federal Department of Health and Human Services to challenge the new rules governing the federal State Children's Health Insurance Program (SCHIP).

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

Senator Jacobson moved that the amendment be laid on the table.

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

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 19, nays 12, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Buehrer	Carey
Cates	Coughlin	Faber	Gardner
Jacobson	Mumper	Niehaus	Padgett
Schaffer	Schuler	Schuring	Seitz
Spada	Stivers		Harris-19.

Those who voted in the negative were: Senators

Boccieri	Cafaro	Fedor	Kearney
Mason	Miller D	Miller R	Morano
Roberts	Sawyer	Smith	Wilson-12.

The amendment was laid on the table.

The question recurred, "Shall the concurrent resolution, **S. C. R. No. 19**, be adopted?"

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	Gardner	Jacobson
Kearney	Mason	Miller D	Miller R
Morano	Mumper	Niehaus	Padgett
Roberts	Sawyer	Schaffer	Schuler
Schuring	Seitz	Smith	Spada
Stivers	Wilson		Harris-31.

So the concurrent resolution was adopted.

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

Senator Niehaus moved to amend the title as follows:

Add the names: "Amstutz, Coughlin, Faber, Gardner, Harris, Mumper, Carey, Stivers, Jacobson, Spada, Buehrer, Padgett, Cates, Austria."

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

The motion was agreed to and the title so amended.

Senator Bocchieri offered the following concurrent resolution:

S. C. R. No. 20-Senator Bocchieri.

Cosponsors: Senators Fedor, Miller, D., Wilson, Cafaro, Morano, Smith, Roberts, Kearney, Sawyer.

To urge Congress to override President Bush's veto of the Children's Health Insurance Reauthorization Act of 2007.

The question being, "Shall the concurrent resolution, **S. C. R. No. 20**, be adopted?"

On the motion of Senator Jacobson, **S. C. R. No. 20**, was referred to the Committee on Reference.

Senator Jacobson offered the following resolution:

S. R. No. 132-Senator Jacobson.

Relative to mileage reimbursement.

The question being, "Shall the resolution, **S. R. No. 132**, be adopted?"

The yeas and nays were taken and resulted - yeas 30, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Bocchieri	Buehrer
Cafaro	Carey	Cates	Coughlin
Faber	Fedor	Gardner	Jacobson
Kearney	Mason	Miller D	Miller R
Morano	Mumper	Niehaus	Padgett
Roberts	Sawyer	Schaffer	Schuler
Schuring	Smith	Spada	Stivers
Wilson			Harris-30.

So the resolution was adopted.

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

The title was agreed to.

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

S. R. No. 133-Senator Sawyer.

In memory of Corporal Jason Hernandez.

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 bills in which the concurrence of the Senate is requested:

H. B. No. 13 -Representative Fessler

Cosponsors: Representatives Stebelton, Wachtmann, Brinkman, Adams, Harwood, Bubb, Domenick, Healy, Mallory, Miller, Sayre, Bacon, Barrett, Batchelder, Blessing, Bolon, Book, Boyd, Brown, Chandler, Collier, Daniels, DeBose, DeGeeter, Dyer, Evans, Fende, Flowers, Foley, Garrison, Gibbs, Goodwin, Hagan, J., Hagan, R., Hite, Hottinger, Huffman, Hughes, Koziura, Latta, Letson, Lundy, Oelslager, Okey, Otterman, Patton, Raussen, Schindel, Schneider, Setzer, Skindell, Stewart, D., Stewart, J., Uecker, Wagoner, Williams, B., Wolpert, Zehringer

To amend section 4503.102 of the Revised Code to prohibit the inclusion of Social Security numbers on motor vehicle registration renewal notices.

Sub. H. B. No. 71 -Representative White

Cosponsors: Representatives McGregor, J., Setzer, Brown, Hagan, J., Seitz, Wagoner, Wolpert, Aslanides, Distel, Batchelder, Blessing, Boyd, Chandler, Coley, Domenick, Evans, Flowers, Foley, Hagan, R., Hite, Hottinger, Hughes, Letson, Luckie, Mallory, Otterman, Schneider, Stebelton, Stewart, D., Webster, Williams, S., Yuko

To amend sections 955.28 and 959.16, to enact new section 959.132 and section 959.161, and to repeal section 959.132 of the Revised Code to provide for the seizure, impoundment, and disposition of roosters involved in cockfighting and dogs involved in dogfighting; to revise requirements and procedures governing the seizure, impoundment, and disposition of companion animals that are the subject of abuse or neglect; and to clarify that the authority conferred upon a person to kill an attacking dog does not include the authority to kill a police dog.

Am. Sub. H. B. No. 166 -Representative Schindel

Cosponsors: Representatives Adams, Bubp, Combs, DeWine, Flowers, Gibbs, Seitz, Stebelton, Widener, Zehringer, Aslanides, Bacon, Batchelder, Blessing, Coley, Collier, Daniels, Dolan, Evans, Fessler, Hagan, J., Hite, Hottinger, Huffman, Hughes, McGregor, R., Patton, Schneider, Setzer, Uecker, Wachtmann, Wagner, Wagoner, Widowfield

To amend section 124.341 and to enact sections 126.40 to 126.43 of the Revised Code to create an Office of Internal Auditing within the Office of Budget and Management, to establish the State Audit Committee, and to prescribe their respective and interrelated functions.

Am. Sub. H. B. No. 125 -Representative Huffman

Cosponsors: Representatives DeGeeter, Seitz, McGregor, J., Schneider, Latta, Adams, Gibbs, Setzer, Oelslager, Uecker, McGregor, R., Stewart, J., Stebelton, Fessler, Barrett, Wagoner, Celeste, Reinhard, Widener, Blessing, Book, Carmichael, Lundy, Hughes, Core, Dodd, Batchelder, Boyd, Budish, Chandler, Collier, Distel, Driehaus, Dyer, Evans, Flowers, Goyal, Hagan, J., Healy, Koziura, Letson, Luckie, Otterman, Patton, Yuko

To amend sections 1751.13, 1753.01, 1753.07, 1753.09, and 5111.17, to enact sections 3963.01 to 3963.10, and to repeal sections 1753.03, 1753.04, 1753.05, and 1753.08 of the Revised Code to establish certain uniform contract provisions between health care providers and contracting entities, to establish standardized credentialing, to require contracting entities to provide to health care providers specified information concerning enrollees, to require the Department of Job and Family Services to allow managed care plans to use

providers to render care, and to create a Joint Legislative Study Commission on Most Favored Nation Clauses in Health Care Contracts.

Attest: Laura P. Clemens,
Clerk.

Said bills were considered the first time.

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:

S. B. No. 134 -Senator Faber - et al.

Attest: Laura P. Clemens,
Clerk.

The President signed said bill.

MESSAGE FROM THE PRESIDENT

Pursuant to Senate Rule 19, the President of the Senate appoints Senator Seitz to serve as a member of the Standing Committee on Health, Human Services and Aging.

On the motion of Senator Jacobson, the Senate adjourned until Thursday, October 11, 2007 at 11:00 o'clock a.m.

Attest: DAVID A. BATTOCLETTI,
Clerk.