

OHIO

SENATE

JOURNAL

WEDNESDAY, MARCH 11, 2009

TWENTY-FOURTH DAY
Senate Chamber, Columbus, Ohio
Wednesday, March 11, 2009, 1:30 p.m.

The Senate met pursuant to adjournment.

Prayer was offered by Father Paul Noble, St. Matthew's Church, Gahanna, 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 Faber reports for the Standing Committee on Reference, recommending that the following bills and concurrent resolution, standing in order for second consideration, be referred to committee as recommended:

Am. Sub. H. B. No. 2-Representative Ujvagi, et al.

To amend sections 121.51, 125.11, 133.52, 151.01, 151.09, 151.40, 955.201, 1548.10, 1548.14, 2911.21, 2949.094, 3781.10, 3905.423, 4163.01, 4163.07, 4501.01, 4501.03, 4501.044, 4501.06, 4501.21, 4501.34, 4503.04, 4503.042, 4503.07, 4503.10, 4503.103, 4503.182, 4503.26, 4503.65, 4505.032, 4505.09, 4505.14, 4506.07, 4506.08, 4506.11, 4507.05, 4507.06, 4507.071, 4507.13, 4507.23, 4507.24, 4507.51, 4507.52, 4509.05, 4511.01, 4511.093, 4511.181, 4511.191, 4511.213, 4513.03, 4513.263, 4519.02, 4519.03, 4519.04, 4519.08, 4519.09, 4519.10, 4519.44, 4519.47, 4519.59, 4519.63, 4561.17, 4561.18, 4561.21, 4981.02, 4981.02, 5501.03, 5501.311, 5501.34, 5502.03, 5502.39, 5502.67, 5502.68, 5515.01, 5515.07, 5517.011, 5525.01, 5525.15, 5531.09, 5537.07, 5537.99, 5735.06, and 5735.141; to enact sections 5.24, 121.53, 122.077, 123.153, 1519.20, 3905.425, 4163.08, 4163.09, 4501.026, 4511.108, 4981.40, 5502.131, 5525.012, 5531.11, 5531.12, 5531.13, 5531.14, 5531.15, 5531.16, 5531.17, 5531.18, 5531.99, 5539.01, 5539.02, 5539.03, 5539.031, 5539.04, 5539.05, 5539.06, 5539.07, 5539.08, 5539.09, 5539.10, and 5539.11; and to repeal sections 955.202 and 5902.09 of the Revised Code and to amend Section 229.10 of Am. Sub. H.B. 67 of the 127th General Assembly, as subsequently amended; and to amend Sections 217.10, 217.11, 239.10, 241.10, 243.10, 243.11, and 503.40 of Am. Sub. H.B. 562 of the 127th General Assembly to make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2009, and ending June 30, 2011, to provide authorization and conditions for the operation of those and other programs, to appropriate federal stimulus moneys received under the American Recovery and Reinvestment Act of 2009, and to repeal section 121.53 of the Revised Code on September 30, 2013.

To the Committee on Highways and Transportation.

S. B. No. 70-Senator Schiavoni, et al.

To amend section 725.07 of the Revised Code to allow municipalities to use the money derived from the sale of urban renewal bonds for the demolition of buildings located on tax delinquent property that constitute a public nuisance due to blight.

To the Committee on Ways and Means and Economic Development.

S. B. No. 71-Senator Schiavoni, et al.

To enact section 5533.95 of the Revised Code to designate a portion of Interstate 680 within Mahoning County as the "William Holmes McGuffey Memorial Highway."

To the Committee on Highways and Transportation.

S. B. No. 72-Senator Patton, et al.

To enact section 3733.60 of the Revised Code to require railroad companies to maintain certain meeting, housing, and food service facilities according to certain specifications.

To the Committee on Insurance, Commerce and Labor.

S. B. No. 73-Senators Niehaus, Wilson, et al.

To amend sections 1513.01, 1513.07, 1513.08, 1513.18, and 5749.02 of the Revised Code to revise the laws governing coal mining with regard to the imposition of a portion of the severance tax on coal and performance security and reclamation, and to declare an emergency.

To the Committee on Environment and Natural Resources.

S. B. No. 74-Senator Turner, et al.

To enact section 181.27 of the Revised Code to require the State Criminal Sentencing Commission to study sentencing for drug-related offenses and to report its findings and recommendations to the General Assembly.

To the Committee on Judiciary - Criminal Justice.

S. B. No. 75-Senator Kearney, et al.

To enact section 125.083 of the Revised Code to generally require that state agencies set aside a certain amount of purchases for which only small business enterprises may compete.

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

S. B. No. 76-Senator Kearney, et al.

To enact sections 3742.55 and 3742.56 of the Revised Code to establish a grant program to pay lead hazard removal costs incurred by qualified homeowners and to make an appropriation.

To the Committee on Finance and Financial Institutions.

S. C. R. No. 7-Senator Schuler, et al.

To designate the month of March 2009 as "Deep-Vein Thrombosis Awareness Month."

To the Committee on Health, Human Services and Aging.

YES - 5: KEITH L. FABER, MARK D. WAGONER, SHIRLEY A. SMITH, CAPRI S. CAFARO, TOM NIEHAUS.

NO - 0.

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

The report of the committee was accepted.

Said bills and concurrent resolution 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. 2**-Senator Carey, having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Miller, R., Wilson.

YES - 13: TOM NIEHAUS, CHRIS WIDENER, KEITH L. FABER, TOM PATTON, BILL SEITZ, MARK D. WAGONER, JOHN A. CAREY, GARY W. CATES, JIMMY STEWART, DALE MILLER, RAY MILLER, SHIRLEY A. SMITH, JASON H. WILSON.

NO - 0.

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

The report of the committee was accepted.

Senator Hughes submitted the following report:

The standing committee on State and Local Government and Veterans' Affairs, to which was referred **S. B. No. 3**-Senator Faber, having had the same under consideration, reports it back with the following amendments and recommends its passage when so amended.

In line 533, delete "ten" and insert "thirty"

Co-Sponsors: Carey, Wagoner.

YES - 7: JIMMY STEWART, TERESA FEDOR, JIM HUGHES, JOHN A. CAREY, MARK D. WAGONER, BILL SEITZ, TIMOTHY J. GRENDALL.

NO - 2: RAY MILLER, NINA TURNER.

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

The report of the committee was accepted.

On the motion of Senator Wagoner, the Senate recessed until 2:00 o'clock p.m.

The Senate met pursuant to the recess.

BILLS FOR THIRD CONSIDERATION**Sub. S. B. No. 2-Senator Carey.**

Cosponsors: Senators Miller, R., Wilson.

To provide for the distribution of moneys received by the state from the federal American Recovery and Reinvestment Act of 2009 by making appropriations and to declare an emergency, was considered the third time.

The question being, "Shall the section, Section 16, setting forth the emergency features of the bill, stand as a part of the bill?"

Senator Carey moved to amend as follows:

In line 41, delete ", 195697, Diesel Emissions Reduction Grants,"

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

The motion to amend was agreed to.

The question recurred, "Shall the section, Section 16, setting forth the emergency features of the bill, stand as a part of the bill?"

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

Those who voted in the affirmative were: Senators

Buehrer	Cafaro	Carey	Cates
Coughlin	Faber	Fedor	Gibbs
Gillmor	Goodman	Grendell	Hughes
Husted	Kearney	Miller D	Miller R
Morano	Niehaus	Patton	Sawyer
Schaffer	Schiavoni	Schuring	Seitz
Smith	Stewart	Turner	Wagoner
Widener			Wilson-30.

So the section, Section 16, setting forth the emergency features of the bill stood as a part of the bill.

The question being, "Shall the bill as amended, pass as an emergency measure?"

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

Those who voted in the affirmative were: Senators

Buehrer	Cafaro	Carey	Cates
Coughlin	Faber	Fedor	Gibbs
Gillmor	Goodman	Grendell	Hughes
Husted	Kearney	Miller D	Miller R
Morano	Niehaus	Patton	Sawyer
Schaffer	Schiavoni	Schuring	Seitz

Smith
Widener

Stewart

Turner

Wagoner
Wilson-30.

So the bill having received the required constitutional majority passed as an emergency measure.

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

Senator Carey moved to amend the title as follows:

Add the names: "Cates, Gibbs, Goodman, Niehaus, Schaffer, Seitz, Turner, Gillmor, Patton, Miller, D., Stewart, Cafaro, Smith, Schiavoni, Fedor, Hughes, Morano."

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

The motion was agreed to and the title so amended.

Am. S. B. No. 3-Senator Faber.

Cosponsors: Senators Carey, Wagoner.

To amend sections 103.0511, 111.15, 117.20, 119.03, 119.031, 121.39, 122.08, 122.081, 122.94, 124.04, and 1710.02, to enact sections 121.021, 121.25, 121.251 to 121.255, and 124.95, and to repeal section 121.24 of the Revised Code to require a rule-making agency to prepare a cost-benefit report for, and regulatory flexibility analysis of, rules that may have any adverse impact on small businesses and submit them to the new Ohio Small Business Ombudsperson in the Office of Small Business, to create the Small Business Regulatory Review Board to review objections to those rules and make recommendations to the Joint Committee on Agency Rule Review regarding the rules, to require the Ombudsperson annually to submit a rule impact report to the Governor and General Assembly, to promote improved customer service in state agencies, and to require the Director of Administrative Services to establish customer service performance standards for nonelected officers and employees of state agencies, was considered the third time.

The question being, "Shall the bill, **Am. S. B. No. 3**, pass?"

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

Those who voted in the affirmative were: Senators

Buehrer
Coughlin
Gillmor
Husted
Morano
Schaffer
Smith
Widener

Cafaro
Faber
Goodman
Kearney
Niehaus
Schiavoni
Stewart

Carey
Fedor
Grendell
Miller D
Patton
Schuring
Turner

Cates
Gibbs
Hughes
Miller R
Sawyer
Seitz
Wagoner
Wilson-30.

So the bill passed.

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

Senator Hughes moved to amend the title as follows:

Add the names: "Buehrer, Cates, Coughlin, Fedor, Gibbs, Gillmor, Goodman, Hughes, Niehaus, Patton, Schaffer, Wilson, Stewart."

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

The motion was agreed to and the title so amended.

MOTIONS

Senator Wagoner moved that Senators absent the week of Sunday, March 8, 2009, 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. 77-Senator Goodman.

Cosponsors: Senators Seitz, Miller, R., Stewart, Schuring.

To amend sections 109.573, 2901.07, 2953.21, 2953.23, 2953.71, 2953.72, 2953.73, 2953.74, 2953.75, 2953.76, 2953.77, 2953.78, 2953.79, 2953.81, 2953.83, and 2953.84, to enact sections 105.912, 109.561, 2933.81, 2933.82, and 2933.83, and to repeal section 2953.82 of the Revised Code relative to the expansion of DNA testing for certain convicted felons, the elimination of the DNA testing mechanism for felons who pleaded guilty or no contest to the offense, the collection of DNA specimens from all persons eighteen years of age or older who are arrested for a felony offense, the preservation and accessibility of biological evidence in a criminal or delinquency investigation or proceeding, the improvement of eyewitness identification procedures, and the electronic or audio recording of custodial interrogations.

S. B. No. 78-Senator Coughlin.

Cosponsors: Senators Buehrer, Grendell, Schuring, Seitz.

To enact section 125.20 of the Revised Code to require state employee pay, agency expenses, and tax credit issuances to be published and accessible through one internet web site.

S. B. No. 79-Senator Stewart.

Cosponsors: Senators Roberts, Gibbs, Gillmor, Turner, Wagoner.

To amend sections 9.239, 9.55, 101.37, 101.39, 107.12, 109.57, 109.572, 109.71, 109.77, 109.86, 117.102, 121.02, 121.03, 121.32, 121.36, 121.37, 123.01, 124.11, 124.23, 124.241, 124.27, 124.38, 124.381, 125.602, 125.603, 126.32, 127.16, 135.801, 135.802, 135.803, 140.01, 140.03, 140.05, 145.012, 145.297, 154.17, 154.20, 173.03, 305.14, 307.10, 307.86, 309.10, 319.16, 325.19, 329.06, 1751.01, 1751.02, 2108.521, 2109.01, 2109.04, 2111.01, 2111.02, 2111.10, 2133.25, 2151.011, 2151.421, 2903.33, 2919.271, 2921.36, 2921.38, 2930.061, 2935.03, 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, 2967.22, 3109.18, 3301.07, 3301.15, 3301.52, 3301.53, 3301.55, 3301.57, 3301.58, 3304.231, 3313.65, 3313.715, 3314.022, 3314.99, 3317.01, 3317.02, 3317.024, 3317.03, 3317.032, 3317.05, 3317.051, 3317.052, 3317.07, 3317.15, 3317.20, 3319.22, 3319.99, 3323.01, 3323.02, 3323.021, 3323.03, 3323.04, 3323.05, 3323.07, 3323.09, 3323.091, 3323.12, 3323.141, 3323.142, 3323.31, 3326.99, 3501.01, 3701.78, 3701.93, 3701.932, 3701.933, 3705.36, 3721.01, 3721.14, 3722.01, 3727.01, 3735.58, 4109.06, 4115.32, 4141.29, 4511.21, 4511.75, 4723.071, 5101.35, 5101.46, 5101.611, 5103.02, 5103.13, 5104.08, 5107.24, 5111.042, 5111.151, 5111.202, 5111.203, 5111.211, 5111.251, 5111.291, 5111.65, 5111.677, 5111.709, 5111.87, 5111.871, 5111.872, 5111.873, 5111.874, 5111.875, 5111.876, 5111.8710, 5111.915, 5112.30, 5112.32, 5112.37, 5112.371, 5119.16, 5119.221, 5119.51, 5120.07, 5120.135, 5121.01, 5121.02, 5121.03, 5121.04, 5121.05, 5121.051, 5121.06, 5121.061, 5121.07, 5121.08, 5121.09, 5121.10, 5121.11, 5121.12, 5123.01, 5123.012, 5123.02, 5123.021, 5123.03, 5123.031, 5123.032, 5123.033, 5123.04, 5123.042, 5123.043, 5123.044, 5123.046, 5123.047, 5123.048, 5123.049, 5123.0410, 5123.0411, 5123.0412, 5123.0413, 5123.0414, 5123.0415, 5123.0416, 5123.0417, 5123.05, 5123.051, 5123.06, 5123.07, 5123.08, 5123.081, 5123.082, 5123.083, 5123.09, 5123.091, 5123.092, 5123.093, 5123.10, 5123.11, 5123.12, 5123.122, 5123.13, 5123.14, 5123.15, 5123.16, 5123.161, 5123.162, 5123.163, 5123.164, 5123.166, 5123.167, 5123.168, 5123.169, 5123.17, 5123.171, 5123.172, 5123.18, 5123.181, 5123.19, 5123.191, 5123.194, 5123.195, 5123.196, 5123.198, 5123.21, 5123.211, 5123.22, 5123.221, 5123.23, 5123.24, 5123.25, 5123.26, 5123.27, 5123.28, 5123.29, 5123.30, 5123.31, 5123.33, 5123.34, 5123.35, 5123.351, 5123.352, 5123.36, 5123.37, 5123.371, 5123.372, 5123.373, 5123.374, 5123.375, 5123.38, 5123.40, 5123.41, 5123.42, 5123.421, 5123.43, 5123.44, 5123.45, 5123.451, 5123.47, 5123.50, 5123.51, 5123.52, 5123.53, 5123.54, 5123.541, 5123.542, 5123.55, 5123.56, 5123.57, 5123.58, 5123.59, 5123.60, 5123.601, 5123.602, 5123.604, 5123.61, 5123.611, 5123.612, 5123.613, 5123.614, 5123.63, 5123.64, 5123.65, 5123.71, 5123.711, 5123.72, 5123.73, 5123.74, 5123.75, 5123.76, 5123.801, 5123.81, 5123.811, 5123.82, 5123.85, 5123.86, 5123.89, 5123.90, 5123.96, 5126.01, 5126.02, 5126.021, 5126.022, 5126.023, 5126.024, 5126.025, 5126.026, 5126.027, 5126.028, 5126.029, 5126.0210, 5126.0211, 5126.0212, 5126.0213, 5126.0214, 5126.0215, 5126.0216, 5126.0217, 5126.0218, 5126.0219, 5126.0220, 5126.0221, 5126.0222, 5126.0223, 5126.0224, 5126.0225, 5126.0226, 5126.0227, 5126.0228, 5126.0229, 5126.03, 5126.031, 5126.032, 5126.033,

5126.034, 5126.037, 5126.038, 5126.04, 5126.041, 5126.042, 5126.044, 5126.045, 5126.046, 5126.05, 5126.051, 5126.052, 5126.054, 5126.055, 5126.056, 5126.058, 5126.059, 5126.0510, 5126.0511, 5126.0512, 5126.06, 5126.07, 5126.071, 5126.08, 5126.081, 5126.082, 5126.09, 5126.10, 5126.11, 5126.12, 5126.121, 5126.13, 5126.14, 5126.15, 5126.18, 5126.19, 5126.20, 5126.201, 5126.21, 5126.22, 5126.221, 5126.23, 5126.24, 5126.25, 5126.251, 5126.252, 5126.253, 5126.254, 5126.26, 5126.27, 5126.28, 5126.281, 5126.29, 5126.30, 5126.31, 5126.311, 5126.313, 5126.33, 5126.331, 5126.333, 5126.34, 5126.36, 5126.40, 5126.41, 5126.42, 5126.43, 5126.45, 5126.46, 5126.47, 5126.49, 5126.50, 5126.54, 5126.55, 5126.57, 5126.58, 5126.59, 5126.61, 5126.62, 5126.99, 5139.08, 5139.34, 5145.18, 5153.16, 5153.99, 5511.03, 5543.011, 5705.091, 5705.14, 5705.191, 5705.222, 5705.28, 5705.44, 5735.142, 5815.28, and 5815.35; to amend section 5123.011 as it results from Am. Sub. S.B. 156 of the 119th General Assembly; to amend, for the purpose of adopting a new section number as indicated in parentheses, section 5123.011 (5123.013) as it results from Am. Sub. S.B. 285 of the 121st General Assembly; to enact sections 5123.014 and 5126.011 of the Revised Code; to amend Sections 213.30, 269.20.40, 269.20.80, 269.20.90, 269.30.50, 293.30, 309.31.60, 309.31.70, 335.40.10, 337.10, 337.20.10, 337.30.10, 337.30.20, 337.30.30, 337.30.40, 337.30.60, 337.30.70, 337.30.80, 337.40.10, and 337.40.30 of Am. Sub. H.B. 119 of the 127th General Assembly, to amend Sections 337.30.43, 337.40, and 337.40.15 of Am. Sub. H.B. 119 of the 127th General Assembly as subsequently amended, to amend Sections 209.60.40, 209.60.50, and 501.40 of H.B. 496 of the 127th General Assembly, to amend Section 201.60.30 of H.B. 496 of the 127th General Assembly, as subsequently amended, to amend Sections 231.30.10, 231.30.20, 253.10, and 751.10 of Am. Sub. H.B. 562 of the 127th General Assembly, to amend Section 231.20.30 of Am. Sub. H.B. 562 of the 127th General Assembly, as subsequently amended, and to amend Section 4 of Am. Sub. H.B. 516 of the 125th General Assembly, as subsequently amended, to change the name of the Department of Mental Retardation and Developmental Disabilities to the Department of Developmental Disabilities and the name of county boards of mental retardation and developmental disabilities to county boards of developmental disabilities and to make similar name changes for the Joint Council on Mental Retardation and Developmental Disabilities, the Mental Retardation and Developmental Disabilities Developmental Center Closure Commission, and certain state and county funds.

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 concurrent resolution:

S. C. R. No. 3 -Senator Niehaus - et al.

Attest: Tom Sherman,
Clerk.

The President Pro Tempore signed said concurrent resolution.

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 joint resolution:

Sub. S. J. R. No. 1 -Senators Grendell, Wilson - et al.

Attest: Tom Sherman,
Clerk.

The President Pro Tempore signed said joint resolution.

MESSAGE FROM THE PRESIDENT

Pursuant to Executive Order 2007 – 24S (5) (b) of the 127th General Assembly, the President of the Senate appoints the following members to serve on the Ohio Broadband Council:

Senator Carey
Senator Wilson

MESSAGE FROM THE PRESIDENT

Pursuant to Section 3301.48, Article III (A) of the Ohio Revised Code, the President of the Senate appoints Senator Gary Cates (as Chair of the Senate Standing Committee on Education) to serve on the Education Commission of the States (Interstate Compact for Education).

MESSAGE FROM THE PRESIDENT

Pursuant to Senate Rule No. 19 and 20, the Senate President makes the following appointment changes to the following Standing Committee effective through the close of business today, Wednesday, March 11, 2009:

Removes Senator Robert Schuler from the Standing Committee on Reference

Appoints Senator Keith Faber to the Standing Committee on Reference

Removes Senator Robert Schuler as Chairman of the Standing Committee on

Reference

Appoints Senator Keith Faber as Chairman of the Standing Committee on Reference

On the motion of Senator Faber, the Senate adjourned until Thursday, March 12, 2009 at 11:00 o'clock a.m.

Attest:

VINCENT L. KEERAN,
Clerk.