

OHIO

SENATE

JOURNAL

WEDNESDAY, MAY 6, 2009

FORTY-SIXTH DAY
Senate Chamber, Columbus, Ohio
Wednesday, May 6, 2009, 1:30 p.m.

The Senate met pursuant to adjournment.

Prayer was offered by Reverend Thomas Wise, Valleyview Church, 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 Schuler 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:

S. B. No. 125-Senator Coughlin, et al.

To enact section 5.2265 of the Revised Code designating January 26 as Paul Newman Day.

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

S. B. No. 126-Senator Fedor, et al.

To amend sections 2921.22, 3313.666, and 3313.667 of the Revised Code to prohibit school administrators from knowingly failing to report to law enforcement authorities menacing by stalking or telecommunications harassment that occurs on school grounds, to require a board of education to adopt a policy that prohibits bullying by electronic means, to require a school district's harassment policy to address acts that occur off school property but materially disrupt the educational environment of the school, to require a school district annually to provide training on the district's bullying policy for district employees and volunteers, and to require a school district to notify parents or guardians of students if the annual training is not completed.

To the Committee on Education.

S. B. No. 127-Senator Goodman, et al.

To enact section 5.061 of the Revised Code to adopt the Ohio Tartan as the official tartan of the state.

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

S. C. R. No. 12-Senator Grendell.

To request the Supreme Court to amend the Ohio Rules of Criminal Procedure to provide for open discovery.

To the Committee on Judiciary - Criminal Justice.

YES - 4: TOM NIEHAUS, BILL HARRIS, 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.

Said bills and concurrent resolution 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 Insurance, Commerce and Labor, to which was referred **S. B. No. 17**-Senator Coughlin, et al., having had the same under consideration, reports it back and recommends its passage.

YES - 8: STEPHEN BUEHRER, KEITH L. FABER, KAREN
GILLMOR, JIM HUGHES, BILL SEITZ, TIMOTHY O.
SCHAFFER, CHRIS WIDENER, ERIC H. KEARNEY.

NO - 3: JOSEPH SCHIAVONI, FRED STRAHORN, NINA
TURNER.

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

The report of the committee was accepted.

Senator Coughlin submitted the following report:

The standing committee on Health, Human Services and Aging, to which was referred **S. B. No. 96**-Senator Hughes, et al., having had the same under consideration, reports it back and recommends its passage.

Co-Sponsors: Goodman, Gillmor, Schuring.

YES - 8: SUSAN L. MORANO, SHIRLEY A. SMITH, DAVID GOODMAN, STEPHEN BUEHRER, KAREN GILLMOR, J. KIRK SCHURING, RAY MILLER, JIMMY STEWART.

NO - 0.

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

The report of the committee was accepted.

Senator Schuler submitted the following report:

The Standing Committee on Rules to which were referred the appointments by the Governor of:

Stanley Chesley, Democrat, from Cincinnati, Hamilton County, Ohio, as a Member of the University of Cincinnati Board of Trustees for a term beginning February 6, 2009 and ending at the close of business January 1, 2018, replacing Anant Bhati, whose term expired.

Michael S. Comer, for Terrace Park, Hamilton County, Ohio, as a Member of the Accountancy Board for a term beginning February 23, 2009 and ending at the close of business October 20, 2009, replacing Ajay Taneja, who resigned.

Donald W. Davis, Republican, from Wheelersburg, Scioto County, Ohio, as a Member of the Ohio Advisory Council for the Aging for a new term beginning February 6, 2009 and ending at the close of business November 22, 2011.

Ronnie E. Davis, Democrat, from Mansfield, Richland County, Ohio, as a Member of the North Central State College Board of Trustees for a term beginning January 23, 2009 and ending at the close of business January 16, 2012, replacing Edith Humphrey, whose term expired.

Robert F. Fay, Democrat, from Canton, Stark County, Ohio, as a Member of the Accountancy Board for a term beginning February 23, 2009 and ending at the close of business October 20, 2015, replacing Ray G. Stephen, whose term expired.

Wayne Michael Fritz, Republican, from Blacklick, Franklin County, Ohio, as a Member of the Accountancy Board for a term beginning February 23, 2009 and ending at the close of business October 20, 2015, replacing Albert J. Cannon, whose term expired.

Jeffrey M. Jacobson, Republican, from Columbus, Franklin County, Ohio, as a Member of the State Medical Board for a term beginning December 8, 2008 and ending at the close of business July 31, 2013, replacing R. Gregory Browning, whose term expired.

Patricia L. Leppa, from Germantown, Montgomery County, Ohio, as a Member of the Ohio Board of Speech-Language Pathology and Audiology for a term beginning January 23, 2009 and ending at the close of business September 26, 2009, replacing Davida Parsons, who resigned.

Mitchell Libster, from Marion, Marion County, Ohio, as a Member of the Marion Technical College Board of Trustees for a term beginning October 31, 2008 and ending at the close of business April 30, 2011, replacing Fred K. White, whose term expired.

Belle Likover, Democrat, from Shaker Heights, Cuyahoga County, Ohio, as a Member of the Ohio Advisory Council for the Aging for a new term beginning February 6, 2009 and ending at the close of business November 22, 2011.

William E. Neu, III, Republican, from Delaware, Delaware County, Ohio, as a Member of the State Board of Orthotics, Prosthetics and Pedorthics for a term beginning February 11, 2009 and ending at the close business December 6, 2011, replacing Manuel Garcia, whose term expired.

Robert R. Reed, from Columbus, Franklin County, Ohio, as a Member of the State Board of Orthotics, Prosthetics and Pedorthics for a term beginning February 11, 2009 and ending at the close business December 6, 2011, replacing Howard Harcha, whose term expired.

Dwight Tillery, from Cincinnati, Hamilton County, Ohio, as a Member of the State Personnel Board Review for a term beginning February 9, 2009 and ending at the close of business February 8, 2015, replacing Paul Booth, whose term expired.

Darshan Kirit Vyas, MD, Republican, from Tipp City, Miami County, Ohio, as a Member of Hearing Aid Dealers and Fitters Licensing Board for a term beginning February 6, 2009 and ending at the close of business January 25, 2013, replacing Howard Lowery, 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, TOM NIEHAUS, KEITH L. FABER, MARK D. WAGONER, JON A. HUSTED, JOHN A. CAREY, JASON H. WILSON, RAY MILLER, SHIRLEY A. SMITH, CAPRI S. CAFARO.

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 32, 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	Strahorn	Turner
Wagoner	Widener	Wilson	Harris-32.

So the Senate advised and consented to said appointments.

RESOLUTIONS REPORTED BY COMMITTEE

S. C. R. No. 8-Senators Grendell, Gibbs.

Cosponsors: Senators Carey, Schaffer.

To memorialize the Administrator of the United States Environmental Protection Agency to refrain from adopting any new regulations governing greenhouse gas emissions from livestock that would impose permit fees on livestock producers, and to memorialize the Congress of the United States to enact legislation introduced by United States Senators John Thune and Charles Schumer that proposes to amend Title V of the Clean Air Act to establish appropriate exemptions for livestock producers.

WHEREAS, The livestock industry is vital to the economy and food supply of Ohio and the United States. Ohio livestock producers add nearly \$2 billion of economic output to the Ohio economy each year, and the livestock industry provides jobs to thousands of Ohioans; and

WHEREAS, In the case of *Massachusetts v. Environmental Protection Agency*, 549 U.S. 497 (2007), the United States Supreme Court recognized that greenhouse gases are pollutants within the meaning of the federal Clean Air Act; and

WHEREAS, Title V of the Clean Air Act requires any entity with emissions of pollutants in excess of one hundred thousand tons per year to obtain an operating permit. The United States Department of Agriculture (USDA) has recognized that a livestock producer with more than twenty-five dairy cattle, fifty beef cattle, or two hundred hogs would exceed that threshold for greenhouse gas emissions. Thus, according to USDA, Title V permit requirements under the Clean Air Act might impact up to 99% of all milk production, 90% of all beef production, and 95% of all hog production nationally; and

WHEREAS, Permit fees levied under Title V of the Clean Air Act would impose an unprecedented burden on Ohio livestock producers and limit their ability to compete in the global marketplace. Such a burden would most definitely result in the reduction of livestock production in Ohio and the United

States, a loss of jobs, and a loss to the gross domestic product of Ohio and the United States; and

WHEREAS, While protecting the environment and curbing emissions of harmful pollutants is a growing concern, it is not acceptable to impose a virtual tax on livestock producers considering that the atmospheric environmental impacts of livestock, if any, have not been proven to directly cause or contribute to any global warming phenomenon attributable to greenhouse gases; and

WHEREAS, United States Senator John Thune from South Dakota and United States Senator Charles Schumer from New York have introduced S.527 that, if enacted, will prevent the USEPA from imposing fees on livestock producers under Title V of the Clean Air Act by specifying that Title V does not apply to methane emissions from livestock agriculture; now therefore be it

RESOLVED, That we, the members of the 128th General Assembly of the State of Ohio, in adopting this resolution, urge the United States Environmental Protection Agency to refrain from adopting any new regulations governing greenhouse gas emissions from livestock that would impose permit fees on livestock producers; and be it further

RESOLVED, That we, the members of the 128th General Assembly of the State of Ohio, in adopting this resolution, urge the United States Congress to enact S.527, which proposes to amend Title V of the Clean Air Act to establish appropriate exemptions for livestock producers; and be it further

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

The question being, "Shall the concurrent resolution, **S. C. R. No. 8**, be adopted?"

The yeas and nays were taken and resulted - yeas 30, nays 2, as follows:

Those who voted in the affirmative were: Senators

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

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

So the concurrent resolution was adopted.

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

Senator Gibbs moved to amend the title as follows:

Add the names: "Buehrer, Cafaro, Cates, Faber, Gillmor, Goodman, Harris, Schiavoni, Schuring, Seitz, Strahorn, Wilson, Hughes, Widener."

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

The motion was agreed to and the title so amended.

BILLS FOR THIRD CONSIDERATION

Sub. S. B. No. 69-Senator Cates.

Cosponsors: Senators Hughes, Morano.

To amend sections 1713.55, 3332.25, 3345.85, and 3701.133 of the Revised Code to require that students living in on-campus housing at institutions of higher education be vaccinated for meningococcal meningitis and hepatitis B or obtain a waiver, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 69**, pass?"

The yeas and nays were taken and resulted - yeas 32, 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	Strahorn	Turner
Wagoner	Widener	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: "Harris, Kearney, Miller, D., Niehaus, Sawyer, Schiavoni, Strahorn, Turner, Wilson, Miller, R.."

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, May 3, 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.

OFFERING OF RESOLUTIONS

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

S. R. No. 54-Senator Harris.

Cosponsors: Senators Gillmor, Cates, Husted, Carey, Schuler, Grendell, Wagoner, Patton, Seitz, Buehrer, Faber, Niehaus.

Recognizing National Charter Schools Week, May 3-9, 2009.

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, Judith E. Barnes Lancaster, Democrat, from Massillon, Stark County, Ohio, as a Member of the NEOUCOM Board of Trustees for a term beginning January 5, 2009 and ending at the close of business September 22, 2011.

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 5th day of January in the year of our Lord, two thousand and nine.

[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, Danielle R. Blue, Democrat, from Columbus, Franklin County, Ohio, as a

Member of the Ohio Elections Commission for a term beginning March 2, 2009 and ending at the close of business December 31, 2013, replacing William Ogg, 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 2nd day of March in the year of our Lord, two thousand and nine.

[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, Steven P. Cress, from Canton, Stark County, Ohio, as a Member of the NEOUCOM Board of Trustees for a term beginning January 5, 2009 and ending at the close of business September 22, 2009.

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 5th day of January in the year of our Lord, two thousand and nine.

[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, Paul S. Denton, from Orient, Pickaway County, Ohio, as a Member of the Ohio Peace Officer Training Commission for a term beginning March 13, 2009 and ending at the close of business September 19, 2009, replacing Ronald Ferrell, who resigned.

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 13th day of March in the year of our Lord, two thousand and nine.

[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, Paul N. Duncan, Jr., Democrat, from Boardman, Mahoning County, Ohio, as a Member of the Board of Motor Vehicle Collision Repair Registration for a new term beginning March 13, 2009 and ending at the close of business January 1, 2012.

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 13th day of March in the year of our Lord, two thousand and nine.

[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, Stephanie E. Green, Democrat, from Columbus, Franklin County, Ohio, as a Member of the Ohio Fair Plan Underwriting Association Board of Governors for a term beginning February 11, 2009 and ending at the close of business September 18, 2010, replacing Daniel Snouffer, 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 11th day of February in the year of our Lord, two thousand and nine.

[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, Eric Kodish, Democrat, from Shaker Heights, Cuyahoga County, Ohio, as a Member of the NEOUCOM Board of Trustees for a term beginning January 5, 2009 and ending at the close of business September 22, 2013.

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 5th day of January in the year of our Lord, two thousand and nine.

[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, John J. Lynch, Democrat, from Cleveland, Cuyahoga County, Ohio, as a Member of the Ohio Housing Finance Agency for a new term beginning March 26, 2009 and ending at the close of business January 31, 2015.

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 26th day of March in the year of our Lord, two thousand and nine.

[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, Anil M. Parikh, from Fairlawn, Summit County, Ohio, as a Member of the NEOUCOM Board of Trustees for a term beginning January 5, 2009 and ending at the close of business September 22, 2014.

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 5th day of January in the year of our Lord, two thousand and nine.

[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, Charles J. Ruma, Independent, from Columbus, Franklin County, Ohio, as a Member of the Ohio Housing Finance Agency for a new term beginning March 26, 2009 and ending at the close of business January 31, 2015.

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 26th day of March in the year of our Lord, two thousand and nine.

[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, Steven Paul Schmidt, Democrat, from Akron, Summit County, Ohio, as a Member of the NEOUCOM Board of Trustees for a term beginning January 5, 2009 and ending at the close of business September 22, 2010.

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 5th day of January in the year of our Lord, two thousand and nine.

[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, Gary S. Shamis, Democrat, from Solon, Cuyahoga County, Ohio, as a Member of the NEOUCOM Board of Trustees for a term beginning January 5, 2009 and ending at the close of business September 22, 2016.

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 5th day of January in the year of our Lord, two thousand and nine.

[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, Robert Spada, Republican, from North Royalton, Cuyahoga County, Ohio, as a Member of the State Employment Relations Board for a term beginning November 3, 2008 and ending at the close of business October 6, 2014, replacing Craig Mayton, 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 3rd day of November 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, Jeffrey T. Tilman, Independent, from Cincinnati, Hamilton County, Ohio, as a Member of the Ohio Historic Site Preservation Advisory Board for a new term beginning February 12, 2009 and ending at the close of business January 14, 2012.

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 12th day of February in the year of our Lord, two thousand and nine.

[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, Robert E. True, Republican, from Warren, Trumbull County, Ohio, as a Member of the Savings and Loan Associations and Savings Banks Board for a term beginning December 8, 2008 and ending at the close of business January 31, 2010, replacing Robert Bollin, who resigned.

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 8th day of December in the year of our Lord, two thousand and eight.

[Seal]

Ted Strickland,
Governor.

Said appointments were referred to the Committee on Rules.

On the motion of Senator Niehaus, the Senate adjourned until Thursday, May 7, 2009 at 11:00 o'clock a.m.

Attest:

VINCENT L. KEERAN,
Clerk.