

**OHIO**

**SENATE**

**JOURNAL**

WEDNESDAY, NOVEMBER 18, 2009

ONE HUNDRED SEVENTEENTH DAY  
Senate Chamber, Columbus, Ohio  
**Wednesday, November 18, 2009, 1:30 p.m.**

The Senate met pursuant to adjournment.

Prayer was offered by Father Michael Lumpe, St. Catharine's Church, Bexley, 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 Niehaus, the Senate recessed until 2:30 p.m.

The Senate met pursuant to the recess.

**REPORTS OF REFERENCE AND BILLS FOR SECOND  
CONSIDERATION**

Senator Goodman 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. 210**-Senators Coughlin, Kearney, et al.

To amend sections 3301.079, 3301.0714, 3302.02, 3302.03, 3313.603, 3313.813, 3313.814, 3314.03, 3314.18, 3326.11, and 3326.13 and to enact sections 3301.91, 3301.92, 3301.921, 3301.922, 3313.6016, 3313.674, 3313.816, 3313.817, 3319.076, and 3319.227 of the Revised Code to establish nutritional standards for certain foods and beverages sold in public and chartered nonpublic schools; to require public school students to have periodic body mass index measurements; to require daily physical activity for public school students and to make other changes regarding physical education; and to establish the Healthy Choices for Healthy Children Council.

To the Committee on Health, Human Services and Aging.

**S. B. No. 211**-Senator Hughes, et al.

To amend sections 4510.31 and 4510.311 of the Revised Code to permit a judge to elect not to suspend the probationary driver's license of certain juvenile repeat traffic violators.

To the Committee on Judiciary - Criminal Justice.

YES - 6: KEITH L. FABER, TOM NIEHAUS, BILL HARRIS,  
CAPRI S. CAFARO, SHIRLEY A. SMITH, DAVID  
GOODMAN.

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 Buehrer submitted the following report:

The standing committee on Insurance, Commerce and Labor, to which was referred **S. R. No. 118**-Senator Grendell, et al., having had the same under consideration, reports it back with the following amendments and recommends its adoption when so amended.

In line 71, after "(8)" insert "Two representatives of political subdivisions recommended by associations representing county commissioners, municipal corporations, townships, or school districts;

(9)"

In line 76, delete "(9)" and insert "(10)"

In line 78, delete "(10)" and insert "(11)"

In line 80, delete "(11)" and insert "(12)"; delete ", who"

In line 81, delete all before the period

In line 85, delete "(12)" and insert "(13)"

In line 73, delete "or that are otherwise doing business in this state"

In line 76, after "(9)" insert "Two representatives who are full-time employees of property and casualty insurance companies that are not domiciled in this state that offer to write workers' compensation coverage in at least thirty states other than this state;

(10)"

In line 78, delete "(10)" and insert "(11)"

In line 80, delete "(11)" and insert "(12)"; delete ", who"

In line 81, delete everything before the period

In line 85, delete "(12)" and insert "(13)"

YES - 7: KEITH L. FABER, KAREN GILLMOR, SHANNON JONES, STEPHEN BUEHRER, TIMOTHY O. SCHAFFER, CHRIS WIDENER, BILL SEITZ.

NO - 5: JIM HUGHES, JOSEPH SCHIAVONI, FRED STRAHORN, NINA TURNER, ERIC H. KEARNEY.

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

The report of the committee was accepted.

Senator Cates submitted the following report:

The standing committee on Education, to which was referred **Sub. H. B. No. 19**-Representative Harwood, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Cates, Carey, Gibbs, Sawyer, Fedor, Morano.

YES - 9: GARY W. CATES, J. KIRK SCHURING, JOHN A. CAREY, BOB GIBBS, JON A. HUSTED, THOMAS SAWYER, TERESA FEDOR, SUSAN L. MORANO, TOM NIEHAUS.

NO - 0.

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

The report of the committee was accepted.

The standing committee on Education, to which was referred **S. B. No. 167**-Senator Cates, et al., having had the same under consideration, reports it back with the following amendments and recommends its passage when so amended.

In line 52, delete " at least"

In line 53, delete all before "less"

In line 61, delete all after "it"

Delete lines 62 through 66

In line 67, delete " (b) It"

Co-Sponsors: Schuring, Carey.

YES - 9: GARY W. CATES, J. KIRK SCHURING, JOHN A. CAREY, JON A. HUSTED, THOMAS SAWYER, TERESA FEDOR, BOB GIBBS, SUSAN L. MORANO, TOM NIEHAUS.

NO - 0.

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

The report of the committee was accepted.

Senator Cates submitted the following report:

The standing committee on Education, to which was referred **S. B. No. 173**-Senator Cates, et al., having had the same under consideration, reports it back with the following amendments and recommends its passage when so amended.

In line 86, after the period insert "Each school district that does not offer all-day kindergarten in fiscal year 2011 shall submit to the superintendent of public instruction, in the manner prescribed by the state superintendent, a plan describing how the district will meet this requirement."

Co-Sponsors: Schuring, Gibbs, Carey.

YES - 9: GARY W. CATES, J. KIRK SCHURING, BOB GIBBS, JON A. HUSTED, JOHN A. CAREY, SUSAN L. MORANO, TERESA FEDOR, THOMAS SAWYER, TOM NIEHAUS.

NO - 0.

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

The report of the committee was accepted.

Senator Harris submitted the following report:

Pursuant to Senate Rule No. 37 the Standing Committee on Rules, recommends that **S. B. No. 181**, having been referred to the Standing Committee on Judiciary - Civil Justice, be re-referred to the Standing Committee on Environment and Natural Resources.

YES - 11: BILL HARRIS, TOM NIEHAUS, CAPRI S. CAFARO, JOHN A. CAREY, KEVIN J. COUGHLIN, KEITH L. FABER, JON A. HUSTED, RAY MILLER, SHIRLEY A. SMITH, MARK D. WAGONER, JASON H. WILSON.

NO - 0.

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

The report of the committee was accepted.

Senator Harris submitted the following report:

Pursuant to Senate Rule No. 37 the Standing Committee on Rules, recommends that **S. B. No. 170**, having been referred to the Standing Committee on State and Local Government and Veterans Affairs, be re-referred to the Standing Committee on Government Oversight.

YES - 11: BILL HARRIS, TOM NIEHAUS, CAPRI S. CAFARO, JOHN A. CAREY, KEVIN J. COUGHLIN, KEITH L. FABER, JON A. HUSTED, RAY MILLER, SHIRLEY A. SMITH, MARK D. WAGONER, JASON H. WILSON.

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:

**Am. S. B. No. 93**-Senator Buehrer.

Cosponsors: Senators Coughlin, Faber, Miller, R., Morano, Patton, Schaffer, Schuring, Seitz, Wagoner, Fedor, Turner, Hughes, Stewart, Carey, Gibbs, Gillmor, Grendell, Harris, Kearney, Niehaus, Sawyer, Strahorn, Wilson. Representatives Gerberry, Lundy, Sayre, Stewart, Williams, B., Daniels, Hall, Hite, Stebelton, Adams, R., Amstutz, Bacon, Balderson, Batchelder, Beck, Blair, Blessing, Bolon, Book, Boose, Carney, Celeste, Chandler, Coley, Combs, DeBose, DeGeeter, Derickson, Dodd, Dolan, Domenick, Dyer, Fende, Foley, Gardner, Garrison, Goodwin, Goyal, Grossman, Hackett, Hagan, Harris, Harwood, Huffman, Letson, Luckie, Maag, Mallory, Mandel, McClain, McGregor, Mecklenborg, Moran, Murray, Oelslager, Okey, Phillips, Sears, Skindell, Slesnick, Snitchler, Stautberg, Szollosi, Uecker, Wachtmann, Williams, S., Winburn, Yates, Yuko, Zehringer.

To enact sections 149.32 and 149.321 of the Revised Code to establish the War of 1812 Bicentennial Commission, to prescribe the Commission's powers and duties, and to repeal sections 149.32 and 149.321 of the Revised Code on December 31, 2015, to terminate the commission on that date, were taken up.

The question being, "Shall the Senate concur in the House amendments to **Am. S. B. No. 93**?"

The yeas and nays were taken and resulted - yeas 33, 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	Jones	Kearney	Miller D
Miller R	Morano	Niehaus	Patton
Sawyer	Schaffer	Schiavoni	Schuring
Seitz	Smith	Stewart	Strahorn
Turner	Wagoner	Widener	Wilson
			Harris-33.

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

#### **RESOLUTIONS REPORTED BY COMMITTEE**

**Am. S. R. No. 118**-Senator Grendell.

Cosponsors: Senators Buehrer, Seitz, Jones, Schaffer, Gibbs, Faber.

To create the Competitive Workers' Compensation Task Force to review the feasibility of allowing employers the option to obtain private insurance to insure their obligations under the workers' compensation system of Ohio.

WHEREAS, The Senate is dedicated to ensuring the long-term viability of a workers' compensation program in Ohio that protects injured workers and is affordable and reliable for employers as part of Ohio's efforts to stimulate economic growth in order to create, maintain, and expand jobs in Ohio; and

WHEREAS, The Senate desires to create a Competitive Workers' Compensation Task Force to review the feasibility of allowing employers the option to obtain private insurance to insure their obligations under the workers' compensation system of this state; now therefore be it

RESOLVED, That the mission of the Competitive Workers' Compensation Task Force is to do, and to issue a report concerning, all of the following:

(1) Evaluate the current workers' compensation insurance offerings offered by the Bureau of Workers' Compensation to determine if such offerings are actuarially sound and competitive with similar offerings in other states while taking into account variations in available benefit levels;

(2) Evaluate and describe the efforts made by other states within the last fifteen years to open those states' workers' compensation markets to private competition, which shall include the identification and description of those states' best practices in planning for and implementing a transition from a state-fund monopolistic workers' compensation system to a market that includes private competition;

(3) Identify at least three business plan options through which this state can introduce viable private workers' compensation competition along with or without the current state fund administered by the Bureau of Workers' Compensation and the Industrial Commission; and be it further

RESOLVED, That the task force may contract with a firm that possesses significant property and casualty and workers' compensation insurance actuarial evaluation experience to assist in carrying out its mission. If the task force contracts with a firm, the task force shall solicit bids from appropriate vendors and award the contract in a competitive manner; and be it further

RESOLVED, That the agenda, discussions, or outcomes of the work of the task force, or any firm with which the task force contracts, shall not be constrained in any manner by current law with respect to workers' compensation insurance; and be it further

RESOLVED, That the Competitive Workers' Compensation Task Force shall be composed of the following members appointed by the President of the Senate:

(1) Two representatives of employees (claimants) that fulfill both of the following criteria:

(a) One representative shall be employed by a state fund employer and one shall be employed by a self-insuring employer;

(b) One representative shall be employed by an employer that employs employees who are represented by a labor organization and one shall be employed by an employer that does not employ employees who are represented by a labor organization.

(2) One representative who is a state fund employer domiciled in this state;

(3) One representative who is a self-insuring employer domiciled in this state;

(4) One representative who is a lawyer admitted to the practice of law in this state who primarily represents claimants before the Industrial Commission;



(5) One representative who is a lawyer admitted to the practice of law in this state who primarily represents employers before the Industrial Commission;

(6) One representative who is a full-time employee of a third-party administrator that does business in this state;

(7) One representative who is a full-time employee of a managed care organization that does business in this state;

(8) Two representatives of political subdivisions recommended by associations representing county commissioners, municipal corporations, townships, or school districts;

(9) Two representatives who are full-time employees of property and casualty insurance companies that are domiciled in this state that offer to write workers' compensation coverage in at least ten states other than this state;

(10) Two representatives who are full-time employees of property and casualty insurance companies that are not domiciled in this state that offer to write workers' compensation coverage in at least thirty states other than this state;

(11) One representative who is a state fund employer who conducts business in this state and at least one other state;

(12) One representative who is a self-insuring employer who conducts business in this state and at least one other state;

(13) Four members of the Senate, two from each party. A member appointed from the majority party shall serve as a co-chairperson of the task force and shall be appointed as such by the President of the Senate.

(14) The Administrator of Workers' Compensation, or the Administrator's designee, the Chairperson of the Bureau of Workers' Compensation Board of Directors, or the Chairperson's designee, and the Superintendent of Insurance shall be members of the task force. The Superintendent of Insurance shall serve as a co-chairperson of the task force; and be it further

RESOLVED, That the task force shall make its findings on the issues and shall report its findings to the Governor, the Speaker of the House of Representatives, and the President of the Senate not later than June 30, 2010. Members of the task force shall be reimbursed for any travel expenses.

The question being, "Shall the resolution, **Am. S. R. No. 118**, be adopted?"

Senator Grendell moved to amend as follows:

In line 99, delete everything after the period

Delete line 100

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

The motion was agreed to.

The question recurred, "Shall the resolution, **Am. S. R. No. 118**, be adopted?"

The yeas and nays were taken and resulted - yeas 19, nays 14, as follows:

Those who voted in the affirmative were: Senators

Buehrer	Carey	Cates	Faber
Gibbs	Gillmor	Goodman	Grendell
Husted	Jones	Niehaus	Patton
Schaffer	Schuring	Seitz	Stewart
Wagoner	Widener		Harris-19.

Those who voted in the negative were: Senators

Cafaro	Coughlin	Fedor	Hughes
Kearney	Miller D	Miller R	Morano
Sawyer	Schiavoni	Smith	Strahorn
Turner			Wilson-14.

So the resolution was adopted.

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

Senator Grendell moved to amend the title as follows:

Add the names: "Carey, Cates, Goodman, Harris."

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

The motion was agreed to and the title so amended.

### **BILLS FOR THIRD CONSIDERATION**

**S. B. No. 151**-Senator Grendell.

To enact section 1545.073 of the Revised Code to authorize a park district's board of park commissioners to create a building department for building code enforcement purposes, was considered the third time.

The question being, "Shall the bill, **S. B. No. 151**, pass?"

The yeas and nays were taken and resulted - yeas 31, nays 2, as follows:

Those who voted in the affirmative were: Senators

Buehrer	Cafaro	Carey	Faber
Fedor	Gibbs	Gillmor	Goodman
Grendell	Hughes	Husted	Jones
Kearney	Miller D	Miller R	Morano
Niehaus	Patton	Sawyer	Schaffer
Schiavoni	Schuring	Seitz	Smith
Stewart	Strahorn	Turner	Wagoner

Widener

Wilson

Harris-31.

Senators Cates and Coughlin voted in the negative-2.

So the bill passed.

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

Senator Grendell moved to amend the title as follows:

Add the names: "Harris, Kearney, Sawyer."

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, November 15, 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 bill was introduced and considered the first time:

**S. B. No. 212**-Senator Morano.

Cosponsors: Senators Cafaro, Miller, D., Turner, Strahorn, Schiavoni, Miller, R., Fedor, Smith.

To amend sections 1321.32, 2305.11, 4111.14, 4111.17, 4111.99, 4113.15, 4113.16, and 4113.99; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 4113.15 (4111.18) and 4113.16 (4111.19); and to enact sections 4111.15 and 4111.20 of the Revised Code to allow the Director of Commerce to investigate and enforce specified claims involving unpaid wages.

### **OFFERING OF RESOLUTIONS**

Senator Morano offered the following concurrent resolution:

**S. C. R. No. 22**-Senator Morano.

Cosponsors: Senators Cafaro, Miller, D., Turner, Strahorn, Schiavoni, Miller, R., Fedor, Smith, Sawyer.

To urge the Congress of the United States to enact House Resolution 3303, the Wage Theft Prevention Act.

The question being, "Shall the concurrent resolution, **S. C. R. No. 22**, be adopted?"

On the motion of Senator Niehaus, **S. C. R. No. 22**, was referred to the Committee on Reference.

On the motion of Senator Niehaus, the Senate recessed until 5:40 p.m.

The Senate met pursuant to the recess.

On the motion of Senator Faber, the Senate adjourned until Thursday, November 19, 2009 at 11:00 o'clock a.m.

Attest:

VINCENT L. KEERAN,  
Clerk.