

OHIO

SENATE

JOURNAL

TUESDAY, MARCH 15, 2011

TWENTY-EIGHTH DAY
Senate Chamber, Columbus, Ohio
Tuesday, March 15, 2011, 1:30 p.m.

The Senate met pursuant to adjournment.

Prayer was offered by Reverend Merrill Williams, First Church of the Nazarene, East Liverpool, 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 Niehaus reports for the Standing Committee on Rules and Reference, recommending that the following bills, standing in order for second consideration, be referred to committee as recommended:

Sub. H. B. No. 36-Representatives Kozlowski, Carey, et al.

To amend sections 3313.482, 3314.08, and 3317.01 of the Revised Code to excuse up to five, instead of three, calamity days for the 2010-2011 school year, to broaden schools' authority to make up calamity days by lengthening remaining days in the school year, to waive the number of hours a community school is closed for a public calamity if it meets certain requirements, and to declare an emergency.

To the Committee on Education.

Sub. H. B. No. 93-Representatives Burke, Johnson, et al.

To amend sections 3719.08, 4715.30, 4729.01, 4729.071, 4729.29, 4729.51, 4729.54, 4729.541, 4729.55, 4729.75, 4729.77, 4729.78, 4729.79, 4729.80, 4729.81, 4729.82, 4729.83, 4729.99, 4731.052, 4731.22, 4731.283, 4776.02, 4776.04, and 5111.172; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 4729.79 (4729.80), 4729.80 (4729.81), 4729.81 (4729.82), 4729.82 (4729.83), 4729.83 (4729.84), and 4729.84 (4729.85); and to enact new section 4729.79 and sections 109.90, 313.212, 3719.031, 3793.22, 4121.50, 4715.302, 4723.487, 4725.092, 4729.162, 4729.291, 4729.552, 4729.571, 4729.69, 4729.86, 4730.53, 4731.054, 4731.055, 4731.241, 5111.085, 5111.179, and 5111.1710 of the Revised Code to establish and modify laws regarding the prevention of prescription drug abuse and to declare an emergency.

To the Committee on Health, Human Services and Aging.

Sub. H. B. No. 122-Representative Hottinger, et al.

To amend sections 3901.17, 3905.30, 3905.31, 3905.33, 3905.34, 3905.36, 3905.37, and 3905.38 and to enact section 3905.331 of the Revised Code to exempt state surplus lines insurance from regulation in Ohio when Ohio is not the home state of the insured and to make other changes to the law regulating surplus lines insurance.

To the Committee on Insurance, Commerce and Labor.

S. B. No. 112-Senator Skindell, et al.

To amend section 109.02 and to enact sections 3922.01 to 3922.15, 3922.21 to 3922.28, 3922.31, 3922.32, and 3922.33 of the Revised Code to establish and operate the Ohio Health Care Plan to provide universal health care coverage to all Ohio residents.

To the Committee on Insurance, Commerce and Labor.

S. B. No. 113-Senator Skindell, et al.

To amend section 5747.98 and to enact section 5747.71 of the Revised Code to grant a state earned income tax credit equal to a percentage of the federal earned income tax credit.

To the Committee on Ways and Means and Economic Development.

S. B. No. 114-Senator Seitz, et al.

To amend sections 4501.01, 4501.13, 4503.04, 4503.21, 4503.22, 4503.544, 4507.05, 4507.11, 4511.01, 4511.53, 4513.241, 4517.33, 4519.01, 4519.02, and 4775.09 and to enact sections 4511.214 and 4511.215 of the Revised Code to establish conditions for the operation of certain specialized motor vehicles, including low-speed and under-speed vehicles, scooters, cab-enclosed motorcycles, and mini-trucks; to establish conditions for operation of a motorcycle with a temporary instruction permit; to prohibit a motor vehicle manufacturer, remanufacturer, or distributor from providing to a licensed motor vehicle dealer a motor vehicle that violates window tinting standards; to increase the penalty for installing nonconforming glass or other material; to establish civil liability for installing nonconforming glass or other material, including costs and attorney fees; and to impose a registration or license

suspension up to 180 days on a registered motor vehicle collision repair facility or licensed motor vehicle dealer upon a second or subsequent violation for installing nonconforming glass or other material.

To the Committee on Highways and Transportation.

S. B. No. 115-Senator Kearney.

To amend section 5747.01 of the Revised Code to exempt from income taxation any gains from the sale of Ohio property used in a trade or business and held for at least two years.

To the Committee on Ways and Means and Economic Development.

S. B. No. 116-Senators Seitz, Cates, et al.

To amend section 3319.081 and to enact section 3319.0810 of the Revised Code to permit non-Civil Service school district boards to terminate positions of district transportation employees for reasons of economy and efficiency and to contract with independent agents to provide transportation services as long as certain conditions are satisfied.

To the Committee on Education.

S. B. No. 117-Senators Seitz, Schiavoni.

To amend sections 1337.092, 1337.12, 2101.24, 2109.21, 2111.02, 2111.12, 2111.121, 5301.071, 5747.02, 5801.10, 5804.12, 5808.14, 5808.17, and 5810.13; to enact new section 2107.52 and sections 1337.21 to 1337.64, 3793.31 to 3793.39, 5808.18, 5808.19, 5809.031, 5810.14, and 5815.49; and to repeal sections 1337.09, 1337.091, 1337.093, 1337.18, 1337.19, 1337.20, and 2107.52 of the Revised Code to adopt the Uniform Power of Attorney Act; to modify a trustee's duties with respect to life insurance policies, specify a trustee's power to distribute trust principal in further trust, provide for the titling of assets in trust form, and make other changes in the Trust Code; to modify the anti-lapse provisions regarding wills and adopt anti-lapse provisions applicable to trusts; to provide a mechanism for a probate court to order a person who suffers from alcohol and other drug abuse to undergo treatment; to provide a rule of construction interpreting federal estate tax and generation-skipping transfer tax formulas in wills and trusts due to the repeal of those taxes; and to declare an emergency.

To the Committee on Judiciary - Civil Justice.

YES - 10: THOMAS E. NIEHAUS, KEITH L. FABER, JIMMY STEWART, SHANNON JONES, CHRIS WIDENER, MARK D. WAGONER, JASON H. WILSON, EDNA BROWN, SHIRLEY A. SMITH, CAPRI S. CAFARO.

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 Lehner submitted the following report:

The standing committee on Education, to which was referred **Sub. H. B. No. 30**-Representative Gardner, et al., having had the same under consideration, reports it back with the following amendments and recommends its passage when so amended.

In line 1754, delete "3306.29, 3306.291, 3306.292,"

In line 6 of the title, delete "3306.29,"

In line 7 of the title, delete "3306.291, 3306.292,"

In line 14 of the title, delete "to abolish"

In line 15 of the title, delete "the School Funding Advisory Council,"

Co-Sponsor: Hite.

YES - 7: PEGGY B. LEHNER, GAYLE MANNING, BILL BEAGLE, CLIFF HITE, LARRY OBHOF, THOMAS SAWYER, GARY W. CATES.

NO - 2: SHIRLEY A. SMITH, CHARLETA B. TAVARES.

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

The report of the committee was accepted.

Senator Lehner submitted the following report:

The standing committee on Education, to which was referred **S. B. No. 81**-Senator Cates, et al., having had the same under consideration, reports it back and recommends its passage.

Co-Sponsor: Hite.

YES - 6: PEGGY B. LEHNER, GAYLE MANNING, BILL BEAGLE, CLIFF HITE, LARRY OBHOF, GARY W. CATES.

NO - 3: THOMAS SAWYER, SHIRLEY A. SMITH, CHARLETA B. TAVARES.

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

The report of the committee was accepted.

Senator Schaffer submitted the following report:

The standing committee on Ways and Means and Economic Development, to which was referred **S. B. No. 71**-Senator Manning, et al., having had the same under consideration, reports it back and recommends its passage.

YES - 6: GAYLE MANNING, CHRIS WIDENER, TOM PATTON, BILL BEAGLE, TIMOTHY O. SCHAFFER, KEVIN BACON.

NO - 3: NINA TURNER, CHARLETA B. TAVARES, MICHAEL J. SKINDELL.

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

The report of the committee was accepted.

Senator Niehaus submitted the following report:

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

Merom Brachman, Republican, from Bexley, Franklin County, Ohio, as a Member of the Ethics Commission for a term beginning January 27, 2011 and ending at the close of business January 1, 2013, replacing Angelita Cruz Bridges, who resigned.

Maryann B. Gall, Democrat, from Columbus, Franklin County, Ohio, as a Member of the Ethics Commission for a term beginning January 27, 2011 and ending at the close of business January 1, 2015, replacing Shirley Mays, who resigned.

Orman Hall, from Fairfield County, Ohio, as Director of Alcohol and Drug Addiction Services for a term beginning January 10, 2011 and continuing at the pleasure of the Governor.

John L. Martin, from Franklin County, Ohio, as Director of the Department of Developmental Disabilities for a term beginning January 10, 2011 and continuing at the pleasure of the Governor.

Tracy J. Plouck, from Delaware County, Ohio, as Director of the Department of Mental Health for a term beginning January 10, 2011 and continuing at the pleasure of the Governor.

Having had the same under consideration, reports back the recommendation that the Senate advise and consent to said appointments.

YES - 10: THOMAS E. NIEHAUS, KEITH L. FABER, JIMMY STEWART, SHANNON JONES, CHRIS WIDENER, MARK D. WAGONER, JASON H. WILSON, EDNA BROWN, SHIRLEY A. SMITH, CAPRI S. CAFARO.

NO - 0.

The question being, "Shall the Senate advise and consent to the appointments by the Governor?"

Senator Tavares moved that she 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 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

Bacon	Beagle	Brown	Cafaro
Cates	Daniels	Faber	Gillmor
Grendell	Hite	Hughes	Jones
Jordan	Kearney	LaRose	Lehner
Manning	Obhof	Oelslager	Patton
Sawyer	Schaffer	Schiavoni	Seitz
Skindell	Smith	Stewart	Turner
Wagoner	Widener	Wilson	Niehaus-32.

So the Senate advised and consented to said appointments.

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

OFFERING OF RESOLUTIONS

Senator Faber moved that the resolution, **S. R. No. 40**, be read in full by the Clerk and spread upon the pages of the journal pursuant to Senate Rule No. 54.

S. R. No. 40-Senator Niehaus.

Cosponsors: Senators Patton, Bacon, Beagle, Brown, Cafaro, Cates, Daniels, Faber, Gillmor, Grendell, Hite, Hughes, Jones, Jordan, Kearney, LaRose, Lehner, Manning, Obhof, Oelslager, Sawyer, Schaffer, Schiavoni, Seitz, Skindell, Smith, Stewart, Tavares, Turner, Wagoner, Widener, Wilson.

In memory of Thomas Patton II.

WHEREAS, The members of the Senate of the 129th General Assembly of Ohio were deeply saddened to learn of the death of Thomas Patton II and extend our heartfelt condolences to his family and friends; and

WHEREAS, Thomas Patton II, fondly known as Tommy by his family and friends, left an indelible impression on the people whose lives he touched, and he will be remembered as a spirited individual who contributed immeasurably to the world around him. Tommy followed in the footsteps of his Grandfather, Godfather and many cousins when he chose the honorable profession of law enforcement. A member of the Cleveland Heights Police Department, he never had a complaint made against him, and he was responding to a call on March 13, 2010, when he died in the line of duty; and

WHEREAS, A devoted father to his daughter, Kayleigh, a loving fiancé to Tricia Sindelar, a loyal son to his parents, Thomas and the late Evelyn, a dutiful brother to his five sisters: Shannon, Erin, Meghan, Bridget and Kathleen, and a proud uncle, Tommy Patton will be remembered for his generosity, talents, and seemingly inexhaustible energy. His kind heart and playful sense of humor illuminated the lives of all who knew him. He had a strong faith and demonstrated a sincere concern for the people of Cuyahoga County, and he passionately gave back to the community far more than he gleaned; and

WHEREAS, Tommy Patton's steadfast commitment to the safety and well-being of the residents of Cleveland Heights clearly shows the potential of individuals to have a positive effect on the quality of life in our society. It is our sincere hope that his tireless efforts will inspire others to dedicate themselves similarly; therefore be it

RESOLVED, That we, the members of the Senate of the 129th General Assembly of Ohio, in adopting this Resolution, express a profound sense of loss and sincere regret at the death of Thomas Patton II and, in so doing, pay tribute to the memory of a truly unique individual; and be it further

RESOLVED, That the Clerk of the Senate transmit a duly authenticated copy of this Resolution to the family of Thomas F. Patton II.

I, Vincent L. Keeran, hereby certify that the above is a true and correct copy of Senate Resolution No. 40, adopted by the Ohio Senate, March 15, 2011.

The question being, "Shall the resolution, **S. R. No. 40**, be adopted?"

So the resolution was adopted.

On the motion of Senator Faber the Senate revert to the Sixth Order of Business, Bills for Third Consideration.

BILLS FOR THIRD CONSIDERATION

S. B. No. 80-Senators Cates, Hughes.

Cosponsors: Senators Cafaro, Wilson, Grendell, Stewart, Lehner, Seitz, Turner, Obhof, Schiavoni, Bacon, Manning, Brown, LaRose, Smith, Oelslager, Schaffer, Jones, Niehaus, Faber, Widener, Kearney, Sawyer, Wagoner, Hite, Gillmor, Tavares, Jordan, Daniels.

To enact section 5533.686 of the Revised Code to designate a portion of United States Route 322 within Cleveland Heights the "Officer Thomas F. Patton II Memorial Highway, was considered the third time.

The question being, "Shall the bill, **S. B. No. 80**, pass?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Bacon	Beagle	Brown	Cafaro
Cates	Daniels	Faber	Gillmor
Grendell	Hite	Hughes	Jones
Jordan	Kearney	LaRose	Lehner
Manning	Obhof	Oelslager	Patton
Sawyer	Schaffer	Schiavoni	Seitz
Skindell	Smith	Stewart	Tavares
Turner	Wagoner	Widener	Wilson
			Niehaus-33.

So the bill passed.

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

Senator Cates moved to amend the title as follows:

Add the names: "Patton, Beagle, Skindell."

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

The motion was agreed to and the title so amended.

Am. Sub. H. B. No. 30-Representative Gardner.

Cosponsors: Representatives Wachtmann, Stautberg, Sears, Derickson, Brenner, Maag, Adams, J., Carey, Beck, Blair, Burke, Combs, Hottinger, Snitchler, Kozlowski, Grossman, Bubb, Stebelton, Ruhl, Blessing, Huffman, Baker, Hackett, McClain, Amstutz, Roegner, Henne, Young, Anielski, Boose, Buchy, Coley, Dovilla, Duffey, Gonzales, Goodwin, Hall, Hayes, Martin, Mecklenborg, Newbold, Peterson, Rosenberger, Schuring, Slaby, Thompson, Uecker, Speaker Batchelder. Senator Hite.

To amend sections 3301.07, 3301.16, 3302.05, 3302.07, 3306.01, 3306.02, 3306.05, 3306.06, 3306.07, 3306.08, 3306.09, 3306.091, 3306.10, 3315.18, 3315.19, 3316.06, 3316.16, 3317.018, 3317.024, 3321.01, and 3321.05; to enact section 3301.96; and to repeal sections 3306.18, 3306.25, 3306.30, 3306.31, 3306.33, 3306.34, 3306.35, 3306.40, 3313.821, 3313.822, 3315.17, 3315.171, and 3318.312 of the Revised Code; and to repeal Section 265.70.70 of Am. Sub. H.B. 1 of the 128th General Assembly and Section 9 of Sub. H.B. 318 of the 128th General Assembly to eliminate spending and reporting requirements related to the school funding system, to eliminate the prohibition on unit funding for gifted student services effective after fiscal year 2011, to eliminate the requirement that school districts offer all-day kindergarten, to eliminate the requirement that school districts annually set aside operating funds for textbooks and instructional materials, and to eliminate the requirement that school districts establish family and civic engagement teams except as required for implementation of federal "Race to the Top" grants, was considered the third time.

The question being, "Shall the bill, **Am. Sub. H. B. No. 30**, pass?"

The yeas and nays were taken and resulted - yeas 25, nays 8, as follows:

Those who voted in the affirmative were: Senators

Bacon	Beagle	Cates	Daniels
Faber	Gillmor	Grendell	Hite
Hughes	Jones	Jordan	LaRose
Lehner	Manning	Obhof	Oelslager
Patton	Sawyer	Schaffer	Seitz
Stewart	Wagoner	Widener	Wilson
			Niehaus-25.

Senators Brown, Cafaro, Kearney, Schiavoni, Skindell, Smith, Tavares, and Turner voted in the negative-8.

So the bill passed.

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

Senator Lehner moved to amend the title as follows:

Add the names: "Bacon, Beagle, Daniels, Grendell, Hughes, Jones, Jordan, LaRose, Lehner, Patton, Schaffer, Seitz, Wagoner, Widener, Cates, Niehaus,

Manning."

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

The motion was agreed to and the title so amended.

INTRODUCTION AND FIRST CONSIDERATION OF BILLS

The following bills were introduced and considered the first time:

S. B. No. 118-Senator Cates.

Cosponsors: Senators Schaffer, Gillmor, Brown.

To amend sections 3301.922, 3302.032, 3313.674, 3314.03, and 3326.11 and to enact sections 3314.15 and 3326.26 of the Revised Code to make schools' implementation of body mass index screenings optional.

S. B. No. 119-Senator Kearney.

Cosponsors: Senators Smith, Seitz.

To create the Commission to Study the Sale of the State Lottery.

S. B. No. 120-Senator Beagle.

Cosponsors: Senators Seitz, Schaffer, Wagoner, Tavares.

To amend section 309.09 of the Revised Code to make clear that the prosecuting attorney of a county is the legal adviser of all tax-supported public libraries.

OFFERING OF RESOLUTIONS

Pursuant to Senate Rule No. 54, the following resolutions were offered:

S. R. No. 41-Senator Bacon.

Cosponsors: Senators Brown, Tavares.

Recognizing Child Abuse and Neglect Prevention Month in Ohio, April 2011.

S. R. No. 42-Senator Jordan.

Honoring Trent Tobin as the 2010 Junior Poles World Champion.

S. R. No. 43-Senator Kearney.

Cosponsor: Senator Jones.

Honoring Coach Sarah Catlin on being named the 2010 United States Coach of the Year.

S. R. No. 44-Senator Kearney.

Cosponsor: Senator Jones.

Honoring the St. Ursula Academy field hockey team as the 2010 Division I State Champion.

The question being, "Shall the resolutions listed under the President's prerogative be adopted?"

So the resolutions were adopted.

COMMUNICATIONS FROM THE GOVERNOR

The President handed down the following message from the Governor which was read by the Clerk:

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

I, John R. Kasich, Governor of the State of Ohio, do hereby appoint, James M. Petro, from Franklin County, Ohio, as Chancellor of the Ohio Board of Regents for a term pursuant to Ohio Revised Code Section 3333.03, replacing Eric D. Fingerhut, who resigned effective March 13, 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 14th day of March in the year of our Lord, two thousand and eleven.

[Seal]

John R. Kasich,
Governor.

Senator Faber moved that the appointment be referred to the Committee on Education.

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

The motion was agreed to.

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. 114 -Representative McGregor

Cosponsors: Representatives Amstutz, Carey, Adams, R., Anielski, Antonio, Ashford, Baker, Barnes, Beck, Blair, Blessing, Boose, Brenner, Bulp, Buchy,

Carney, Celeste, Clyde, Combs, Derickson, Dovilla, Driehaus, Duffey, Fedor, Fende, Garland, Gentile, Gerberry, Gonzales, Goodwin, Goyal, Hackett, Hagan, C., Hall, Hayes, Heard, Henne, Hollington, Huffman, Johnson, Landis, Letson, Luckie, McClain, McKenney, Mecklenborg, Milkovich, Murray, Newbold, O'Brien, Patmon, Peterson, Phillips, Reece, Roegner, Rosenberger, Ruhl, Schuring, Sears, Slaby, Sprague, Stebelton, Stinziano, Sykes, Szollosi, Thompson, Uecker, Weddington, Williams, Winburn, Young, Yuko

To amend sections 122.075, 125.11, 127.12, 164.04, 164.08, 4163.07, 4301.62, 4501.02, 4501.06, 4501.21, 4501.81, 4503.03, 4503.031, 4503.04, 4503.521, 4503.62, 4503.94, 4505.06, 4505.09, 4506.08, 4507.05, 4507.23, 4510.43, 4511.108, 4511.53, 4511.69, 4513.24, 4517.01, 4517.02, 4517.33, 4582.12, 4582.31, 4905.802, 5501.51, 5501.55, 5502.011, 5525.15, 5577.042, and 5751.01, to amend, for the purpose of adopting a new section number as shown in parentheses, section 4905.802 (4905.801), to enact sections 4503.037, 4517.16, 4517.17, 4517.171, 4517.18, and 4749.031, to repeal sections 4501.14 and 4905.801 of the Revised Code, and to amend Section 512.90 of Am. Sub. H.B. 1 of the 128th General Assembly, to make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2011 and ending June 30, 2013, and to provide authorization and conditions for the operation of those programs.

Attest:

Laura P. Clemens,
Clerk.

Said bill was considered the first time.

On the motion of Senator Faber, the Senate adjourned until Wednesday, March 16, 2011 at 1:30 p.m.

Attest:

VINCENT L. KEERAN,
Clerk.