

**OHIO**

**SENATE**

**JOURNAL**

WEDNESDAY, MARCH 30, 2011

THIRTY-FIFTH DAY  
Senate Chamber, Columbus, Ohio  
**Wednesday, March 30, 2011, 1:30 p.m.**

The Senate met pursuant to adjournment.

Prayer was offered by Pastor Sandra Mann, Full Gospel Pentecostal Church, Gnadenhutten, 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:

**S. B. No. 133**-Senators Bacon, Brown.

To amend section 3109.16 of the Revised Code to permit the Ohio Children's Trust Fund to obtain public and private funds for the purpose of child abuse and child neglect prevention.

To the Committee on Health, Human Services and Aging.

**S. B. No. 134**-Senator Wagoner.

To enact section 5.2267 of the Revised Code to designate March 29 as "Vietnam Veterans' Day."

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

**S. B. No. 135**-Senator Kearney, et al.

To enact section 5.2267 of the Revised Code to designate the month of September as "Craniofacial Acceptance Month."

To the Committee on Health, Human Services and Aging.

YES - 10 THOMAS E. NIEHAUS, KEITH L. FABER, SHANNON  
JONES, CHRIS WIDENER, MARK D. WAGONER,

SCOTT OELSLAGER, 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 Hite submitted the following report:

The standing committee on Agriculture, Environment and Natural Resources, to which was referred **Sub. H. B. No. 22**-Representative Bulp, et al., having had the same under consideration, reports it back and recommends its passage.

Co-Sponsors: Brown, Wilson, Hite, Schaffer, Manning.

YES - 9: JOSEPH SCHIAVONI, EDNA BROWN, JASON H. WILSON, CLIFF HITE, TIMOTHY O. SCHAFFER, KEITH L. FABER, TIMOTHY J. GRENDALL, GAYLE MANNING, JIMMY STEWART.

NO - 0.

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

The report of the committee was accepted.

Senator Patton submitted the following report:

The standing committee on Highways and Transportation, to which was referred **S. B. No. 36**-Senator Hughes, et al., having had the same under consideration, reports it back with the following amendments and recommends its passage when so amended.

In line 19, delete " shall" and insert " may"

In line 29, delete " shall" and insert " may"

In line 31, delete the second " the" and insert " any"

Co-Sponsors: Patton, Wilson.

YES - 8: TOM PATTON, FRANK LAROSE, KRIS JORDAN, PEGGY B. LEHNER, JASON H. WILSON, NINA TURNER, JOSEPH SCHIAVONI, KAREN GILLMOR.

NO - 1: GARY W. CATES.

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

Senator Patton submitted the following report:

The standing committee on Highways and Transportation, to which was referred **S. B. No. 132**-Senator Patton, having had the same under consideration, reports it back and recommends its passage.

Co-Sponsors: LaRose, Lehner, Wilson, Turner.

YES - 9: TOM PATTON, FRANK LAROSE, KRIS JORDAN, PEGGY B. LEHNER, JASON H. WILSON, NINA TURNER, JOSEPH SCHIAVONI, KAREN GILLMOR, GARY W. CATES.

NO - 0.

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 was referred the appointment by the Governor of:

**Jack R. Marchbanks**, from Columbus, Franklin County, Ohio, as a Member of the Transportation Review Advisory Council for a term beginning March 9, 2011 and ending at the close of business June 29, 2014, replacing Tom Studevart, whose term expired.

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

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

NO - 0.

The question being, "Shall the Senate advise and consent to the appointment 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	Tavares
Turner	Widener	Wilson	Niehaus-32.

So the Senate advised and consented to said appointment.

### HOUSE AMENDMENTS TO SENATE BILLS AND RESOLUTIONS

The amendments of the House of Representatives to:

#### **Sub. S. B. No. 4-Senator Schaffer.**

Cosponsors: Senators Daniels, Hughes, LaRose, Brown, Turner, Bacon, Beagle, Cates, Faber, Gillmor, Grendell, Hite, Jones, Jordan, Lehner, Manning, Niehaus, Obhof, Patton, Seitz, Stewart, Tavares, Wagoner, Widener, Wilson. Representatives Amstutz, Carey, Gardner, Sears, Balderson, Adams, R., Anielski, Antonio, Baker, Barnes, Beck, Blair, Blessing, Boose, Brenner, Bulp, Buchy, Budish, Butler, Carney, Celeste, Coley, Combs, DeGeeter, Derickson, Dovilla, Driehaus, Duffey, Fedor, Fende, Garland, Gentile, Gerberry, Gonzales, Goyal, Hackett, Hagan, C., Hall, Hayes, Henne, Hottinger, Huffman, Johnson, Kozlowski, Letson, Luckie, Lundy, Maag, Mallory, Martin, McClain, Mecklenborg, Milkovich, Newbold, O'Brien, Peterson, Phillips, Pillich, Ramos, Rosenberger, Ruhl, Schuring, Slaby, Slesnick, Sprague, Stautberg, Stebelton, Stinziano, Sykes, Szollosi, Thompson, Uecker, Wachtmann, Weddington, Winburn, Young, Yuko, Speaker Batchelder.

To enact sections 117.46, 117.461, 117.462, 117.463, 117.47, 117.471, and 117.472 of the Revised Code to require performance audits of most state agencies, to loan funds to state agencies and local public offices to pay for performance audits, and to make an appropriation, having been informally passed, were taken up.

The question being, "Shall the Senate concur in the House amendments to **Sub. S. B. No. 4?**"

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 Senate concurred in the amendments of the House of Representatives.

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

The title was agreed to.

### **RESOLUTIONS REPORTED BY COMMITTEE**

**S. C. R. No. 4**-Senator Daniels.

Cosponsors: Senators Stewart, Niehaus, Hite, Seitz, Jones, Bacon, Patton, Beagle, Hughes, Wilson, Grendell, Schaffer, Faber, Gillmor, Widener, Manning, Wagoner, Cafaro, LaRose, Sawyer, Jordan.

To urge the President of the United States to direct the United States Department of Energy to ensure the continuation of the uranium enrichment work being developed by USEC, Inc., at its Piketon, Ohio plant by granting USEC's application for a federal loan guarantee and to direct the Secretary of Energy to strongly consider providing federal funding assistance for the Clean Energy Park Demonstration Project.

WHEREAS, USEC, Inc. is a global and leading supplier of enriched uranium fuel for commercial nuclear power plants; and

WHEREAS, USEC currently operates the American Centrifuge Demonstration Facility in Piketon, Ohio, that develops next generation uranium enrichment technology; and

WHEREAS, The United States Department of Energy (USDOE) currently is considering USEC's application for a federal loan guarantee for the construction of its American Centrifuge Plant in Piketon; and

WHEREAS, USEC and the Ohio General Assembly believe that the American Centrifuge Plant project has met the financial and technical requirements of the USDOE's Loan Guarantee Program as well as President Obama's policy objectives for energy security and climate change goals and that the plant has demonstrated with confidence that it is technologically ready to transition to commercial operation; and

WHEREAS, The construction and operation of the American Centrifuge Plant will create up to an estimated 8,000 jobs, approximately half of which will be in Ohio; and

WHEREAS, USDOE's failure to grant a loan guarantee will force USEC, at a critical time in Ohio's economy, to demobilize its American Centrifuge Plant uranium enrichment project jeopardizing the expansion efforts at the Piketon plant and resulting in job losses in Ohio and several other states; and

WHEREAS, President Obama has expressed his support for the American Centrifuge Plant when campaigning in Ohio; and

WHEREAS, In a separate effort, USEC, the Southern Ohio Diversification Initiative, and power developers have joined to form the Southern Ohio Clean Energy Park Alliance for the purpose of pursuing the proposed development of a Clean Energy Park Demonstration Project at the USDOE site in Piketon and to support reindustrialization and asset reutilization as the cleanup work at this site nears completion; and

WHEREAS, The Alliance proposes to evaluate the Portsmouth Gaseous Diffusion Plant site in Piketon as a potential location for a new nuclear power plant and include in the evaluation both a plant siting study and the preparation of licensing documents for submission to the United States Nuclear Regulatory Commission as part of its Early Site Permit process; and

WHEREAS, A Generation III+ nuclear power reactor located at this site, would create over 2,000 construction jobs with an estimated payroll of \$1.2 billion over six years and add approximately 500 permanent professional and technical jobs to the region without producing carbon emissions; and

WHEREAS, A shared funding approach between the USDOE and the Alliance is an appropriate method of funding this multi-billion dollar project due to possible environmental contamination at the Portsmouth Gaseous Diffusion Plant site, and whereby, under this approach, the USDOE would fund the preparation of the Early Site Permit and the Combined Operating License Application, and then the Alliance would fund the nuclear power plant project as it progresses; and

WHEREAS, The USDOE has the authority to direct federal funds toward projects such as the Clean Energy Park Demonstration Project; now therefore be it

RESOLVED, That we, the members of the 129th General Assembly of the State of Ohio, urge the President of the United States to direct the Secretary of USDOE to award USEC, at the earliest opportunity, the federal loan guarantee for which it applied; and be it further

RESOLVED, That we, the members of the 129th General Assembly of the State of Ohio, urge the President of the United States to direct the Secretary of USDOE to give strong consideration to the request made by the Southern Ohio Clean Energy Park Alliance for federal funding assistance for the Clean

Energy Park Demonstration Project in Piketon, Ohio; and be it further

RESOLVED, That the Clerk of the Senate transmit duly authenticated copies of this resolution to the President of the United States, the Secretary of the United States Department of Energy, the members of the Ohio Congressional delegation, the Governor of Ohio, the Board of Pike County Commissioners, and the news media of Ohio.

The question being, "Shall the concurrent resolution, **S. C. R. No. 4**, be adopted?"

The yeas and nays were taken and resulted - yeas 31, nays 2, 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
Smith	Stewart	Turner	Wagoner
Widener	Wilson		Niehaus-31.

Senators Skindell and Tavares voted in the negative-2.

So the concurrent resolution was adopted.

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

Senator Daniels moved to amend the title as follows:

Add the names: "Cates, Jordan, Lehner, Obhof, Patton, Seitz, Smith, Stewart, Widener, Wilson."

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. 132**-Senator Patton.

Cosponsors: Senators LaRose, Lehner, Wilson, Turner.

To enact section 5533.359 of the Revised Code to designate the bridge that will span the Cuyahoga River in Cuyahoga County and will be part of Interstate 90 and has an approximate scheduled completion date of late 2016 or early 2017 the "George V. Voinovich Bridge", 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 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 Patton moved to amend the title as follows:

Add the names: "Bacon, Beagle, Cafaro, Cates, Daniels, Faber, Gillmor, Hite, Hughes, Jordan, Manning, Obhof, Oelslager, Patton, Sawyer, Schaffer, Seitz, Stewart, Tavares, Wagoner, Widener, Wilson."

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

The motion was agreed to and the title so amended.

### **MOTIONS**

Senator Jones moved that Senators absent the week of Sunday, March 27, 2011, 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. 136**-Senators Oelslager, Cafaro.

Cosponsors: Senators Seitz, Lehner, Gillmor, Patton, Manning, Tavares, Grendell, Sawyer, Wagoner.

To amend sections 1753.16, 3901.381, 3901.385, 3901.388, and 3963.04 of the Revised Code to make changes to the law regarding preapproval of and payment for health care services.

### **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:

**Am. H. B. No. 5** -Representative Huffman

Cosponsors: Representatives Okey, Murray, Letson, McKenney, Coley, Bulp, Carney, Combs, DeGeeter, Derickson, Foley, Garland, Luckie, Mallory, McClain, Milkovich, O'Brien, Patmon, Pillich, Slaby, Stebelton, Stinziano, Williams, Speaker Batchelder

To amend section 2329.66 and to enact sections 2746.01, 2746.02, 2746.03, 2746.04, 2746.05, 2746.06, 2746.07, 2746.08, and 2746.09 of the Revised Code to require the Ohio Judicial Conference periodically to adjust the dollar amounts specified in the general exemption statute and to provide consolidated references to Revised Code sections that establish costs and fees, other than attorney fees, in the courts of record of this state.

Attest:

Laura P. Clemens,  
Clerk.

Said bill was considered the first time.

**Message from the House of Representatives**

Mr. President:

I am directed to inform you that the House of Representatives has concurred in the passage of the following bill:

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

Cosponsors: Senators Patton, 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, Beagle, Skindell  
Representatives DeGeeter, Hagan, R., Adams, R., Antonio, Ashford, Baker, Barnes, Beck, Blair, Blessing, Boose, Brenner, Bulp, Buchy, Budish, Burke, Butler, Carey, Carney, Celeste, Clyde, Coley, Combs, Derickson, Dovilla, Driehaus, Duffey, Fedor, Fende, Foley, Gardner, Garland, Gentile, Gerberry, Gonzales, Goodwin, Goyal, Grossman, Hackett, Hagan, C., Hall, Hayes, Heard, Henne, Hollington, Hottinger, Huffman, Johnson, Landis, Letson, Luckie, Lundy, Maag, Mallory, McClain, McGregor, McKenney, Mecklenborg, Milkovich, Murray, Newbold, O'Brien, Okey, Patmon, Peterson, Phillips, Pillich, Ramos, Reece, Roegner, Rosenberger, Ruhl, Schuring, Sears, Slaby, Slesnick, Sprague, Stautberg, Stinziano, Sykes, Szollosi, Thompson, Uecker, Wachtmann, Weddington, Williams, Young, Yuko, Speaker Batchelder

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."

Attest:

Laura P. Clemens,  
Clerk.

On the motion of Senator Faber, the Senate recessed until 8:10 p.m.

The Senate met pursuant to the recess.

### **Message from the House of Representatives**

Mr. President:

I am directed to inform you that the House of Representatives has concurred in the passage of the following bill:

#### **Am. Sub. S. B. No. 5 -Senator Jones**

To amend sections 9.81, 9.90, 9.901, 102.02, 103.74, 109.33, 122.40, 122.64, 122.72, 124.11, 124.134, 124.14, 124.15, 124.152, 124.181, 124.322, 124.325, 124.34, 124.38, 124.382, 124.388, 124.39, 124.81, 124.82, 126.32, 141.01, 141.02, 145.012, 145.47, 306.04, 307.054, 339.06, 339.07, 340.04, 505.38, 505.49, 505.60, 709.012, 742.31, 742.63, 749.082, 749.083, 917.03, 927.69, 991.02, 1349.71, 1509.35, 1513.182, 1513.29, 1545.071, 1551.35, 1707.36, 1707.46, 3301.03, 3304.12, 3306.01, 3307.27, 3307.77, 3309.47, 3311.19, 3313.12, 3313.202, 3313.23, 3313.24, 3313.33, 3313.42, 3314.10, 3316.07, 3317.01, 3317.018, 3317.11, 3317.13, 3319.01, 3319.011, 3319.02, 3319.06, 3319.08, 3319.084, 3319.085, 3319.088, 3319.09, 3319.10, 3319.11, 3319.111, 3319.13, 3319.14, 3319.141, 3319.17, 3319.172, 3319.18, 3319.61, 3319.63, 3326.18, 3332.03, 3701.33, 3737.81, 3737.90, 3770.02, 3772.06, 3773.33, 3781.07, 4112.03, 4117.01, 4117.02, 4117.03, 4117.05, 4117.06, 4117.07, 4117.08, 4117.09, 4117.10, 4117.11, 4117.12, 4117.13, 4117.14, 4117.15, 4117.18, 4117.20, 4117.21, 4123.352, 4301.07, 4517.30, 4701.03, 4701.05, 4703.03, 4703.31, 4709.04, 4715.06, 4717.02, 4723.02, 4725.06, 4725.46, 4729.03, 4730.05, 4731.03, 4732.05, 4733.05, 4734.03, 4738.09, 4741.02, 4747.03, 4753.04, 4755.01, 4757.05, 4758.12, 4759.03, 4761.02, 4763.02, 4775.05, 4905.10, 4906.02, 4911.07, 5107.26, 5119.09, 5123.51, 5126.24, 5139.02, 5503.03, 5505.15, and 5703.09, to enact new section 3319.112 and sections 124.94, 4113.80, 4117.081, 4117.104, 4117.105, 4117.106, 4117.107, 4117.108, 4117.109, 4117.141, 4117.26, and 4117.27, and to repeal sections 3317.12, 3317.14, 3319.112, 3319.131, 3319.142, 3319.143, 4117.16, 4117.22, and 4117.23 of the Revised Code to make

various changes to laws concerning public employees, including collective bargaining, salary schedules and compensation, layoff procedures, and leave.

As a substitute bill with the following additional amendments, in which the concurrence of the Senate is requested.

In line 11373, reinsert the stricken comma; delete "and"; reinsert ", and (D)"

In line 11725, delete "thirty" and insert "fifteen"

In line 11755, delete "cannot" and insert "determines that insufficient funds exist"

In line 11781, delete "(2)"

Attest:

Laura P. Clemens,  
Clerk.

Senator Faber moved that Senate Rule No. 44 be suspended and that **Am. Sub. S. B. No. 5** be brought up for consideration.

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 20, nays 13, as follows:

Those who voted in the affirmative were: Senators

Bacon	Beagle	Cates	Daniels
Faber	Gillmor	Grendell	Hite
Jones	Jordan	LaRose	Lehner
Manning	Obhof	Schaffer	Seitz
Stewart	Wagoner	Widener	Niehaus-20.

Those who voted in the negative were: Senators

Brown	Cafaro	Hughes	Kearney
Oelslager	Patton	Sawyer	Schiavoni
Skindell	Smith	Tavares	Turner
			Wilson-13.

The motion was agreed to.

The question being, "Shall the Senate concur in the House amendments to **Am. Sub. S. B. No. 5**?"

The yeas and nays were taken and resulted - yeas 17, nays 16, as follows:

Those who voted in the affirmative were: Senators

Bacon	Beagle	Cates	Daniels
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Faber	Gillmor	Hite	Jones
Jordan	LaRose	Lehner	Obhof
Schaffer	Stewart	Wagoner	Widener
			Niehaus-17.

Those who voted in the negative were: Senators

Brown	Cafaro	Grendell	Hughes
Kearney	Manning	Oelslager	Patton
Sawyer	Schiavoni	Seitz	Skindell
Smith	Tavares	Turner	Wilson-16.

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

Pursuant to Senate Rule No. 65, Senator Skindell demanded a verification of the vote.

The President directed the Clerk to read, first the names of those senators who voted in the affirmative, then of those who voted in the negative.

The Clerk preceded to read the names of those senators who voted in the affirmative, then of those who voted in the negative.

The roll call was verified and the results declared.

On the motion of Senator Faber, the Senate adjourned until Thursday, March 31, 2011 at 11:00 o'clock a.m.

Attest:

VINCENT L. KEERAN,  
Clerk.