

**OHIO**

**SENATE**

**JOURNAL**

WEDNESDAY, MAY 9, 2012

ONE HUNDRED SEVENTY-SEVENTH DAY  
Senate Chamber, Columbus, Ohio  
**Wednesday, May 9, 2012, 1:30 p.m.**

The Senate met pursuant to adjournment.

Prayer was offered by Father Bob Craig, St. John Neumann Roman Catholic Church, Strongsville, 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 resolution and bills, standing in order for second consideration, be referred to committee as recommended:

**S. C. R. No. 30**-Senators Widener, Kearney, et al.

To designate Central State University as Ohio's 1890 land grant university and to request that the United States Congress pass legislation and the United States Department of Agriculture take steps to recognize that designation and provide the institution with all of the benefits of the designation.

To the Committee on Finance.

**S. B. No. 340**-Senators Niehaus, Kearney.

To amend sections 171.04, 742.01, 742.04, 742.10, 742.14, 742.16, 742.30, 742.301, 742.31, 742.32, 742.33, 742.34, 742.35, 742.37, 742.3711, 742.3716, 742.38, 742.39, 742.44, 742.442, 742.443, 742.444, 742.45, 742.63, and 742.64; to enact sections 742.012, 742.013, and 742.161; and to repeal section 742.011 of the Revised Code to revise the law governing the Ohio Police and Fire Pension Fund.

To the Committee on Insurance, Commerce and Labor.

**S. B. No. 341**-Senators Niehaus, Kearney.

To amend sections 3309.05, 3309.051, 3309.061, 3309.07, 3309.072, 3309.074, 3309.075, 3309.10, 3309.15, 3309.21, 3309.22, 3309.23, 3309.26, 3309.28, 3309.33, 3309.34, 3309.341, 3309.343, 3309.35, 3309.353, 3309.354, 3309.36, 3309.362, 3309.371, 3309.373, 3309.376, 3309.379,

3309.3710, 3309.3711, 3309.39, 3309.401, 3309.41, 3309.44, 3309.45, 3309.46, 3309.47, 3309.50, 3309.51, 3309.69, and 3309.88; to enact new section 3309.571 and sections 3309.392 and 3309.474; and to repeal sections 3309.38 and 3309.571 of the Revised Code to revise the law governing the School Employees Retirement System.

To the Committee on Insurance, Commerce and Labor.

**S. B. No. 342**-Senators Niehaus, Kearney.

To amend sections 3305.06, 3307.01, 3307.031, 3307.04, 3307.14, 3307.142, 3307.20, 3307.214, 3307.25, 3307.251, 3307.252, 3307.26, 3307.28, 3307.33, 3307.35, 3307.351, 3307.352, 3307.371, 3307.39, 3307.391, 3307.42, 3307.46, 3307.47, 3307.50, 3307.501, 3307.51, 3307.512, 3307.52, 3307.53, 3307.56, 3307.561, 3307.562, 3307.563, 3307.57, 3307.58, 3307.59, 3307.60, 3307.62, 3307.63, 3307.631, 3307.64, 3307.66, 3307.661, 3307.67, 3307.671, 3307.694, 3307.71, 3307.711, 3307.712, 3307.72, 3307.73, 3307.74, 3307.75, 3307.751, 3307.752, 3307.76, 3307.761, 3307.763, 3307.764, 3307.77, 3307.771, 3307.78, 3307.79, 3307.80, 3307.81, 3307.811, 3307.812, 3307.83, 3307.84, 3307.86, 3307.87, 3307.89, 3307.98, and 3313.975; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 3307.64 (3307.48) and 3307.70 (3307.701); to enact new section 3307.70 and section 3307.143; and to repeal sections 3307.54, 3307.61, 3307.741, 3307.88, 3307.881, and 3307.882 of the Revised Code to revise the law governing the State Teachers Retirement System.

To the Committee on Insurance, Commerce and Labor.

**S. B. No. 343**-Senators Niehaus, Kearney.

To amend sections 101.92, 101.93, 145.01, 145.04, 145.041, 145.05, 145.057, 145.06, 145.09, 145.19, 145.191, 145.192, 145.193, 145.20, 145.201, 145.22, 145.23, 145.27, 145.28, 145.29, 145.291, 145.293, 145.294, 145.295, 145.297, 145.298, 145.299, 145.2911, 145.2912, 145.2913, 145.2914, 145.30, 145.301, 145.32, 145.323, 145.33, 145.331, 145.35, 145.36, 145.361, 145.362, 145.37, 145.38, 145.383, 145.384, 145.39, 145.40, 145.401, 145.41, 145.43, 145.45, 145.452, 145.46, 145.461, 145.462, 145.47, 145.473, 145.48, 145.483, 145.49, 145.51, 145.54, 145.56, 145.561, 145.563, 145.58, 145.62, 145.63, 145.64, 145.813, 145.814, 145.82, 145.83, 145.87, 145.92, 145.95, 145.97, 742.63, 2329.66, 2921.13, 3105.80, 3305.06, 3305.57, 3309.312, 3309.35, and 3375.411; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 145.29 (145.292) and 145.325 (145.584); to enact new sections 145.29 and 145.332 and sections 145.016, 145.017,

145.036, 145.037, 145.038, 145.101, 145.194, 145.195, 145.2915, 145.2916, 145.363, 145.431, 145.574, 2901.431, and 2929.194; and to repeal sections 145.02, 145.292, 145.321, 145.322, 145.324, 145.326, 145.327, 145.328, 145.329, 145.3210, 145.3211, 145.3212, 145.3213, 145.332, 145.34, 145.42, and 145.44 of the Revised Code to revise the law governing the Public Employees Retirement System.

To the Committee on Insurance, Commerce and Labor.

YES - 9: THOMAS E. NIEHAUS, KEITH L. FABER, TOM PATTON, MARK D. WAGONER, EDNA BROWN, NINA TURNER, JOSEPH SCHIAVONI, ERIC H. KEARNEY, CHRIS WIDENER.

NO - 0.

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

The report of the committee was accepted.

Said resolution and bills were considered a second time and referred to committee as recommended.

#### **REPORTS OF STANDING AND SELECT COMMITTEES**

Senator Bacon submitted the following report:

The standing committee on Insurance, Commerce and Labor, to which was referred **H. B. No. 491**-Representatives Young, Kozlowski, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Beagle, Hughes, Schaffer, Cafaro, Brown, Bacon.

YES - 12: BILL BEAGLE, JIM HUGHES, SHANNON JONES, KRIS JORDAN, TIMOTHY O. SCHAFFER, NINA TURNER, JOSEPH SCHIAVONI, CAPRI S. CAFARO, EDNA BROWN, KEITH L. FABER, KEVIN BACON, CLIFF HITE.

NO - 0.

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

The report of the committee was accepted.

Senator Coley submitted the following report:

The standing committee on Government Oversight and Reform, to which was referred **Sub. H. B. No. 386**-Representative Blessing, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

YES - 8: SHIRLEY A. SMITH, LOU GENTILE, KEITH L. FABER, CLIFF HITE, GAYLE MANNING, LARRY OBHOF, CHRIS WIDENER, BILL COLEY.

NO - 0.

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

The report of the committee was accepted.

Senator Wagoner submitted the following report:

The standing committee on Judiciary, to which was referred **S. B. No. 224**-Senator Obhof, et al., having had the same under consideration, reports it back with the following amendments and recommends its passage when so amended.

In line 9, delete "six" and insert "eight"

After line 14, insert:

**"Section 4.** For causes of action that are governed by section 2305.06 of the Revised Code and accrued prior to the effective date of this act, the period of limitations shall be eight years from the effective date of this act or the expiration of the period of limitations in effect prior to the effective date of this act, whichever occurs first."

Co-Sponsors: Wagoner, LaRose, Eklund.

YES - 9: LARRY OBHOF, MARK D. WAGONER, SCOTT OELSLAGER, FRANK LAROSE, JOHN EKLUND, NINA TURNER, BILL SEITZ, SHIRLEY A. SMITH, KEITH L. FABER.

NO - 0.

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

The report of the committee was accepted.

Senator Wagoner submitted the following report:

The standing committee on Judiciary, to which was referred **Am. Sub. H. B. No. 326**-Representatives McClain, Hill, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: LaRose, Eklund.

YES - 9: LARRY OBHOF, MARK D. WAGONER, SCOTT OELSLAGER, FRANK LAROSE, JOHN EKLUND, NINA TURNER, BILL SEITZ, SHIRLEY A. SMITH, KEITH L. FABER.

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 were referred the appointments by the Governor of:

**Kenneth P. Drude**, from Dayton, Montgomery County, Ohio, as a Member of the State Board of Psychology for a term beginning February 28, 2012 and ending at the close of business October 4, 2016, replacing Dr. Willie Williams, whose term expired.

**William C. Neu, III**, from Delaware, Delaware County, Ohio, as a Member of the State Board of Orthotics, Prosthetics and Pedorthics for a new term beginning February 21, 2012 and ending at the close of business December 6, 2014.

**Robert R. Reed, Ph.D.**, from Columbus, Franklin County, Ohio, as a Member of the State Board of Orthotics, Prosthetics and Pedorthics for a new term beginning February 21, 2012 and ending at the close of business December 6, 2014.

**Robert A. Slabodnick**, from Ashland, Ashland County, Ohio, as a Member of the Ohio Respiratory Care Board for a term beginning February 16, 2012 and ending at the close of business March 14, 2014, replacing Susan M. Ciarlariello, whose term expired.

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

YES - 9: THOMAS E. NIEHAUS, KEITH L. FABER, TOM PATTON, MARK D. WAGONER, EDNA BROWN, NINA TURNER, JOSEPH SCHIAVONI, ERIC H.

## KEARNEY, CHRIS WIDENER.

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

Bacon	Balderson	Beagle	Brown
Burke	Cafaro	Coley	Eklund
Faber	Gentile	Hite	Hughes
Jones	Jordan	Kearney	LaRose
Lehner	Manning	Obhof	Oelslager
Patton	Peterson	Sawyer	Schaffer
Schiavoni	Seitz	Smith	Tavares
Turner	Wagoner	Widener	Niehaus-32.

So the Senate advised and consented to said appointments.

**BILLS FOR THIRD CONSIDERATION**

**Sub. H. B. No. 383**-Representative Slaby.

Cosponsors: Representatives Grossman, Combs, McGregor, Roegner, Bubp, Letson, Amstutz, Barnes, Blair, Blessing, Boose, Huffman, Milkovich, Rose, Sears, Stebelton, Winburn, Young, Speaker Batchelder. Senators Bacon, Schaffer, Jones.

To amend section 1345.01 and to enact sections 4722.01 to 4722.04 and 4722.06 to 4722.08 of the Revised Code to make changes relative to residential construction and the Consumer Sales Practices Act and to establish laws governing the practices of home construction service suppliers, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 383**, pass?"

Senator Bacon moved to amend as follows:

In line 231, delete "TEN PER CENT OF" and insert "FIVE THOUSAND DOLLARS OVER"; after "THE" insert "COURSE OF THE ENTIRE HOME CONSTRUCTION"; delete "COST"

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

The motion was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 383**, pass?"

Senator Hughes moved that he 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 bill, **Sub. H. B. No. 383**, pass?"

The yeas and nays were taken and resulted - yeas 31, nays 0, as follows:

Those who voted in the affirmative were: Senators

Bacon	Balderson	Beagle	Brown
Burke	Cafaro	Coley	Eklund
Faber	Gentile	Hite	Jones
Jordan	Kearney	LaRose	Lehner
Manning	Obhof	Oelslager	Patton
Peterson	Sawyer	Schaffer	Schiavoni
Seitz	Smith	Tavares	Turner
Wagoner	Widener		Niehaus-31.

So the bill passed.

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

Senator Bacon moved to amend the title as follows:

Add the names: "Eklund, Faber, LaRose, Patton, Peterson, Seitz."

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

The motion was agreed to and the title so amended.

**Sub. H. B. No. 386**-Representative Blessing.

Cosponsors: Representatives Gerberry, Combs, Letson, Barnes, Boyd, Mallory, O'Brien, Weddington, Williams, Yuko.

To amend sections 122.014, 173.121, 718.03, 2915.01, 2915.02, 2915.06, 2915.08, 2915.09, 2915.091, 2915.092, 2915.093, 2915.094, 2915.10, 2915.101, 2915.12, 2923.31, 2933.51, 3301.0714, 3769.08, 3769.087, 3769.089, 3769.0810, 3770.02, 3770.05, 3770.07, 3770.071, 3770.072, 3770.073, 3770.21, 3772.01, 3772.03, 3772.032, 3772.04, 3772.07, 3772.091, 3772.10, 3772.13, 3772.16, 3772.17, 3772.28, 3772.99, 4301.03, 4303.17, 5703.21, 5747.062, 5747.063, 5747.08, 5747.12, 5747.98, and 5753.03, to enact sections 121.421, 3769.041, 3769.0812, 3770.22, 5747.064, and 5753.11, to repeal section 3772.14 of the Revised Code, to amend Section 3 of Sub. H.B. 277 of the 129th General Assembly, and to repeal Section 4 of Sub. H.B. 277 of the 129th General Assembly to make changes to the law regarding video lottery terminals, casino gaming, bingo and instant bingo, and horse racing, to establish a moratorium on new establishments conducting



sweepstakes by sweepstakes terminal devices, to make appropriations, and to declare an emergency, was considered the third time.

The question being, "Shall the section, Section 14, setting forth the emergency features of the bill, stand as a part of the bill?"

The yeas and nays were taken and resulted - yeas 28, nays 4, as follows:

Those who voted in the affirmative were: Senators

Bacon	Balderson	Beagle	Brown
Burke	Cafaro	Coley	Eklund
Faber	Gentile	Hite	Hughes
Kearney	LaRose	Manning	Obhof
Oelslager	Patton	Peterson	Sawyer
Schaffer	Schiavoni	Seitz	Tavares
Turner	Wagoner	Widener	Niehaus-28.

Senators Jones, Jordan, Lehner, and Smith voted in the negative-4.

So the section, Section 14, setting forth the emergency features of the bill stood as a part of the bill.

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

The yeas and nays were taken and resulted - yeas 29, nays 3, as follows:

Those who voted in the affirmative were: Senators

Bacon	Balderson	Beagle	Brown
Burke	Cafaro	Coley	Eklund
Faber	Gentile	Hite	Hughes
Kearney	LaRose	Manning	Obhof
Oelslager	Patton	Peterson	Sawyer
Schaffer	Schiavoni	Seitz	Smith
Tavares	Turner	Wagoner	Widener
			Niehaus-29.

Senators Jones, Jordan, and Lehner voted in the negative-3.

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

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

Senator Coley moved to amend the title as follows:

Add the names: "Coley, Eklund, Niehaus, Seitz."

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

The motion was agreed to and the title so amended.

**Am. S. B. No. 224**-Senator Obhof.

Cosponsors: Senators Balderson, Grendell, LaRose, Lehner, Patton, Wagoner,

Eklund.

To amend section 2305.06 of the Revised Code to shorten the period of limitations for actions upon a contract in writing, was considered the third time.

The question being, "Shall the bill, **Am. S. B. No. 224**, pass?"

The yeas and nays were taken and resulted - yeas 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Bacon	Balderson	Beagle	Brown
Burke	Cafaro	Coley	Eklund
Faber	Gentile	Hite	Hughes
Jones	Jordan	Kearney	LaRose
Lehner	Manning	Obhof	Oelslager
Patton	Peterson	Sawyer	Schaffer
Schiavoni	Seitz	Smith	Tavares
Turner	Wagoner	Widener	Niehaus-32.

So the bill passed.

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

Senator Obhof moved to amend the title as follows:

Add the names: "Bacon, Faber, Hite, Hughes, Jones, Jordan, Peterson, Schaffer, Seitz, Widener."

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

The motion was agreed to and the title so amended.

**Sub. S. B. No. 316**-Senator Lehner (by request).

To amend sections 3301.079, 3301.0712, 3301.0714, 3301.0715, 3301.0723, 3301.52, 3301.53, 3301.58, 3301.90, 3301.922, 3302.03, 3302.032, 3302.042, 3302.12, 3302.20, 3302.21, 3302.25, 3310.03, 3310.08, 3310.15, 3313.37, 3313.41, 3313.411, 3313.603, 3313.608, 3313.609, 3313.6013, 3313.674, 3313.813, 3313.816, 3313.845, 3313.978, 3314.015, 3314.016, 3314.02, 3314.029, 3314.03, 3314.06, 3314.08, 3314.17, 3314.18, 3314.35, 3317.01, 3318.023, 3318.034, 3318.36, 3318.37, 3318.371, 3318.70, 3319.02, 3319.06, 3319.11, 3319.111, 3319.112, 3321.01, 3323.011, 3323.052, 3326.03, 3326.11, 3326.17, 3326.21, 3328.15, 3328.24, 3333.0411, 4139.01, 4139.03, 4139.04, 4139.05, 4141.29, 4301.20, 5104.01, 5104.011, 5104.02, 5104.21, 5104.30, 5104.31, 5104.34, 5104.38, 5751.20, 6301.01, 6301.02, 6301.03, 6301.04, 6301.07, 6301.08, and 6301.10; to enact sections 3301.941, 3302.022, 3302.033, 3302.41, 3310.031, 3313.6411, 3313.847, 3314.025, 3314.11, 3314.15, 3318.364, 3319.031, 3326.031, 3326.26, 4123.391, 5104.031, 5104.032, 5104.033, and 5123.022; and to repeal

sections 3319.19 and 3319.58 of the Revised Code; to amend Sections 267.10, 267.10.90, 267.40.40, and 283.20 of Am. Sub. H.B. 153 of the 129th General Assembly; and to repeal Section 267.60.23 of Am. Sub. H.B. 153 of the 129th General Assembly and Section 265.20.15 of Am. Sub. H.B. 1 of the 128th General Assembly to revise authorizations and conditions with respect to education, workforce development, and early childhood care; and to amend sections 109.57, 2151.011, 2919.227, 2923.124, 2923.126, 2923.1212, 2950.11, 2950.13, 3109.051, 3701.63, 3737.22, 3742.01, 3797.06, 4511.81, 5101.29, 5103.03, 5104.01, 5104.011, 5104.012, 5104.013, 5104.015, 5104.022, 5104.03, 5104.04, 5104.041, 5104.052, 5104.053, 5104.054, 5104.06, 5104.08, 5104.09, 5104.13, 5104.30, 5104.31, 5104.32, 5104.35, 5104.36, 5104.38, 5107.60, and 5153.175, to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 5104.011 (5104.015), 5104.015 (5104.25), 5104.031 (5104.035), 5104.032 (5104.036), and 5104.033 (5104.037), to enact new sections 5104.032 and 5104.033 and sections 5104.016, 5104.017, 5104.018, 5104.019, 5104.0110, 5104.0111, 5104.0112, 5104.034, 5104.038, 5104.039, and 5104.14, to repeal sections 5104.014 and 5104.11 of the Revised Code to revise the law governing type B family day-care homes on January 1, 2014, and to make an appropriation, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 316**, pass?"

Senator Sawyer moved to amend as follows:

In line 6610, delete "entity" and insert "educational service center"

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

Senator Hite moved that the amendment be laid on the table.

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 21, nays 11, as follows:

Those who voted in the affirmative were: Senators

Bacon	Balderson	Beagle	Burke
Coley	Eklund	Faber	Hite
Hughes	Jones	Jordan	LaRose
Lehner	Manning	Obhof	Patton
Peterson	Schaffer	Wagoner	Widener
			Niehaus-21.

Those who voted in the negative were: Senators

Brown	Cafaro	Gentile	Kearney
Oelslager	Sawyer	Schiavoni	Seitz
Smith	Tavares		Turner-11.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. S. B. No. 316**, pass?"

Senator Schiavoni moved to amend as follows:

In line 6550, strike through "Not later than July 1, 2013, the" and insert "The"

In line 6554, reinsert "The policy"

In line 6555, reinsert "shall become operative"; after " ~~at~~" insert " on the later of July 1, 2013, or"; reinsert the balance of the line

Reinsert line 6556

In line 6557, reinsert all before " ~~section~~"

In line 6558, after " ~~agreement~~" insert " amendment. Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code, the requirements of this division prevail over any conflicting provisions of a collective bargaining agreement entered into on or after the effective date of this amendment"; reinsert the period

Delete lines 6675 through 6678

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

Senator Hite moved that the amendment be laid on the table.

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 19, nays 13, as follows:

Those who voted in the affirmative were: Senators

Bacon	Balderson	Beagle	Burke
Coley	Eklund	Faber	Hite
Jones	Jordan	LaRose	Lehner
Manning	Obhof	Peterson	Schaffer
Wagoner	Widener		Niehaus-19.

Those who voted in the negative were: Senators

Brown	Cafaro	Gentile	Hughes
Kearney	Oelslager	Patton	Sawyer
Schiavoni	Seitz	Smith	Tavares
			Turner-13.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. S. B. No. 316**, pass?"

Senator Turner moved to amend as follows:

In line 4264, after "3319.073," insert " 3319.111,"

In line 4307, strike through "and will comply with section 3319.111"

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

Senator Hite moved that the amendment be laid on the table.

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 12, as follows:

Those who voted in the affirmative were: Senators

Bacon	Balderson	Beagle	Burke
Coley	Eklund	Faber	Hite
Jones	Jordan	LaRose	Lehner
Manning	Obhof	Patton	Peterson
Schaffer	Seitz	Widener	Niehaus-20.

Those who voted in the negative were: Senators

Brown	Cafaro	Gentile	Hughes
Kearney	Oelslager	Sawyer	Schiavoni
Smith	Tavares	Turner	Wagoner-12.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. S. B. No. 316**, pass?"

Senator Turner moved to amend as follows:

In line 58, after "3313.816," insert "3313.844,"

Between lines 3281 and 3282, insert:

**"Sec. 3313.844. (A)** The governing authority of a community school established under Chapter 3314. of the Revised Code and the governing board of an educational service center may enter into an agreement ~~through adoption of identical resolutions~~, under which the service center ~~board~~ will provide any of the services described in division (B)(3) of section 3313.843 of the Revised Code to the community school. Services provided under the agreement ~~and the amount and manner in which the community school board will pay for such services~~ shall be mutually agreed to by the school's governing ~~board~~ authority and the service center board, and shall be specified in the service agreement.

A community school sponsored by the governing board of an educational service center may enter into an agreement with the service center that is its

sponsor or with any other service center in this state.

(B) For each school year that an agreement between a community school and an educational service center is in effect under division (A) of this section, the department of education shall do both of the following:

(1) Deduct from the funds paid to the community school under Chapter 3314. of the Revised Code and pay to the service center an amount equal to six dollars and fifty cents times the school's student enrollment;

(2) Pay to the service center an amount equal to the per pupil amount specified in division (F) of section 3317.11 of the Revised Code times the school's student enrollment.

For purposes of division (B) of this section, a community school's student enrollment for each school year shall be the number of students reported under divisions (B)(2)(a) and (b) of section 3314.08 of the Revised Code at the end of the previous school year, as verified by the department."

In line 10592, after "3313.816," insert "3313.844,"

In line 7 of the title, after "3313.816," insert "3313.844,"

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

Senator Hite moved that the amendment be laid on the table.

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 23, nays 9, as follows:

Those who voted in the affirmative were: Senators

Bacon	Balderson	Beagle	Burke
Coley	Eklund	Faber	Hite
Hughes	Jones	Jordan	LaRose
Lehner	Manning	Obhof	Oelslager
Patton	Peterson	Schaffer	Seitz
Wagoner	Widener		Niehaus-23.

Those who voted in the negative were: Senators

Brown	Cafaro	Gentile	Kearney
Sawyer	Schiavoni	Smith	Tavares
			Turner-9.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. S. B. No. 316**, pass?"

Senator Kearney moved to amend as follows:

In line 55, delete "3301.922,"; delete "3302.032,"

In line 57, delete "3313.674,"

In line 68, delete "3314.15,"; delete "3326.26,"

Delete lines 1090 through 1099

Delete lines 1373 through 1397

Delete lines 3047 through 3124

In line 4300, reinsert "sections 3313.674 and"; delete " section"

Delete lines 5216 through 5221

In line 7129, reinsert "3313.674,"

Delete lines 7171 through 7176

In line 10589, delete "3301.922,"; delete "3302.032,"

In line 10591, delete "3313.674,"

After line 17356, insert:

**"Section 815. \_\_\_\_.** Division (D) of section 3301.921, division (A)(3) of section 3302.032, and sections 3301.922 and 3313.674 of the Revised Code are presented in this section as law in conformity with the expressed intent of the Governor's veto message for Am. Sub. H.B. 153 of the 129th General Assembly to veto the repeal of the body mass index screening program. This presentation constitutes a legislative finding that, as a result of the veto, those provisions remain law.

**Sec. 3301.921.** The healthy choices for healthy children council shall do all of the following:

(A) Monitor progress in improving student health and wellness;

(B) Make periodic policy recommendations to the state board of education regarding ways to improve the nutritional standards for food and beverages prescribed by sections 3313.816 and 3313.817 of the Revised Code. If, on or after the effective date of this section, the United States department of agriculture adopts regulations for the sale of food or beverages in schools, the council, within sixty days after their adoption, shall review the regulations and, based on that review, make recommendations for changes to the nutritional standards prescribed by those sections.

(C) Make periodic recommendations to the department of education for the development of a clearinghouse of best practices in the areas of student nutrition, physical activity for students, and body mass index screenings;

(D) Assist the department of health in developing a list of resources regarding health risks associated with weight status for distribution to parents and guardians under division (E) of section 3313.674 of the Revised Code;

(E) Regularly review developments in science and nutrition to ensure the council remains informed for purposes of making recommendations under divisions (B) and (C) of this section.

**Sec. 3301.922.** The department of education shall issue an annual report on the compliance of public and chartered nonpublic schools with the requirements of section 3313.674 of the Revised Code. The department shall include in the report any data regarding student health and wellness collected by the department in conjunction with those requirements. The department shall submit each report to the governor, the general assembly, and the healthy choices for healthy children council.

**Sec. 3302.032.** (A) Not later than December 31, 2011, the state board of education shall establish a measure of the following:

(1) Student success in meeting the benchmarks contained in the physical education standards adopted under division (A)(3) of section 3301.079 of the Revised Code;

(2) Compliance with the requirements for local wellness policies prescribed by section 204 of the "Child Nutrition and WIC Reauthorization Act of 2004," 42 U.S.C. 1751 note;

(3) Whether a school district or building is complying with section 3313.674 of the Revised Code instead of operating under a waiver from the requirements of that section;

(4) Whether a school district or building is participating in the physical activity pilot program administered under section 3313.6016 of the Revised Code.

(B) The measure shall be included on the school district and building report cards issued under section 3302.03 of the Revised Code, beginning with the report cards issued for the 2012-2013 school year, but it shall not be a factor in the performance ratings issued under that section.

(C) The department of education may accept, receive, and expend gifts, devises, or bequests of money for the purpose of establishing the measure required by this section.

**Sec. 3313.674.** (A) Except as provided in divisions (D) and (H) of this section, the board of education of each city, exempted village, or local school district and the governing authority of each chartered nonpublic school shall require each student enrolled in kindergarten, third grade, fifth grade, and ninth grade to undergo a screening for body mass index and weight status category prior to the first day of May of the school year.

(B) The board or governing authority may provide any screenings required by this section itself, contract with another entity for provision of the screenings, or request the parent or guardian of each student subject to this section to obtain the screening from a provider selected by the parent or guardian



and to submit the results to the board or governing authority. If the board or governing authority provides the screenings itself or contracts with another entity for provision of the screenings, the board or governing authority shall protect student privacy by ensuring that each student is screened alone and not in the presence of other students or staff.

(C) Prior to the first day of February of each school year, the board or governing authority shall provide the parent or guardian of each student subject to this section with information about the screening program. If the board or governing authority requests parents and guardians to obtain a screening from a provider of their choosing, the board or governing authority shall provide them with a list of providers and information about screening services available in the community to parents and guardians who cannot afford a private provider.

(D) If the parent or guardian of a student subject to this section signs and submits to the board or governing authority a written statement indicating that the parent or guardian does not wish to have the student undergo the screening, the board or governing authority shall not require the student to be screened.

(E) The board or governing authority shall notify the parent or guardian of each student screened under this section of any health risks associated with the student's results and shall provide the parent or guardian with information about appropriately addressing the risks. For this purpose, the department of health, in consultation with the department of education and the healthy choices for healthy children council established under section 3301.92 of the Revised Code, shall develop a list of documents, pamphlets, or other resources that may be distributed to parents and guardians under this division.

(F) The board or governing authority shall maintain the confidentiality of each student's individual screening results at all times. No board or governing authority shall report a student's individual screening results to any person other than the student's parent or guardian.

(G) In a manner prescribed by rule of the director of health, the board or governing authority shall report aggregated body mass index and weight status category data collected under this section, and any other demographic data required by the director, to the department of health. In the case of a school district, data shall be aggregated for the district as a whole and not for individual schools within the district, unless the district operates only one school. In the case of a chartered nonpublic school, data shall be aggregated for the school as a whole. The department annually may publish the data reported under this division, aggregated by county. If any district or chartered nonpublic school was granted a waiver under division (H) of this section for a school year for which data is published, the department shall note that the data for the county in which the district or school is located is incomplete. The department may share data reported under this division with other governmental entities for the purpose of monitoring population health, making reports, or public health promotional activities.

(H) A board or governing authority may obtain a waiver of the requirement to have students undergo screenings for body mass index and weight status category by submitting to the superintendent of public instruction an affidavit, attested to by the president or presiding officer of the board or governing authority, stating that the board or governing authority is unable to comply with the requirement. The superintendent shall grant the waiver upon receipt of the affidavit.

**Section 815.\_\_\_\_.** The references to section 3313.674 of the Revised Code in division (A)(11)(h) of section 3314.03 and in section 3326.11 of the Revised Code are presented in Section 101.01 of this act as law in conformity with the expressed intent of the Governor's veto message for Am. Sub. H.B. 153 of the 129th General Assembly to veto the repeal of the body mass index screening program. That presentation constitutes a legislative finding that, as a result of the veto, the references remain law."

In line 3 of the title, delete "3301.922,"; delete "3302.032,"

In line 6 of the title, delete "3313.674,"

In line 20 of the title, delete "3314.15,"

In line 21 of the title, delete "3326.26,"

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

Senator Hite moved that the amendment be laid on the table.

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 21, nays 11, as follows:

Those who voted in the affirmative were: Senators

Bacon	Balderson	Beagle	Burke
Coley	Eklund	Faber	Hite
Hughes	Jordan	LaRose	Manning
Obhof	Oelslager	Patton	Peterson
Schaffer	Seitz	Wagoner	Widener
			Niehaus-21.

Those who voted in the negative were: Senators

Brown	Cafaro	Gentile	Jones
Kearney	Lehner	Sawyer	Schiavoni
Smith	Tavares		Turner-11.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. S. B. No. 316**, pass?"

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

Those who voted in the affirmative were: Senators

Bacon	Balderson	Beagle	Brown
Burke	Cafaro	Coley	Eklund
Faber	Hite	Hughes	Jones
Jordan	LaRose	Lehner	Manning
Obhof	Oelslager	Patton	Peterson
Sawyer	Schaffer	Schiavoni	Seitz
Smith	Tavares	Turner	Wagoner
Widener			Niehaus-30.

Senators Gentile and Kearney voted in the negative-2.

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, Eklund, Hite, Jones, LaRose, Niehaus, Sawyer, Turner, Wagoner."

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

The motion was agreed to and the title so amended.

### OFFERING OF RESOLUTIONS

Senator Faber offered the following resolution:

**S. R. No. 253**-Senator Faber.

Relative to mileage reimbursement.

RESOLVED, Pursuant to section 101.27 of the Revised Code and S.R. No. 2--Senator Faber, Relative to mileage reimbursement, adopted January 3, 2011, the Clerk of the Senate is authorized to add the mileage for Joe Schiavoni of 354 miles round trip.

The question being, "Shall the resolution, **S. R. No. 253**, be adopted?"

Senator Schiavoni moved that he 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 resolution, **S. R. No. 253**, be adopted?"

The yeas and nays were taken and resulted - yeas 31, nays 0, as follows:

Those who voted in the affirmative were: Senators

Bacon	Balderson	Beagle	Brown
Burke	Cafaro	Coley	Eklund
Faber	Gentile	Hite	Hughes
Jones	Jordan	Kearney	LaRose

Lehner	Manning	Obhof	Oelslager
Patton	Peterson	Sawyer	Schaffer
Seitz	Smith	Tavares	Turner
Wagoner	Widener		Niehaus-31.

So the resolution was adopted.

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

The title was agreed to.

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

**S. R. No. 252**-Senator Coley.

In memory of Sergeant John Patrick Huling.

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

So the resolution was adopted.

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

Mr. President:

I am directed to inform you that the House of Representatives has passed the following bills in which the concurrence of the Senate is requested:

##### **Sub. H. B. No. 118** -Representative Fende

Cosponsors: Representatives Combs, Yuko, O'Brien, Maag, Hackett, Buchy, Mallory, Blessing, Szollosi, DeGeeter, Bubp, Boyd, Winburn, Adams, R., Celebrezze, Damschroder, Hayes, Huffman, Johnson, Kozlowski, Luckie, McGregor, Ruhl, Schuring, Sprague, Young, Speaker Batchelder

To amend sections 149.43, 2903.01, 2903.11, 2903.12, 2903.13, 2903.21, and 2929.04 and to enact section 2903.23 of the Revised Code to provide that residential and familial information of a probation officer is not a public record, to increase the penalties for certain offenses when a judge, magistrate, or prosecutor is the victim, to prohibit a person from threatening a judge, magistrate, or prosecutor, and to make the killing of a judge, magistrate, or prosecutor an aggravating circumstance for the imposition of the death penalty for aggravated murder.

##### **H. B. No. 184** -Representative Martin

Cosponsors: Representatives Mecklenborg, Thompson, Carey, O'Brien, Fende, Celeste, Johnson, Ramos, Anielski, Antonio, Ashford, Barnes, Beck,

Boose, Boyd, Brenner, Bubp, Buchy, Carney, Celebrezze, Damschroder, Garland, Gerberry, Goyal, Grossman, Hackett, Hagan, R., Hall, Hayes, Hill, Hottinger, Kozlowski, Landis, Letson, Luckie, Lundy, Lynch, Mallory, Milkovich, Okey, Reece, Sears, Slaby, M., Slesnick, Smith, Stinziano, Williams, Winburn, Young, Yuko, Speaker Batchelder

To enact section 5.2267 of the Revised Code to designate March as "Multiple System Atrophy Awareness Month."

Attest:

Thomas L. Sherman,  
Deputy Clerk.

Said bills were considered the first time.

### Message from the House of Representatives

Mr. President:

I am directed to inform you that the House of Representatives has adopted the following concurrent resolution in which the concurrence of the Senate is requested:

#### **H. C. R. No. 31** -Representatives Landis, Okey

Cosponsors: Representatives Thompson, Ruhl, Blair, Combs, Lundy, Murray, Foley, Garland, Gentile, Slesnick, Stebelton, Antonio, Yuko, Letson, Schuring, Adams, J., Amstutz, Anielski, Barnes, Boose, Buchy, Carney, Celebrezze, Cera, Damschroder, Dovilla, Gardner, Goodwin, Grossman, Hagan, C., Hall, Hottinger, Martin, McClain, McGregor, Milkovich, O'Brien, Patmon, Phillips, Ramos, Reece, Rosenberger, Sears, Sprague, Wachtmann, Winburn, Young, Speaker Batchelder

To urge the United States Army Corps of Engineers to take all actions necessary to preserve the Village of Zoar in its present location in Tuscarawas County by repairing a levee that is protecting the Village.

Attest:

Thomas L. Sherman,  
Deputy Clerk.

The question being, "Shall the concurrent resolution, **H. C. R. No. 31**, be adopted?"

On the motion of Senator Faber, **H. C. R. No. 31**, was referred to the Committee on Rules and Reference.

**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:

**Sub. S. B. No. 295** -Senator Coley

Cosponsors: Senators Eklund, Faber, Hite, Jones, Jordan, Niehaus, Obhof, Seitz, Wagoner Representatives Brenner, Huffman, Speaker Batchelder

To repeal the versions of sections of the Revised Code amended or enacted by Sections 1 and 3 of Am. Sub. H.B. 194 of the 129th General Assembly, to repeal the repeal of sections of the Revised Code by Sections 2 and 4 of Am. Sub. H.B. 194 of the 129th General Assembly, and to repeal Sections 5, 6, 7, and 8 of Am. Sub. H.B. 194 of the 129th General Assembly, to continue in operation the provisions of the Election Law currently in effect.

Attest:

Thomas L. Sherman,  
Deputy Clerk.

**Message from the House of Representatives**

Mr. President:

I am directed to inform you that the House of Representatives has concurred in the Senate amendments to:

**Sub. H. B. No. 158**-Representatives Stebelton, Okey - et al.

Attest:

Thomas L. Sherman,  
Deputy Clerk.

On the motion of Senator Faber, the Senate adjourned until Thursday, May 10, 2012 at 11:00 o'clock a.m.

Attest:

VINCENT L. KEERAN,  
Clerk.