

OHIO

SENATE

JOURNAL

TUESDAY, JUNE 21, 2011

SIXTY-FIFTH DAY
Senate Chamber, Columbus, Ohio
Tuesday, June 21, 2011, 1:30 p.m.

The Senate met pursuant to adjournment.

Prayer was offered by Pastor Ernie Sanders, Doers of the Word Baptist Church, Novelty, 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. 229-Representative Buchy, et al.

To amend sections 121.04, 121.09, 307.204, 505.266, 901.08, 901.43, 903.02, 907.11, 923.41, 923.52, 924.52, 941.02, 941.041, 941.14, 942.02, 943.03, 943.031, 943.04, 943.05, 943.16, 953.23, 955.35, 959.14, 1711.50, 1711.51, 1711.57, 3717.22, and 4707.11 and to enact sections 923.411 and 3769.0811 of the Revised Code to revise the laws governing agriculture.

To the Committee on Agriculture, Environment and Natural Resources.

S. B. No. 189-Senator Grendell.

To enact section 3702.01 of the Revised Code to join the Health Care Compact.

To the Committee on Insurance, Commerce and Labor.

YES - 7: THOMAS E. NIEHAUS, JIMMY STEWART,
SHANNON JONES, CHRIS WIDENER, SCOTT
OELSLAGER, JASON H. WILSON, 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 **Am. Sub. H. B. No. 163**-Representative Balderson, et al., having had the same under consideration, reports it back and recommends its passage.

Co-Sponsor: Schaffer.

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

NO - 0.

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. C. R. No. 11**-Senator Lehner, having had the same under consideration, reports it back and recommends its adoption.

Co-Sponsor: Sawyer.

YES - 9: THOMAS SAWYER, SHIRLEY A. SMITH, CHARLETA
B. TAVARES, PEGGY B. LEHNER, GAYLE
MANNING, BILL BEAGLE, BILL COLEY, CLIFF
HITE, LARRY OBHOF.

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:

Constance L. Clark, from Dublin, Franklin County, Ohio, as a Member of the State Dental Board for a term beginning May 16, 2011 and ending at the close of business April 5, 2014, replacing Ann Naber, whose term expired.

Clifford Jones, from Cincinnati, Hamilton County, Ohio, as a Member of the State Dental Board for a new term beginning May 16, 2011 and ending at the close of business April 5, 2015.

Edwin D. Niehaus, from Strongsville, Summit County, Ohio, as a Member of the State Board of Orthotics, Prosthetics and Pedorthics for a new term beginning May 17, 2011 and ending at the close of business December 6, 2013.

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

YES - 7: THOMAS E. NIEHAUS, JIMMY STEWART,
SHANNON JONES, CHRIS WIDENER, SCOTT
OELSLAGER, JASON H. WILSON, CAPRI S. CAFARO.

NO - 0.

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

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

Those who voted in the affirmative were: Senators

Bacon	Beagle	Brown	Cafaro
Coley	Daniels	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-32.

So the Senate advised and consented to said appointments.

RESOLUTIONS REPORTED BY COMMITTEE

S. C. R. No. 11-Senator Lehner.

Cosponsor: Senator Sawyer.

To approve the Department of Education's proposed graduation rate changes to the state accountability system for public schools.

WHEREAS, The federal No Child Left Behind Act of 2001 requires each

state to establish a uniform accountability system for school districts and public school buildings that measures whether each district and building makes adequate yearly progress as defined under that act; and

WHEREAS, The state of Ohio has created a uniform accountability system that incorporates the adequate yearly progress requirements of the No Child Left Behind Act and that has been approved by the United States Department of Education; and

WHEREAS, Section 3302.09 of the Revised Code requires that modifications to Ohio's accountability system proposed by the Ohio Department of Education on or after July 1, 2005, be approved by a concurrent resolution of the General Assembly prior to implementation; and

WHEREAS, In October 2008, the United States Department of Education promulgated regulations (1) requiring all states to use a four-year adjusted cohort graduation rate, which is the number of students who graduate in four years with a regular high school diploma divided by the number of students who entered high school four years earlier, as adjusted to account for students who transfer, emigrate to another country, or are deceased, (2) permitting states also to implement an extended-year adjusted cohort graduation rate for students who take longer than four years to graduate, and (3) requiring states to establish a graduation rate goal and annual targets that reflect improvement toward that goal; and

WHEREAS, The federal regulations require the use of the new graduation rates for the school district and building report cards, beginning with the 2010-2011 school year, and use of the graduation goal and annual targets for making decisions about whether a district or building makes adequate yearly progress, beginning with the 2011-2012 school year; and

WHEREAS, The State Board of Education on January 12, 2010, adopted a resolution recommending four-year and five-year adjusted cohort graduation rates, a graduation rate goal, and annual graduation rate targets for approval by the United States Secretary of Education; now therefore be it

RESOLVED, That the General Assembly in adopting this concurrent resolution approves the Ohio Department of Education's proposed changes to the state accountability system to incorporate four-year and five-year adjusted cohort graduation rates, a graduation rate goal, and annual graduation rate targets; and be it further

RESOLVED, That the Clerk of the Senate shall send a certified copy of this resolution to the State Board of Education, the Superintendent of Public Instruction, and the news media of Ohio.

The question being, "Shall the concurrent resolution, **S. C. R. No. 11**, be adopted?"

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
Coley	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 concurrent resolution was adopted.

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

The title was agreed to.

BILLS FOR THIRD CONSIDERATION

Am. Sub. H. B. No. 163-Representative Balderson.

Cosponsors: Representatives Carey, Derickson, Boose, Adams, J., Blessing, Combs, Hackett, Stebelton, Buchy, Amstutz, Anielski, Barnes, Beck, Blair, Bubp, Burke, Dovilla, Gardner, Garland, Gerberry, Grossman, Hagan, C., Hayes, Hottinger, Letson, Lundy, Maag, Mallory, Martin, McClain, Mecklenborg, Newbold, Peterson, Roegner, Ruhl, Slaby, Stautberg, Szollosi, Thompson, Uecker, Wachtmann. Senator Schaffer.

To amend sections 1513.07, 1513.073, 1513.075, 1513.081, 1513.16, 1513.18, and 1513.371 of the Revised Code to revise the coal mining laws regarding permit application, set-back, and alternative water treatment or supply requirements, was considered the third time.

The question being, "Shall the bill, **Am. Sub. H. B. No. 163**, 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
Coley	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 Stewart moved to amend the title as follows:

Add the names: "Brown, Coley, Daniels, Hite, Hughes, Jordan, Lehner, Manning, Niehaus, Oelslager, Sawyer, Schiavoni, Seitz, Stewart, Tavares, Turner, Wagoner, Widener, Wilson."

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

The motion was agreed to and the title so amended.

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

Cosponsors: Senators Kearney, Wagoner.

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, and 5810.14; 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, was considered the third time.

The question being, "Shall the section, Section 6, setting forth the emergency features of the bill, stand as a part of the bill?"

Senator Cafaro moved that, pursuant to Senate Rule 57, she be excused from voting on both the emergency clause and passage of, **Am. S. B. No. 117**.

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

The motion was agreed to.

The question recurred, "Shall the section, Section 6, setting forth the emergency features of the bill, stand as a part of the bill?"

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	Coley
Daniels	Faber	Gillmor	Grendell
Hite	Hughes	Jones	Jordan
Kearney	LaRose	Lehner	Manning
Obhof	Oelslager	Patton	Sawyer
Schaffer	Schiavoni	Seitz	Skindell

Smith
Wagoner

Stewart
Widener

Tavares
Wilson

Turner
Niehaus-32.

So the section, Section 6, 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 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Bacon	Beagle	Brown	Coley
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-32.

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

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

Senator Seitz moved to amend the title as follows:

Add the names: "Bacon, Brown, Coley, Faber, Gillmor, Grendell, Hughes, Obhof, Oelslager, Patton, Smith, Turner, Wilson."

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

The motion was agreed to and the title so amended.

Sub. S. B. No. 171-Senators Gillmor, Wagoner.

To amend sections 9.90, 101.532, 101.83, 101.84, 101.85, 101.86, 102.02, 109.91, 121.32, 127.14, 173.03, 173.04, 2953.08, 3302.021, 3311.71, 3312.01, 3312.09, 3313.202, 3701.025, 3701.63, 3727.312, 3737.03, 3737.21, 3737.81, 3737.86, 3737.88, 3743.54, 3746.04, 4117.03, 4121.03, 4121.12, 4121.121, 4121.125, 4121.128, 4123.341, 4123.342, 4123.35, 5111.708, 5123.032, and 5123.093; and to repeal sections 9.901, 101.37, 121.374, 122.97, 122.971, 122.98, 122.981, 125.833, 181.21, 181.22, 181.23, 181.24, 181.25, 181.26, 184.23, 184.231, 1349.71, 1349.72, 1501.25, 2151.282, 3306.29, 3306.291, 3306.292, 3306.50, 3306.51, 3306.52, 3306.53, 3306.54, 3306.55, 3306.56, 3306.57, 3306.58, 3306.59, 3311.77, 3312.11, 3312.12, 3319.70, 3319.71, 3701.92, 3727.322, 3746.03, 4121.75, 4121.76, 4121.77, 4121.78, 4121.79, 4501.025, 5111.709, 5111.7010, 5123.60, and 5902.15 of the Revised Code;

and to amend Section 5 of Sub. H.B. 125 of the 127th General Assembly as subsequently amended, Section 20 of Am. Sub. H.B. 554 of the 127th General Assembly, Section 3 of Sub. H.B. 187 of the 126th General Assembly, and Section 513.03 of Am. Sub. H.B. 66 of the 126th General Assembly as subsequently amended; and to repeal Section 3 of Sub. H.B. 495 of the 128th General Assembly, Sections 209.40, 309.40.70, and 709.10 of Am. Sub. H.B. 1 of the 128th General Assembly, Sections 755.80 and 756.40 of Am. Sub. H.B. 2 of the 128th General Assembly, Section 3 of Sub. H.B. 7 of the 127th General Assembly, Section 555.17 of Am. Sub. H.B. 67 of the 127th General Assembly, Sections 263.30.30, 337.20.20, 377.20, and 737.11 of Am. Sub. H.B. 119 of the 127th General Assembly, Sections 6 and 7 of Sub. H.B. 125 of the 127th General Assembly, Section 2 of Sub. H.B. 233 of the 127th General Assembly, Sections 703.30 and 715.50 of Am. Sub. H.B. 562 of the 127th General Assembly, Section 4 of Am. Sub. S.B. 77 of the 127th General Assembly, Sections 206.10.12, 206.42.12, 206.66.24, 206.66.43, 209.63.58, 503.09, and 503.12 of Am. Sub. H.B. 66 of the 126th General Assembly, Section 4 of Sub. H.B. 187 of the 126th General Assembly, Section 1 of Sub. H.B. 371 of the 126th General Assembly, Section 235.60.70 of Am. Sub. H.B. 699 of the 126th General Assembly, Section 3 of Am. Sub. S.B. 167 of the 126th General Assembly, Section 5 of Am. Sub. S.B. 260 of the 126th General Assembly, Section 3 of Sub. S.B. 393 of the 126th General Assembly, Sections 12 and 25 of Am. Sub. H.B. 87 of the 125th General Assembly, Sections 41.35 and 153 of Am. Sub. H.B. 95 of the 125th General Assembly, Section 8 of Sub. H.B. 299 of the 125th General Assembly, Section 6 of Am. Sub. H.B. 516 of the 125th General Assembly, Section 3 of Am. Sub. S.B. 86 of the 125th General Assembly, Section 3 of Sub. H.B. 230 of the 124th General Assembly, Section 3 of Am. Sub. H.B. 474 of the 124th General Assembly, Section 4 of Am. Sub. S.B. 281 of the 124th General Assembly, Section 3 of Am. H.B. 416 of the 127th General Assembly as subsequently amended, Section 701.20 of Am. Sub. H.B. 562 of the 127th General Assembly as subsequently amended, Section 206.66.53 of Am. Sub. H.B. 66 of the 126th General Assembly as subsequently amended, Section 6 of Sub. H.B. 336 of the 126th General Assembly as subsequently amended, Section 755.03 of Am. Sub. H.B. 530 of the 126th General Assembly as subsequently amended, Section 6 of Am. Sub. S.B. 238 of the 126th General Assembly as subsequently amended, Section 152 of Am. Sub. H.B. 95 of the 125th General Assembly as subsequently amended, and Section 59.29 of Am. Sub. H.B. 95 of the 125th General Assembly as subsequently amended to implement the recommendations of the Sunset Review Committee by abolishing, terminating, transferring, or renewing various agencies and by reestablishing the Sunset Review Committee but postponing its operation until the 131st General Assembly, to terminate the operation of certain provisions of this act on December 31, 2016, by repealing sections 101.82, 101.83, 101.84, 101.85, 101.86, and 101.87 of the Revised Code on that date, and to declare an emergency, was considered the third time.

The question being, "Shall the section, Section 13, setting forth the emergency features of the bill, stand as a part of the bill?"

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
Coley	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 section, Section 13, 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 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Bacon	Beagle	Brown	Cafaro
Coley	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 having received the required constitutional majority passed as an emergency measure.

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

Senator Gillmor moved to amend the title as follows:

Add the names: "Bacon, Beagle, Cafaro, Coley, Daniels, Hughes, Jones, Jordan, LaRose, Niehaus, Oelslager, Patton, Widener, Wilson."

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

The motion was agreed to and the title so amended.

OFFERING OF RESOLUTIONS

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

S. R. No. 96-Senator Coley.

Honoring the Lakota East High School baseball team as the 2011 Division I State Champion.

S. R. No. 97-Senator Schaffer.

Honoring Brannon Kidder as a 2011 Division I State Track and Field Champion.

S. R. No. 98-Senator Wilson.

Honoring the Steubenville High School boys 4x200-meter relay team on winning the 2011 Division II State Championship.

S. R. No. 99-Senator Wilson.

Honoring the Catholic Central High School girls 4x200-meter relay team on winning the 2011 Division III State Championship.

S. R. No. 100-Senator Wilson.

Honoring the Strasburg-Franklin High School softball team as the 2011 Division IV State Champion.

S. R. No. 101-Senator Wilson.

Honoring Teddi Maslowski as a 2011 Division III State Track and Field Champion.

S. R. No. 102-Senator Wilson.

Honoring Josh Thompson as the 2011 OHSAA Division II State Champion in the 110-meter hurdles.

S. R. No. 103-Senator Wilson.

Honoring the Catholic Central High School girls track and field team on winning the 2011 Division III State Championship.

S. R. No. 104-Senator Obhof.

In memory of First Lieutenant John M. Runkle, Jr.

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 messages from the Governor which were 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, Crystal L. Faulkner, from Cincinnati, Hamilton County, Ohio, as a Member of the Ohio Business Gateway Steering Committee for a term beginning May 26, 2011 and continuing at the pleasure of the Governor.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 26th day of May in the year of our Lord, two thousand and eleven.

[Seal]

John R. Kasich,
Governor.

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

I, John R. Kasich, Governor of the State of Ohio, do hereby appoint, Lane J. Beougher, from Reynoldsburg, Franklin County, Ohio, as a Member of the Ohio Cultural Facilities Commission for a term beginning May 16, 2011 and ending at the close of business December 31, 2013, replacing Craig Weise, whose term expired.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 16th day of May in the year of our Lord, two thousand and eleven.

[Seal]

John R. Kasich,
Governor.

Said appointments were referred to the Committee on Rules and Reference.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the Speaker of the House of Representatives has signed the following bills:

H. B. No. 54 -Representatives Maag, Martin - et al.

Am. S. B. No. 22 -Senator Schaffer - et al.

S. B. No. 120 -Senator Beagle - et al.

Attest:

Laura P. Clemens,
Clerk.

The President signed said bills.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the Speaker of the House of Representatives has signed the following bill:

Sub. S. B. No. 17 -Senator Schaffer - et al.

Attest:

Laura P. Clemens,
Clerk.

The President signed said bill.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the Speaker of the House of Representatives has signed the following concurrent resolution:

S. C. R. No. 4 -Senator Daniels - et al.

Attest:

Laura P. Clemens,
Clerk.

The President signed said concurrent resolution.

MESSAGE FROM THE PRESIDENT

June 16, 2011

Senate President Niehaus
1 Capitol Square, 2nd Floor
Columbus, OH 43215

Dear President Niehaus,

I am writing you to tender my resignation as State Senator for the 20th District of Ohio effective midnight, June 30.

It has been my honor to serve with the members of this chamber throughout my time in the legislature and I am proud of the work we have accomplished under your leadership this General Assembly.

You have my best wishes as the legislature continues to address the important issues affecting our great state.

Sincerely,
/s/ **Jimmy Stewart**

State Senator Jimmy Stewart
20th Ohio Senate District

MESSAGE FROM THE PRESIDENT

June 21, 2011

Senator Jimmy Stewart
Senate Building, Rm. 129
Columbus, OH 43215

Senator Stewart:

In accordance with Section 101.25 of the Ohio Revised Code, I hereby acknowledge receipt of your letter of resignation from the Ohio Senate effective midnight Thursday, June 30, 2011.

It has been a pleasure working with you during your time with the Senate. I look forward to working with you in the future.

Sincerely,
/s/ **Tom Niehaus**

Senator Tom Niehaus

Senate President
14th District

On the motion of Senator Faber, the Senate adjourned until Wednesday,
June 22, 2011 at 1:30 p.m.

Attest:

VINCENT L. KEERAN,
Clerk.