

OHIO

SENATE

JOURNAL

WEDNESDAY, FEBRUARY 19, 2003

SEVENTEENTH DAY
Senate Chamber, Columbus, Ohio
Wednesday, February 19, 2003, 9:30 a.m.

The Senate met pursuant to adjournment.

Prayer was offered by Reverend Joe Hotchkiss, Gahanna Community Congregational Church, Columbus, 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 Carnes reports for the Standing Committee on Reference, recommending that the following bills, standing in order for second consideration, be referred to committee as recommended:

S. B. No. 33-Senator Armbruster.

To amend sections 4738.04, 4738.05, and 4738.18 and to enact sections 109.571, 4738.19, and 4738.20 of the Revised Code to establish a two-year renewal cycle for licenses and buyer's identification cards related to salvage motor vehicles, to require a compliance inspection of a licensed motor vehicle salvage dealer as a condition of license renewal and retention of any buyer's identification card, and to establish criminal records check requirements for certain motor vehicle salvage dealers and persons who hold a buyer's identification card.

To the Committee on Highways and Transportation.

S. B. No. 34-Senator Armbruster.

To amend sections 4513.60, 4513.61, 4513.62, 4513.99, and 4921.02 and to enact sections 4513.621, 4513.622, 4513.623, and 4921.30 of the Revised Code to revise the procedures governing the disposition of certain towed motor vehicles by allowing a person who tows or stores a vehicle at the request of law enforcement or from certain private property to recover expenses for unclaimed vehicles by obtaining a certificate of title to the vehicle after notice is given to the vehicle owner and any lienholder and also by blocking the ability of the vehicle owner to register other vehicles for a period of up to five years, to provide that a motor transportation company that is engaged exclusively in the towing of disabled or wrecked motor vehicles is not subject to regulation by the Public Utilities Commission as a for-hire motor carrier, and to amend the version of section 4513.60 of the Revised Code that is scheduled to take effect January 1, 2004, to continue the

provisions of this act on and after that effective date.

To the Committee on Highways and Transportation.

S. B. No. 35-Senators Nein, Mumper, Spada, Blessing, Miller, Dann, Fingerhut.

To amend sections 4755.40 and 4755.48 and to enact section 4755.481 of the Revised Code to permit, under certain circumstances, the practice of physical therapy other than pursuant to the prescription or referral of a physician, dentist, podiatrist, or chiropractor.

To the Committee on Insurance, Commerce and Labor.

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

JAMES E. CARNES
DOUG WHITE
BILL HARRIS

MARK MALLORY
GREGORY L. DIDONATO

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 Austria submitted the following report:

The standing committee on Judiciary - Criminal Justice, to which was referred **S. B. No. 8**-Senator Austria, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Stivers, Herington.

YES - 6 STEVE STIVERS, J. KIRK SCHURING, LEIGH E.
HERINGTON, TERESA FEDOR, DAVID GOODMAN,
STEPHEN C. AUSTRIA.

NO - 0

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

The report of the committee was accepted.

Senator Carnes submitted the following report:

The Standing Committee on Rules re-refers **S. B. No. 9**-Senator Coughlin, et al., from the **Standing Committee on Judiciary - Criminal Justice** to the **Standing Committee on State and Local Government and Veterans' Affairs**.

DOUG WHITE	BILL HARRIS
RANDY GARDNER	JAY HOTTINGER
JAMES E. CARNES	JEFF JACOBSON
GREGORY L. DIDONATO	MARK MALLORY
TERESA FEDOR	SCOTT R. NEIN

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

The report of the committee was accepted.

Senator Robert Gardner submitted the following report:

The standing committee on Education, to which was referred **S. B. No. 12**-Senator Randy Gardner, et al., having had the same under consideration, reports it back and recommends its passage.

YES - 8 ROBERT A. GARDNER, DANIEL R. BRADY, TERESA FEDOR, BILL HARRIS, LARRY A. MUMPER, RANDY GARDNER, C. J. PRENTISS, RON AMSTUTZ.

NO - 0

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

The report of the committee was accepted.

Senator Robert Gardner submitted the following report:

The standing committee on Education, to which was referred **S. J. R. No. 3**-Senator Robert Gardner, having had the same under consideration, reports it back and recommends its passage.

YES - 8 ROBERT A. GARDNER, BILL HARRIS, LARRY A. MUMPER, RANDY GARDNER, DANIEL R. BRADY, TERESA FEDOR, C. J. PRENTISS, RON AMSTUTZ.

NO - 0

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

The report of the committee was accepted.

Senator Robert Gardner submitted the following report:

The standing committee on Education, to which was referred **S. J. R. No. 4**-Senator Robert Gardner, having had the same under consideration, reports it back and recommends its passage.

YES - 8 ROBERT A. GARDNER, BILL HARRIS, LARRY A. MUMPER, RANDY GARDNER, C. J. PRENTISS, TERESA FEDOR, DANIEL R. BRADY, RON AMSTUTZ.

NO - 0

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

The report of the committee was accepted.

Senator Goodman submitted the following report:

The standing committee on Judiciary - Civil Justice, to which was referred **S. J. R. No. 2**-Senator Mallory, et al., having had the same under consideration, reports it back with the following amendment and recommends its passage when so amended.

In line 24, delete the first "of" and insert "or".

In lines 65, 69, and 87, delete "amendment" and insert "Amendment".

Co-Sponsors: Stivers, Dann, Amstutz.

YES - 8 STEVE STIVERS, DAVID GOODMAN, LEIGH E. HERINGTON, MARC DANN, RON AMSTUTZ, JAY HOTTINGER, ERIC D. FINGERHUT, LYNN R. WACHTMANN.

NO - 0

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

The report of the committee was accepted.

Senator Harris submitted the following report:

The standing committee on Finance and Financial Institutions, to which was referred **S. J. R. No. 1**-Senator Austria, having had the same under consideration, reports it back with the following amendment and recommends its passage when so amended.

In line 40, delete " without limitation ".

In line 67, delete " without limitation ".

Delete line 161.

In line 162, delete "resolutions".

Co-Sponsor: Carnes.

YES - 10 JAY HOTTINGER, JAMES E. CARNES, RANDY GARDNER, JOHN A. CAREY , RON AMSTUTZ, C. J. PRENTISS, BILL HARRIS, KEVIN J. COUGHLIN, JEFF JACOBSON, DAVID GOODMAN.

NO - 2 ERIC D. FINGERHUT, RAY MILLER.

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

The report of the committee was accepted.

Senator Harris submitted the following report:

The standing committee on Finance and Financial Institutions, to which was referred **Am. Sub. H. B. No. 40**-Representative Calvert (By Request), et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

YES - 8 RON AMSTUTZ, DAVID GOODMAN, KEVIN J. COUGHLIN, JOHN A. CAREY , JEFF JACOBSON, JAY HOTTINGER, RANDY GARDNER, BILL HARRIS.

NO - 5 RAY MILLER, ERIC D. FINGERHUT, JAMES E. CARNES, MARK MALLORY, C. J. PRENTISS.

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

The report of the committee was accepted.

RESOLUTIONS REPORTED BY COMMITTEE

Am. S. J. R. No. 1-Senators Austria, Carnes.

Proposing to enact Section 2p of Article VIII of the Constitution of the State of Ohio relating to science and technology based research and development purposes, including authorizing the issuance of general obligations of the state to pay costs related to those purposes.

Be it resolved by the General Assembly of the State of Ohio, three-fifths of the members elected to each house concurring herein, that there shall be submitted to the electors of the state, in the manner prescribed by law at the general election to be held on November 4, 2003, a proposal to enact Section 2p of Article VIII of the Constitution of the State of Ohio to read as follows:

ARTICLE VIII

Section 2p. (A) It is determined and confirmed that the science and technology based research and development purposes referred to in this

section, and provisions and activities for and supporting them, are proper public purposes of the state and local public entities and agencies, and that they are necessary and appropriate for: creating, preserving, and enhancing employment opportunities in, and for the people of, this state; economic development to improve the general and economic well-being of the people and business economy of this state; better ensuring the public welfare and health; better providing for the fuller utilization and economic viability of public and private Ohio institutions of higher education, and research organizations and institutions; and enhancing and expanding Ohio's private and public science and technology based research, development, and commercialization capacity and workforce capabilities.

The science and technology based research and development purposes to which this section applies (all referred to in this section as "development purposes") include, without limitation, research and resulting product innovation, development, and commercialization through efforts by and collaboration among Ohio business and industry, state and local public entities and agencies, public and private higher education institutions, or research organizations and institutions, all as may be further provided for by state or local law, but excluding purposes provided for in Section 15 of Article VIII, Ohio Constitution. Implementation of development purposes includes supporting any and all related matters and activities, including; attracting researchers and research teams by endowing research chairs or otherwise; activities to develop and commercialize products and processes; intellectual property matters such as copyrights and patents; property interests, including time sharing arrangements; and financial rights and matters such as profit sharing, royalties, licensing, joint ventures, stock ownership, and other financial gain or sharing resulting from development purposes. State and local public moneys, including the proceeds of bonds, notes, and other obligations, may be used to pay costs of or in support of or related to development purposes, including, without limitation, capital formation, direct operating costs, costs of research and facilities, including interests in real property therefore, and support for public and private institutions of higher education, research organizations or institutions, and private sector entities. The exercise of the powers under this section by state agencies, including state-supported and state-assisted institutions of higher education, and local public entities and agencies may be jointly or in coordination with each other, with researchers or research organizations and institutions, and with individuals or private sector business entities. State and local public participation may be in such manner as the entity or agency determines, including by any one or a combination of grants, loans including loans to lenders or the purchase of loans, subsidies, contributions, advances, or guarantees, or by direct investments of or payment or reimbursement from available moneys, or by providing staffing or other support, including computer or other technology capacity, or equipment or facilities, including interests in real property therefore, and either alone or in joint, collaborative, or cooperative ventures with other public agencies and private sector entities.

In addition to state-level monetary participation as referred to in division (B) of this section of otherwise, state-supported and state-assisted institutions of higher education and local public agencies may, as authorized from time to time by law, including this Constitution, issue obligations to pay their costs of participating in and implementing development purposes.

(B) The General Assembly may provide by law, subject to the limitations of and in accordance with this division, for the issuance of general obligation bonds and other general obligations of the state to pay costs of development purposes. Not more than five hundred million dollars principal amount of obligations may be issued under this authority, and not more than fifty million dollars principal amount of those obligations (plus the principal amount of those obligations that in any prior fiscal year except that not more than one hundred million dollars of principal amount of those obligations may be issued in the first fiscal year of issuance. The full faith and credit, revenue, and taxing power of the state shall be pledged to the payment of debt service on those general obligations as it becomes due, all as provided in this division. The General Assembly may provide for payments received for or related to development purposes to be included in that pledge.

For purposes of the full and timely payment of debt service on those state obligations, appropriate provisions shall be made or authorized by law for: a bond retirement fund; the sufficiency and appropriation of state excises, taxes, and revenues pledged to the debt service on those obligations, for which purpose, notwithstanding Section 22 of Article II, Ohio Constitution, no further act of appropriation shall be necessary; and covenants to continue the levy, collection, and application of sufficient state excises, taxes, and revenues to the extent needed for those purposes. Moneys referred to in Section 5a of Article XII, Ohio Constitution may not be pledged or used for the payment of that debt service. That debt service shall not be included in the calculation of total debt service for purposes of division (A) of Section 17 of Article VIII, Ohio Constitution.

This division shall be implemented in the manner and to the extent provided by the General Assembly by law, including provision for procedures for incurring, refunding, retiring, and evidencing those state obligations. Each such state obligation shall mature not later than the thirty-first day of December of the twentieth calendar year after its issuance, except that obligations issued to refund or retire other obligations issued pursuant to this division shall mature not later than the thirty-first day of December of the twentieth calendar year after the year in which the original obligation to pay was issued or entered into. Obligations issued to refund or retire obligations previously issued under this division shall not be subject to or count against the fiscal year or total issuance limitations in the first paragraph of this division.

In the case of the issuance of state obligations under this division as bond anticipation notes, provision shall be made by law or in the applicable bond or not proceedings for the establishment, and maintenance during the time the

notes are outstanding, of special funds into which there shall be paid, from the sources authorized for payment of the bonds anticipated, the amount that would have been sufficient to pay the principal that would have been payable on those bonds during that period if bonds maturing serially in each year over the maximum period of maturity referred to in this division had been issued without the prior issuance of the notes. Those special funds and investment income on them shall be used solely for the payment of principal of those notes or of the bonds anticipated.

As used in this section, "debt service" means principal and interest and other accreted amounts payable on the obligations referred to.

(C) Obligations of the state issued under or as referred to in this section, and the provisions for payment of debt service on them, including any payments by and received from local public agencies, are not subject to sections 6 and 11 of Article XII, Ohio Constitution. Those obligations and the obligations of local public entities or agencies issued for the development purposes referred to in this section, provisions for payment of debt service on them, the purposes and uses to which and the manner in which the proceeds of those obligations or moneys from other sources are to be or may be applied, and other implementation of the development purposes as referred to in this section, are not subject to Sections 4 and 6 of Article VIII of the Ohio Constitution. State and local public agency obligations authorized or referred to in this section, their transfer, and the interest, interest equivalent, and other income or accreted amounts on them, including any profit made on their sale, exchange, or other disposition, shall at all times be free from taxation within the state.

(D) The powers and authority granted or confirmed by and under, and the determinations in, this section are independent of, in addition to, and not in derogation of or a limitation on powers, authority, determinations, or confirmations under laws or under other provisions of the Ohio Constitution including, without limitation, Section 7 of Article I, Section 5 of Article VI, Sections 2i, 2n, 13, and 15 of Article VIII, Article X, and Section 3 of Article XVIII, and do not impair any previously adopted provisions of the Ohio Constitution or any law previously enacted by the General Assembly or by a local public agency.

EFFECTIVE DATE

If adopted by a majority of the electors voting on this proposal at the general election held November 4, 2003, Section 2p of Article VIII of the Constitution of the State of Ohio shall take effect immediately.

The question being, "Shall the resolution, **S. J. R. No. 1**, be adopted?"

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

Those who voted in the affirmative were: Senators

Amstutz
Brady

Armbruster
Carey

Austria
Carnes

Blessing
Coughlin

Dann	Randy Gardner	Robert Gardner	Goodman
Hagan	Harris	Hottinger	Jacobson
Mumper	Nein	Prentiss	Roberts
Schuler	Schuring	Spada	Stivers
			White-25.

Senators DiDonato, Fedor, Fingerhut, Herington, Jordan, Mallory, Miller, and Wachtmann voted in the negative-8.

So the resolution was adopted.

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

Senator Austria moved to amend the title as follows:

Add the names : "Amstutz, Harris, Jacobson, Mumper, Dann, Goodman, Stivers, Prentiss."

The motion was agreed to and the title so amended.

S. J. R. No. 3-Senator Robert Gardner.

To approve the amendment of rule 3301-35-10 of the Administrative Code, regarding site-based management councils, approved by the State Board of Education at its meeting on January 14, 2003.

WHEREAS, Am. Sub. S.B. 55 of the 122nd General Assembly enacted section 3314.20 of the Revised Code to require each school district with an enrollment exceeding 5,000 to designate one school building to be operated by a site-based management council, unless the Department of Education had designated the district's academic performance as "effective"; and

WHEREAS, Am. Sub. S.B. 1 of the 124th General Assembly amended section 3302.03 of the Revised Code to add the designation "excellent" to the pre-existing designations "effective," "in need of continuous improvement," "under an academic watch," and "in a state of academic emergency" for rating the academic performance of school districts; and

WHEREAS, That act also amended section 3314.20 of the Revised Code to exempt districts receiving the new "excellent" designation, as well as those receiving the pre-existing "effective" designation, from the requirement to designate a school building to be operated by a site-based management council; and

WHEREAS, Section 3314.20 of the Revised Code requires the Department of Education to recommend rules to the General Assembly to implement the section, including rules specifying the powers, duties, functions, and responsibilities of the site-based management councils that otherwise would be exercised by the school district board of education, and establishing a mechanism for resolving disagreements between a council and the district board as to their respective powers, duties, functions, and responsibilities; and

WHEREAS, The State Board of Education adopted rule 3301-35-10 of

the Administrative Code in 1999 in compliance with section 3314.20 of the Revised Code, and now must amend the rule to conform it to the amendments to that section by Am. Sub. S.B. 1 of the 124th General Assembly; and

WHEREAS, On October 15, 2002, the State Board of Education passed a resolution of intent to amend rule 3301-35-10 of the Administrative Code; and on December 10, 2002, the State Board conducted a public hearing concerning the proposed amendment; and at its meeting on January 14, 2003, the State Board adopted a resolution to adopt the proposed amendment; and

WHEREAS, Section 3314.20 of the Revised Code conditions the rule as amended's taking effect upon approval of the General Assembly through the adoption of a joint resolution; now therefore be it

RESOLVED, That the General Assembly approves the proposed amendment to rule 3301-35-10 of the Administrative Code approved by the State Board of Education at its meeting on January 14, 2003; and be it further

RESOLVED, That in addition to the filing requirements of Ohio Constitution, Article II, Section 15(F), the Clerk of the Senate shall send a certified copy of this resolution to the State Board of Education, the Director of the Joint Committee on Agency Rule Review, and the Director of the Legislative Service Commission.

The question being, "Shall the resolution, **S. J. R. No. 3**, be adopted?"

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

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Blessing
Brady	Carey	Carnes	Coughlin
Dann	DiDonato	Fedor	Fingerhut
Randy Gardner	Robert Gardner	Goodman	Hagan
Harris	Herington	Hottinger	Jacobson
Jordan	Mallory	Miller	Mumper
Nein	Prentiss	Roberts	Schuler
Schuring	Spada	Stivers	Wachtmann
			White-33.

So the resolution was adopted.

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

The title was agreed to.

S. J. R. No. 4-Senator Robert Gardner.

To approve the amendment of rule 3301-101-01 of the Administrative Code, regarding deregulation of school districts, approved by the State Board of Education at its meeting on January 14, 2003.

WHEREAS, Am. Sub. S.B. 1 of the 124th General Assembly amended section 3302.03 of the Revised Code to add the designation "excellent" to the

pre-existing designations "effective," "in need of continuous improvement," "under an academic watch," and "in a state of academic emergency" for rating the academic performance of school districts; and

WHEREAS, That act also amended section 3302.05 of the Revised Code to include districts receiving the new "excellent" designation, and to exclude those designated as "in need of continuous improvement," from rules of the Department of Education freeing school districts from specified state education mandates. The act retained the pre-existing provision including districts rated as "effective" under those rules; and

WHEREAS, The State Board of Education adopted rule 3301-101-01 of the Administrative Code in 1999 in compliance with section 3302.05 of the Revised Code, and now must amend the rule to conform it to the amendments to that section by Am. Sub. S.B. 1 of the 124th General Assembly; and

WHEREAS, On October 15, 2002, the State Board of Education passed a resolution of intent to amend rule 3301-101-01 of the Administrative Code; and on December 10, 2002, the State Board conducted a public hearing concerning the proposed amendment; and at its meeting on January 14, 2003, the State Board adopted a resolution to adopt the proposed amendment; and

WHEREAS, Section 3302.05 of the Revised Code conditions the rule as amended taking effect upon approval of the General Assembly through the adoption of a joint resolution; now therefore be it

RESOLVED, That the General Assembly approves the proposed amendment to rule 3301-101-01 of the Administrative Code approved by the State Board of Education at its meeting on January 14, 2003; and be it further

RESOLVED, That in addition to the filing requirements of Ohio Constitution, Article II, Section 15(F), the Clerk of the Senate shall send a certified copy of this resolution to the State Board of Education, the Director of the Joint Committee on Agency Rule Review, and the Director of the Legislative Service Commission.

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

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

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Blessing
Brady	Carey	Carnes	Coughlin
Dann	DiDonato	Fedor	Fingerhut
Randy Gardner	Robert Gardner	Goodman	Hagan
Harris	Herington	Hottinger	Jacobson
Jordan	Mallory	Miller	Mumper
Nein	Prentiss	Roberts	Schuler
Schuring	Spada	Stivers	Wachtmann
			White-33.

So the resolution was adopted.

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

Senator Robert Gardner moved to amend the title as follows:

Add the name : "Schuler."

The motion was agreed to and the title so amended.

BILLS FOR THIRD CONSIDERATION

Sub. H. B. No. 40-Representatives Calvert (By Request), D. Evans, Hoops.

To amend sections 5104.01, 5104.04, 5104.30, 5104.32, 5104.34, 5104.35, 5104.38, 5104.39, 5139.41, 5739.031, 5739.032, 5739.12, 5739.122, 5739.21, 5741.03, 5741.12, and 5741.121; to enact sections 5101.31 and 5104.382; and to repeal section 3302.041 of the Revised Code to make program and budgetary modifications, to amend the versions of sections 5739.031, 5739.12, and 5741.12 of the Revised Code that are scheduled to take effect July 1, 2003, to continue the provisions of this act on and after that effective date, to amend Sections 40 and 142 of Am. Sub. H.B. 94 of the 124th General Assembly, to amend Section 125 of Am. Sub. H.B. 94 of the 124th General Assembly, as subsequently amended, to amend Section 140 of Am. Sub. H.B. 94 of the 124th General Assembly, as subsequently amended, and to make an appropriation, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 40**, pass?"

Senator Miller moved to amend as follows:

Between lines 2194 and 2195, insert:

"Section____. PURCHASED SERVICES ALLOTMENT REDUCTION

(A) Each department that has a purchased services allotment shall receive a reduction of fifteen per cent of the amount of the original allotment in fiscal year 2003, to the exten possible.

(B) Within fifteen days after the effective date of this section, the Director of Budget and Management shall determine the amount of reduction required by division (A) of this section. To the extent that total reductions are not equal to or greater than \$150,000,000, the Director of Budget and Management shall reduce purchased services contracts on a selective basis until the total reductions are equal to \$150,000,000."

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

Senator Randy Gardner moved that the amendment be laid on the table.

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 22, nays 11, as follows:

Those who voted in the affirmative were: Senators

Amstutz

Armbruster

Austria

Blessing

Carey	Carnes	Coughlin	Randy Gardner
Robert Gardner	Goodman	Harris	Hottinger
Jacobson	Jordan	Mumper	Nein
Schuler	Schuring	Spada	Stivers
Wachtmann			White-22.

Those who voted in the negative were: Senators

Brady	Dann	DiDonato	Fedor
Fingerhut	Hagan	Herington	Mallory
Miller	Prentiss		Roberts-11.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 40**, pass?"

Senator Fedor moved to amend as follows:

Between lines 2200 and 2201, insert:

"Section___. AUDIT OF FEDERAL AID PROGRAMS

Notwithstanding any provision of the Revised Code to the contrary, the Legislative Service Commission shall conduct a study of all state agencies that comprise the Governor's cabinet in order to determine all federal aid programs listed in the Catalog of Federal Domestic Assistance for which an agency might apply but either has not applied, or is not eligible to apply due to noncompliance with a federal or state program requirement. The Legislative Service Commission shall compile a report of these federal aid programs that includes the amount of federal aid identified and shall submit the report to the Chair of the House Finance and Appropriations Committee, the ranking minority member of the House Finance and Appropriations Committee, the Chair of the Senate Finance and Financial Institutions Committee, and the ranking minority member of the Senate Finance and Financial Institutions Committee not later than June 30, 2003."

Renumber uncodified sections accordingly.

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

The yeas and nays were taken and resulted - yeas 13, nays 20, as follows:

Those who voted in the affirmative were: Senators

Brady	Dann	DiDonato	Fedor
Fingerhut	Robert Gardner	Hagan	Herington
Mallory	Miller	Prentiss	Roberts
			Spada-13.

Those who voted in the negative were: Senators

Amstutz	Armbruster	Austria	Blessing
Carey	Carnes	Coughlin	Randy Gardner
Goodman	Harris	Hottinger	Jacobson

Jordan
Schuring

Mumper
Stivers

Nein
Wachtmann

Schuler
White-20.

The amendment was not agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 40**, pass?"

Senator Fingerhut moved to amend as follows:

In line 22, after "sections" insert "107.31, 107.32,"; after "5101.31" insert a comma.

Between lines 23 and 24, insert:

" Sec. 107.31. (A) As used in this section and section 107.32 of the Revised Code:

(1) "State institutional facility" means any institution or other facility for the housing of any person that is under the control of the department of rehabilitation and correction, the department of youth services, the department of mental retardation and developmental disabilities, the department of mental health, or any other agency or department of state government.

(2) "Target state agency" means the agency of state government that the governor identifies in a notice provided under division (C) (1) of this section and that operates an institutional facility or facilities the governor believes should be closed.

(B) Notwithstanding any other provision of law, the governor shall not order the closure of any state institutional facility, for the purpose of expenditure reduction or budget cuts, other than in accordance with this section.

(C) If the governor determines that necessary expenditure reductions and budget cuts cannot be made without closing one or more state institutional facilities, all of the following apply:

(1) The governor shall determine which state agency's institutional facility or facilities the governor believes should be closed, shall notify the general assembly and that agency of that determination, and shall specify the number of facilities of that agency that the governor believes should be closed.

(2) Upon the governor's provision of the notice described in division (C)(1) of this section, the state facilities closure commission is hereby created as described in division (D) of this section, regarding the target state agency. Not later than seven days after the governor provides that notice, the officials with the duties to appoint members of the commission for the target state agency, as described in division (D) of this section, shall appoint the specified members of the commission, and, as soon as possible after the appointments, the commission shall meet for the purposes described in that division. Not later than thirty days after the governor provides the notice described in division (C) (1) of this section, the state facilities closure commission shall

provide a report to the general assembly that contains the commission's recommendation as to the state institutional facility or facilities of the target state agency that the governor may close. The commission's recommendation shall identify the same number of state institutional facilities as the governor specified in the governor's notice provided under division (C) (1) of this section, and, if the recommendation identifies more than one facility, it shall list them in order of the commission's preference for closure. A state facilities closure commission created for a particular target state agency shall make a report only regarding that target state agency and shall include no recommendations regarding any other state agency or department in its report. The commission shall provide the report to the governor and the target state agency.

(3) Upon receipt of the approved report of the state facilities closure commission under division (C) (2) of this section for a target state agency, if the governor still believes that necessary expenditure reductions and budget cuts cannot be made without closing one or more state institutional facilities, the governor may close state institutional facilities of the target state agency that are identified in the commission's recommendation contained in the report. Except as otherwise provide in this division, the governor shall not close any state institutional facility of the target state agency that is not listed in the commission's recommendation, and shall not close multiple institutions in any order other than the order of the commission's preference as specified in the recommendation. The governor is not required to follow the recommendation of the commission in closing an institutional facility if the governor determines that a significant change in circumstances make the recommendation unworkable.

(D) The state facilities closure commission shall be created at the time and in the manner specified in division (C) (2) of this section. If more than one state agency or department is a target state agency, a separate facilities closure commission shall be created for each such target state agency. The commission consists of eleven members. Three members shall be members of the house of representatives appointed by the speaker of the house of representatives, none of the members so appointed may have a state institutional facility of the target state agency in the member's district, two of the members so appointed shall be members of the majority political party in the house of representatives. Three members shall be members of the senate appointed by the president of the senate, none of the members so appointed may have a state institutional facility of the target state agency in the member's district, two of the members so appointed shall be members of the majority political party of the senate, and one of the members so appointed shall not be a member of majority political party in the senate. One member shall be the director, or other agency head, of the target state agency. Two members shall be private executives with expertise in facility utilization, with one of these members appointed by the speaker of the house of representatives and one of them appointed by the president of the senate, and neither of the members so appointed may have a state institutional facility of the target state

agency in the county in which the member resides. One member shall be a representative of the Ohio civil service employees' association or other representative association of the employees of the target state agency, appointed by the speaker of the house of representatives. The officials with the duties to appoint members of the commission shall make the appointments, and the commission shall meet, within the time periods specified in division (C)(2) of this section. The members of the commission shall serve without compensation. At the commission's first meeting, the members shall organize, and appoint a chairperson and vice-chairperson.

The commission shall determine which state institutional facility or facilities under the control of the target state agency for which the commission was created should be closed. In making this determination, the commission shall, at a minimum, consider the following factors:

- (1) Whether there is a need to reduce the number of facilities;
- (2) The availability of alternate facilities;
- (3) The cost effectiveness of the facilities;
- (4) The geographic factors associated with each facility and its proximity to other similar facilities;
- (5) The impact of collective bargaining on facility operations;
- (6) The utilization and maximization of resources;
- (7) Continuity of the staff and ability to serve the facility population;
- (8) Continuity costs following closure of a facility;
- (9) The impact of the closure on the local economy;
- (10) Alternatives and opportunities for consolidation with other facilities.

The commission shall meet as often as necessary to make its determination, shall hold public hearings in accordance with section 121.22 of the Revised Code for the purpose of taking public testimony, shall consider all relevant information, and shall prepare and provide in accordance with division (C) (2) of this section a report containing its recommendations. Upon providing the report regarding the target state agency to the governor and the target state agency, the commission shall cease to exist, provided that another commission shall be created for the same state agency if the agency is made a target state agency in another report provided under division (C) (1) of this section and provided that another commission shall be created for a different state agency if that agency is made a target state agency in a report provided under that division .

Sec. 107.32. Notwithstanding any other provision of law, if the closure of the particular facility is authorized under section 107.31 of the Revised Code, the governor may terminate any contract entered into under section 9.06 of the Revised Code for the private operation and management of any correctional facility under the control of the department of rehabilitation and correction.

including, but not limited to the initial intensive program prison established pursuant to section 5120.033 of the Revised Code as it existed prior to the effective date of this section, and terminated the operation of, and close that facility. If the governor terminates a contract for the private operation and management of a facility, and terminates the operation of, and closes, the facility as described in this section, inmates in the facility shall be transferred to another correctional facility under the control of the department. If the initial intensive program prison is closed, divisions (G) (2) (a) and (b) of section 2929.13 of the Revised Code have no effect while the facility is closed
."

Between lines 2371 and 2372, insert:

" **Section 17.** If, prior to the effective date of this section, the Governor has issued an order requiring the closure of a state institutional facility but as of the effective date of this section that facility has not yet been closed, the procedures established in section 107.31 of the Revised Code, as enacted by this act, shall apply to the closure of the facility notwithstanding the Governor's order. As used in this section, "state institutional facility" has the same meaning as in section 107.31 of the Revised Code."

Renumber uncodified section accordingly.

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

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

A roll call was requested which was properly supported.

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

Those who voted in the affirmative were: Senators

- | | | | |
|------------|---------------|----------------|-----------|
| Armbruster | Blessing | Carey | Carnes |
| Coughlin | Randy Gardner | Robert Gardner | Goodman |
| Harris | Hottinger | Jacobson | Nein |
| Schuler | Spada | Stivers | Wachtmann |
| | | | White-17. |

Those who voted in the negative were: Senators

- | | | | |
|-----------|----------|-----------|--------------|
| Amstutz | Austria | Brady | Dann |
| DiDonato | Fedor | Fingerhut | Hagan |
| Herington | Jordan | Mallory | Miller |
| Mumper | Prentiss | Roberts | Schuring-16. |

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 40**, pass?"

Senator Dann moved to amend as follows:

In line 19, delete "5104.01, 5104.04, 5104.30, 5104.32,".

In line 20, delete "5104.34, 5104.35, 5104.38, 5104.39,".

In line 22, after "107.32," insert "and"; delete ", and 5104.382".

Delete lines 187 through 1166.

In line 1855, delete "5104.01, 5104.04, 5104.30,".

In line 1856, delete "5104.32, 5104.34, 5104.35, 5104.38, 5104.39,".

In line 2211, delete "Sections" and insert "Section"; delete "5104.01, 5104.04, 5104.30,".

In line 2212, delete all before "of".

In lines 2213, 2214, 2217, 2218, 2223, and 2224, delete "amended or".

In line 2214, delete "sections" and insert "section"; delete "amended or".

In lines 2217 and 2218, delete "sections" and insert "section".

In line 2221, delete "any"; delete "amended".

In line 2222, delete the first "or"; delete the second "any".

In line 1 of the title, delete "5104.01, 5104.04, 5104.30, 5104.32,".

In line 2 of the title, delete "5104.34, 5104.35,5104.38, 5104.39,".

In line 5 of the title, after "107.32," insert "and"; delete ", and 5104.382".

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

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

A roll call was requested which was properly supported.

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

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Carnes	Coughlin	Randy Gardner	Goodman
Harris	Hottinger	Jacobson	Jordan
Mumper	Nein	Schuler	Schuring
Spada	Wachtmann		White-19.

Those who voted in the negative were: Senators

Blessing	Brady	Dann	DiDonato
Fedor	Fingerhut	Robert Gardner	Hagan
Herington	Mallory	Miller	Prentiss
Roberts			Stivers-14.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 40**, pass?"

Senator Prentiss moved to amend as follows:

In line 2180, after the colon insert "200-410, Professional Development; 200-427, Academic Standards; 200-437, Student Assessment; 200-444, Professional Recruitment;".

In line 2182, after the first semicolon insert "200-513, Student Intervention Services;"

In line 2184, delete "and".

In line 2185, after "Supplement" insert "; and 200-570, School Improvement".

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

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

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 22, nays 11, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Blessing
Carey	Carnes	Coughlin	Randy Gardner
Robert Gardner	Goodman	Harris	Hottinger
Jacobson	Jordan	Mumper	Nein
Schuler	Schuring	Spada	Stivers
Wachtmann			White-22.

Those who voted in the negative were: Senators

Brady	Dann	DiDonato	Fedor
Fingerhut	Hagan	Herington	Mallory
Miller	Prentiss		Roberts-11.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 40**, pass?"

Senator Roberts moved to amend as follows:

Between lines 2185 and 2186, insert:

"Section___. HIGHER EDUCATION CUTS PROHIBITED

Notwithstanding any other provision of law to the contrary, the Governor shall not reduce fiscal year 2003 General Revenue Fund appropriations for the following appropriation items of the Board of Regents budget: 235-501, State Share of Instruction; 235-503, Ohio Instructional Grants; 235-504, War Orphans Scholarships; 235-530, Academic Scholarships; 235-531, Student Choice Grants; 235-534, Student Workforce Development Grants; 235-549, Part-time Student Instructional Grants; and 235-599, National Guard Scholarship Program."

Re-number uncodified sections accordingly.

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

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

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 22, nays 11, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Blessing
Carey	Carnes	Coughlin	Randy Gardner
Robert Gardner	Goodman	Harris	Hottinger
Jacobson	Jordan	Mumper	Nein
Schuler	Schuring	Spada	Stivers
Wachtmann			White-22.

Those who voted in the negative were: Senators

Brady	Dann	DiDonato	Fedor
Fingerhut	Hagan	Herington	Mallory
Miller	Prentiss		Roberts-11.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 40**, pass?"

Senator Hagan moved to amend as follows:

In line 22, after "107.32," insert "4729.40,".

Between lines 176 and 177, insert:

"Sec. 4729.40. (A) The state board of pharmacy shall enter into and administer an agreement or cooperative arrangement to create or join a multiple-state prescription drug purchasing program that uses the collective bargaining power of the participants to negotiate discounts for dangerous drugs.

(B) An agreement or cooperative arrangement entered into under this section shall not prohibit any state, county, or municipal entity from negotiating with a manufacturer of dangerous drugs or a wholesale distributor of dangerous drugs to receive discounts for dangerous drugs.

(C) The board may adopt rules to implement this section."

In line 5 of the title, after "107.32," insert "4729.40,".

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

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

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 22, nays 11, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Blessing
Carey	Carnes	Coughlin	Randy Gardner
Robert Gardner	Goodman	Harris	Hottinger
Jacobson	Jordan	Mumper	Nein
Schuler	Schuring	Spada	Stivers
Wachtmann			White-22.

Those who voted in the negative were: Senators

Brady	Dann	DiDonato	Fedor
Fingerhut	Hagan	Herington	Mallory
Miller	Prentiss		Roberts-11.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 40**, pass?"

Senator Harris moved to amend as follows:

In line 2194, delete everything after the word "period".

Delete line 2195.

In line 2196, delete everything up to the period.

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

The motion was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 40**, pass?"

The yeas and nays were taken and resulted - yeas 18, nays 15, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Blessing	Carey
Coughlin	Randy Gardner	Goodman	Harris
Hottinger	Jacobson	Jordan	Mumper
Nein	Schuler	Spada	Stivers
Wachtmann			White-18.

Those who voted in the negative were: Senators

Armbruster	Brady	Carnes	Dann
DiDonato	Fedor	Fingerhut	Robert Gardner
Hagan	Herington	Mallory	Miller
Prentiss	Roberts		Schuring-15.

So the bill passed.

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

The title was agreed to.

S. B. No. 12-Senators Randy Gardner, Robert Gardner, Harris, Mumper, Prentiss.

To amend section 3314.02 of the Revised Code to remove the prohibition on establishing a conversion community school as an Internet- or computer-based community school, was considered the third time.

The question being, "Shall the bill, **S. B. No. 12**, pass?"

The yeas and nays were taken and resulted - yeas 32, nays 1, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Blessing
Brady	Carey	Carnes	Coughlin
Dann	DiDonato	Fedor	Fingerhut
Randy Gardner	Robert Gardner	Goodman	Hagan
Harris	Herington	Hottinger	Jacobson
Jordan	Mallory	Miller	Mumper
Nein	Prentiss	Schuler	Schuring
Spada	Stivers	Wachtmann	White-32.

Senator Roberts voted in the negative-1.

So the bill passed.

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

Senator Randy Gardner moved to amend the title as follows:

Add the names : "Amstutz, Schuring, Stivers."

The motion was agreed to and the title so amended.

OFFERING OF RESOLUTIONS

Senator White offered the following resolution :

S. R. No. 100 -Senators White, Randy Gardner, Hottinger, Jacobson, DiDonato, Mallory, Prentiss, Fedor, Amstutz, Armbruster, Austria, Blessing, Brady, Carey, Carnes, Coughlin, Dann, Fingerhut, Robert Gardner, Goodman, Hagan, Harris, Herington, Jordan, Miller, Mumper, Nein, Roberts, Schuler, Schuring, Spada, Stivers, Wachtmann.

In memory of the crew of the Space Shuttle Columbia.

The question being, "Shall the resolution, **S. R. No. 100**, be adopted?"

So the resolution was adopted.

MOTIONS

Senator Jacobson moved that Senators absent the week of Sunday, February 16, 2003, 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.

Message from the House of Representatives

Mr. President:

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

H. J. R. No. 3 - Speaker Householder

To provide for the Ohio General Assembly to meet in regular session in the Ross County Court House in Chillicothe on March 1, 2003, to commemorate the two hundredth anniversary of Ohio's statehood and the first convening of the General Assembly.

Attest: LAURA P. CLEMENS,
Clerk.

The question being, "Shall the resolution, **H. J. R. No. 3**, be adopted?"
The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:
Those who voted in the affirmative were: Senators

- | | | | |
|---------------|----------------|-----------|-----------|
| Amstutz | Armbruster | Austria | Blessing |
| Brady | Carey | Carnes | Coughlin |
| Dann | DiDonato | Fedor | Fingerhut |
| Randy Gardner | Robert Gardner | Goodman | Hagan |
| Harris | Herington | Hottinger | Jacobson |
| Jordan | Mallory | Miller | Mumper |
| Nein | Prentiss | Roberts | Schuler |
| Schuring | Spada | Stivers | Wachtmann |
| | | | White-33. |

So the resolution was adopted.
The question being, "Shall the title be agreed to?"
Senator Randy Gardner moved to amend the title as follows:
Add the names : "White, Carey, Randy Gardner."
The motion was agreed to and the title so amended.
On the motion of Senator Randy Gardner the Senate adjourned until Thursday, February 20, 2003 at 11:00 o'clock a.m.

Attest: MATTHEW T. SCHULER,
Clerk.