OHIO

SENATE

JOURNAL

TUESDAY, APRIL 20, 2004

ONE HUNDRED SIXTY-EIGHTH DAY
Senate Chamber, Columbus, Ohio
Tuesday, April 20, 2004, 1:30 p.m.

The Senate met pursuant to adjournment.

Prayer was offered by Pastor Peter Foxx, Calvary Bible 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 Jordan 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. 220-Senators Schuler, Fedor, DiDonato, Robert Gardner, Nein.

To amend section 3719.81 and to enact section 3719.811 of the Revised Code regarding the distribution of sample drugs by and to charitable pharmacies.

To the Committee on Health, Human Services and Aging.

S. B. No. 221-Senators Carey, Wachtmann, Goodman, Fingerhut, Fedor, Miller.

To amend sections 5101.75, 5101.752, 5111.204, 5111.62, and 5111.88; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 5101.75 (173.42) and 5101.752 (173.43); to enact section 5111.881; and to repeal sections 5101.751, 5101.753, 5101.754, and 5111.205 of the Revised Code to establish a program for providing long-term care consultations to residents and potential residents of nursing facilities and to require the identification of options for financing Medicaid long-term care services according to individual needs and preferences, including preferences for home and community-based services.

To the Committee on Finance and Financial Institutions.

S. B. No. 222-Senator Carey.

To amend sections 121.22, 133.05, 149.43, 737.03, 749.02, 749.08, 749.15,

749.18, 749.24, 749.33, 751.07, 3702.62, and 4115.04; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 749.03 (749.021), 749.08 (749.081), and 749.15 (749.082); to enact new sections 749.03 and 749.08 and sections 749.083 and 749.37 of the Revised Code to modify the laws governing municipal hospitals.

To the Committee on Health, Human Services and Aging.

S. B. No. 223-Senators Carey, Hottinger, Padgett, Fingerhut.

To enact sections 166.31 to 166.35 and 166.41 to 166.43 of the Revised Code and to amend Sections 38 and 38.19 of Am. Sub. H.B. 95 of the 125th General Assembly to authorize the Director of Development to grant money to certain economically distressed counties for the purpose of making loans to businesses that are located in the counties, to authorize the Director to grant money to these counties for the purpose of improving commercial and industrial areas within the counties, and to make appropriations for these purposes.

To the Committee on Finance and Financial Institutions.

S. B. No. 224-Senator Padgett.

To amend section 3357.112 of the Revised Code to permit any technical college that is not co-located with another institution of higher education to acquire housing and dining facilities.

To the Committee on Finance and Financial Institutions.

S. B. No. 225-Senators Hottinger, Carey.

To amend sections 145.384 and 145.46 of the Revised Code regarding the election by a retirant who has married or remarried to change the plan under which a Public Employees Retirement System retirement allowance or benefit is paid.

To the Committee on Health, Human Services and Aging.

S. B. No. 226-Senators Padgett, Wachtmann.

To amend sections 163.07, 163.08, 163.14, 163.15, 163.16, 163.17, 163.18, 163.19, 163.21, 163.59, and 163.62 of the Revised Code to require agencies to pay in just amounts determined by a court the attorney's fees, witness fees, and other actual expenses that a property owner incurs in eminent domain proceedings if the compensation and damages that the jury assesses for the affected property exceed the agency's highest offer for the property by 10 per cent or more.

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

S. B. No. 227-Senator Wachtmann.

To amend section 1531.06 of the Revised Code to establish requirements governing the issuance of permits by the Chief of the Division of Wildlife in the Department of Natural Resources for the administration of contraceptive chemicals to noncaptive wild animals.

To the Committee on Energy, Natural Resources and Environment.

S. B. No. 228-Senators Zurz, Brady, Roberts, Dann, Hagan, DiDonato, Fedor, Mallory, Fingerhut, Prentiss, Miller.

To enact sections 125.112, 153.02, and 166.25 of the Revised Code to require that contracts with the state specify that labor or services are to be performed within the United States; to require a person performing a contract certify compliance with this requirement and that any supplies to be provided pursuant to the contract will be provided from a location within the United States; and to prohibit awarding contracts with the state or giving state financial assistance, including tax incentives, loans, loan guarantees, or grants, for five years to employers that have had a net loss of jobs due to the relocation of jobs from Ohio to locations outside the United States.

To the Committee on Ways and Means and Economic Development.

S. B. No. 229-Senators Padgett, Carey, Armbruster, DiDonato, Fingerhut, Robert Gardner, Hottinger, Mumper, Nein, Schuler, Schuring, Spada, Stivers, Wachtmann.

To amend section 5733.39 of the Revised Code to extend until January 1, 2012, the Ohio coal tax credit for electric companies burning Ohio coal.

To the Committee on Ways and Means and Economic Development.

Am. Sub. H. B. No. 225-Representatives Olman, Jerse, S. Smith, Schneider, Cirelli, Kearns, DeBose, Jolivette, Barrett, Beatty, Brown, Chandler, DeGeeter, Key, Kilbane, Koziura, Mason, Miller, Otterman, Perry, Peterson, Price, Redfern, Skindell, D. Stewart, Strahorn, Sykes, Ujvagi, Woodard, Yates.

To amend sections 1739.05, 1751.01, 1751.02, 3923.28, 3923.30, and 3923.51 and to enact sections 3923.281 and 3923.282 of the Revised Code to prohibit, subject to certain exceptions, discrimination in group health care policies, contracts, and agreements in the coverage provided for the diagnosis, care, and treatment of biologically based mental illnesses.

To the Committee on Insurance, Commerce and Labor.

JIM JORDAN	MARK MALLORY
GREGORY L. DIDONATO	BILL HARRIS

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 Jordan submitted the following report:

The standing committee on Rules to which were referred the appointments by the Governor of:

Claire Adkins , Republican, from Akron, Summit County, Ohio, as a Member of the Ohio Board of Dietetics for a term beginning June 27, 2003 and ending at the close of business June 30, 2008, replacing Claire Charley, whose term expired.

Linda K. Barson , Independent, from Sagamore Hills, Summit County, Ohio, as a Member of the Counselor, Social Worker, and Marriage and Family Therapist Board for a term beginning July 15, 2003 and ending at the close of business October 10, 2006.

Marilyn M. Brandt , Republican, from Chardon, Geauga County, Ohio, as a Member of the Cemetery Dispute Resolution Commission of a new term

beginning January 8, 2004 and ending at the close of business July 2, 2007.

R. Gregory Browning , Republican, from Worthington, Franklin County, Ohio, as a Member of the State Medical Board for a new term beginning August 1, 2003 and ending at the close of business July 31, 2008.

John Drsvensek , from Columbus, Franklin County, Ohio, as a Member of the Ohio Ambulance Licensing Board for a new term beginning August 1, 2003 and ending at the close of business July 5, 2005.

Suzanne R. Eastman , Independent, from Cincinnati, Hamilton County, Ohio, as a Member of the State Board of Pharmacy for a new term beginning August 1, 2003 and ending at the close of business June 30, 2007.

Richard D. Finn III , from Lockbourne, Franklin County, Ohio, as a Member of the Cemetery Dispute Resolution Commission of a term beginning January 8, 2004 and ending at the close of business July 2, 2007.

Robert P. Giacalone , Independent, from Dublin, Franklin County, Ohio, as a Member of the State Board of Pharmacy for a new term beginning August 1, 2003 and ending at the close of business June 30, 2007.

Susan N. Huss , Independent, from Luckey, Wood County, Ohio, as a Member of the Counselor, Social Worker, and Marriage and Family Therapist Board for a term beginning July 15, 2003 and ending at the close of business October 10, 2004, replacing Hanna Dixon, who resigned.

William A. Mosier , Independent, from Dayton, Montgomery County, Ohio, as a Member of the Counselor, Social Worker, and Marriage and Family Therapist Board for a term beginning July 15, 2003 and ending at the close of business October 10, 2005.

Jeff Payton , Democrat, from Mansfield, Richland County, Ohio, as a Member of the Council on Alcohol and Drug Addiction Service for a new term beginning August 13, 2003 and ending at the close of business July 31, 2005.

Jack Popadak , from Warren, Trumbull County, Ohio, as a Member of the Ohio Ambulance Licensing Board for a new term beginning August 1, 2003 and ending at the close of business July 5, 2005.

Juliet C. Rowland , Democrat, from Columbus, Franklin County, Ohio, as a Member of the Council on Alcohol and Drug Addiction Service for a new term beginning August 13, 2003 and ending at the close of business July 31, 2005.

Michael Schoenhofer , Republican, from Lima, Allen County, Ohio, as a Member of the Council on Alcohol and Drug Addiction Service for a term beginning August 13, 2003 and ending at the close of business July 31, 2005, replacing William Zumbar, whose term expired.

Julianne M. Serovich , Democrat, from Columbus, Franklin County, Ohio, as a Member of the Counselor, Social Worker, and Marriage and Family

Therapist Board for a term beginning July 15, 2003 and ending at the close of business October 10, 2005.

Doug Talbott , Republican, from Columbus, Franklin County, Ohio, as a Member of the State Board of Cosmetology for a term beginning July 15, 2003 and ending at the close of business October 31, 2008.

Steven S. Thompson , Independent, from Columbus, Franklin County, Ohio, as a Member of the State Board of Cosmetology for a term beginning July 15, 2003 and ending at the close of business October 31, 2008.

Eloise Traina , Republican, from Salem, Columbiana County, Ohio, as a Member of the Council on Alcohol and Drug Addiction Service for a new term beginning August 13, 2003 and ending at the close of business July 31, 2005.

Kenneth Trivison , Independent, from Elyria, Lorain County, Ohio, as a Member of the Counselor, Social Worker, and Marriage and Family Therapist Board for a term beginning July 15, 2003 and ending at the close of business October 10, 2006.

Linda K. Watkins , Republican, from Helena, Sandusky County, Ohio, as a Member of the State Board of Cosmetology for a new term beginning July 15, 2003 and ending at the close of business October 31, 2008.

Gerald D. Wantz , Independent, from Chardon, Geauga County, Ohio, as a Member of the Cemetery Dispute Resolution Commission of a new term beginning January 8, 2004 and ending at the close of business July 2, 2005, replacing James Mizer, who resigned.

Janet K. Wade-Watts , Independent, from Malta, Morgan County, Ohio, as a Member of the Council on Alcohol and Drug Addiction Service for a new term beginning August 13, 2003 and ending at the close of business July 31, 2005.

Theodore Ziegler , Democrat, from Akron, Summit County, Ohio, as a Member of the Council on Alcohol and Drug Addiction Service for a term beginning August 13, 2003 and ending at the close of business July 31, 2005, replacing Linda Mowrey, whose term expired.

YES - 9: RANDY GARDNER, JAY HOTTINGER, JIM JORDAN, BILL HARRIS, SCOTT R. NEIN, C. J. PRENTISS, TERESA FEDOR, MARK MALLORY, GREGORY L. DIDONATO.

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 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

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

So the Senate advised and consented to said appointments.

BILLS FOR THIRD CONSIDERATION

Sub. S. B. No. 124-Senators Amstutz, Nein, Randy Gardner, Carey, Jacobson, Spada, Blessing, Stivers.

To amend section 2305.234 of the Revised Code to modify the civil immunity for health care professionals and health care workers and to amend the version of section 2305.234 of the Revised Code that is scheduled to take effect July 12, 2004, to continue the provisions of this act on and after that date, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 124**, 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	Coughlin	Dann
DiDonato	Fedor	Fingerhut	Randy Gardner
Robert Gardner	Goodman	Harris	Hottinger
Jacobson	Jordan	Mallory	Miller
Mumper	Nein	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Zurz	White-32.

Senator Hagan voted in the negative-1.

So the bill passed.

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

Senator Amstutz moved to amend the title as follows:

Add the names : "Austria, Harris, Mumper."

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

The motion was agreed to and the title so amended.

Am. H. B. No. 288-Representatives Faber, McGregor, Seitz, Willamowski, Latta, Gibbs, Aslanides, Carmichael, Distel, Domenick, Driehaus, C. Evans, Niehaus, Perry, Reinhard, Schlichter, Seaver, Setzer, Walcher, Widener, Book, Barrett, Beatty, Brown, Buehrer, Callender, Carano, Chandler, Clancy, Collier, Daniels, DeBose, D. Evans, Flowers, Gilb, Grendell, Hagan, Hartnett, Harwood, Hollister, Hoops, Hughes, Jolivette, Kearns, Olman, Raussen, Schmidt, Schneider, G. Smith, J. Stewart, Williams, Yates Senator Robert Gardner.

To amend sections 1729.01, 1729.02, 1729.03, 1729.04, 1729.06, 1729.07, 1729.08, 1729.11, 1729.16, 1729.18, 1729.19, 1729.22, 1729.23, 1729.26, 1729.28, 1729.35, 1729.36, 1729.38, 1729.42, 1729.46, 1729.47, 1729.49, 1729.55, 1729.56, 1729.58, 1729.59, 1729.61, 1729.69, and 1729.85 and to enact section 1729.031 of the Revised Code to modify the Cooperative Law, was considered the third time.

The question being, "Shall the bill, **Am. H. B. No. 288**, pass?"

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	Coughlin	Dann
DiDonato	Fedor	Fingerhut	Randy Gardner
Robert Gardner	Goodman	Hagan	Harris
Hottinger	Jacobson	Jordan	Mallory
Miller	Mumper	Nein	Padgett
Prentiss	Roberts	Schuler	Schuring
Spada	Stivers	Wachtmann	Zurz
			White-33.

So the bill passed.

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

Senator Jordan moved to amend the title as follows:

Add the name : "Jordan."

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

The motion was agreed to and the title so amended.

INTRODUCTION AND FIRST CONSIDERATION OF BILLS

The following bill was introduced and considered the first time:

S. B. No. 230-Senators Mumper, Carey, Randy Gardner, Harris, Coughlin.

To amend sections 4561.17, 4561.18, and 4561.21 of the Revised Code to calculate the annual general aviation aircraft license tax on a per seat basis and to deposit the money into the renamed Airport Assistance Fund to be used for improvements to publicly owned airports.

OFFERING OF RESOLUTIONS

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

S. R. No. 1694-Senator Fedor.

Honoring Frank and Nyla Gerrard on their Sixtieth Wedding Anniversary.

S. R. No. 1695-Senator Fedor.

Honoring Gerald and Mary Lutzke on their Golden Wedding Anniversary.

S. R. No. 1696-Senator Stivers.

Honoring Columbus Parent magazine on winning three awards in the annual Parenting Publications of America Competition.

S. R. No. 1697-Senator Schuler.

Honoring Bob and Lillian Riley on their Golden Wedding Anniversary.

S. R. No. 1698-Senator Blessing.

Honoring the Mount Notre Dame High School basketball team on winning the 2003-2004 Division I State Championship.

S. R. No. 1699-Senator Dann.

Honoring Anthony and Yvonne Ucciferri on their Golden Wedding Anniversary.

S. R. No. 1700-Senator Fedor.

Honoring George and Lois Konyha on their Golden Wedding Anniversary.

S. R. No. 1701-Senator Mumper.

Honoring J.D. Bergman as a 2004 NCAA All-American wrestler.

S. R. No. 1702-Senator Mumper.

Honoring Jeff Ratliff as a 2004 NCAA All-American wrestler.

S. R. No. 1703-Senator Blessing.

Honoring Blake Kaplan as a 2004 NCAA All-American wrestler.

S. R. No. 1704-Senator Zurz.

Honoring Carl and Iona Buterbaugh on their Golden Wedding Anniversary.

S. R. No. 1705-Senator White.

Recognizing Amyotrophic Lateral Sclerosis Awareness Month, May 2004.

S. R. No. 1706-Senator White.

Recognizing All-Ohio Academic Team Day.

S. R. No. 1707-Senator Blessing.

Honoring the Mount Notre Dame High School golf team on winning the 2003-2004 Division I State Championship.

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, Bob Taft, Governor of the State of Ohio, do hereby appoint, Marlene K. Barkheimer, Independent, from West Salem, Wayne County, Ohio, as a Member of the Banking Commission for a term beginning April 9, 2004, and ending at the close of business January 31, 2007, replacing Roger Blair 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 9th day of April in the year of our Lord, two thousand and four.

[Seal]

Bob Taft,
Governor.

STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, William J. Bresnahan, Independent, from Kinsman, Trumbull County, Ohio, as a Member of the Youngstown State University Board of Trustees for a term beginning April 2, 2004, and ending at the close of business May 1, 2007, replacing Charles D. Cushwa III, who passed away.

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 9th day of April in the year of our Lord, two thousand and four.

[Seal]

Bob Taft,
Governor.

STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Donald Cagigas, from Poland, Mahoning County, Ohio, as a Member of the Youngstown State University Board of Trustees for a term beginning April 13, 2004, and ending at the close of business May 1, 2008, replacing F. W. Knecht who resigned.

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 9th day of April in the year of our Lord, two thousand and four.

[Seal] Bob Taft,
Governor.

STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Michael Distelhorst, from Columbus, Franklin County, Ohio, as a Member of the State Board of Psychology for a term beginning April 9, 2004, and ending at the close of business October 5, 2008, replacing Sophia Augier who resigned.

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 9th day of April in the year of our Lord, two thousand and four.

[Seal] Bob Taft,
Governor.

STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Scott R. Schulick, from Youngstown, Mahoning County, Ohio, as a Member of the Youngstown State University Board of Trustees for a term beginning April 13, 2004, and ending at the close of business May 1, 2013, replacing Joseph S. Nohra 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 9th day of April in the year of our Lord, two thousand and four.

[Seal] Bob Taft,
Governor.

STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Paul G.

Sieben, Independent, from Maumee, Lucas County, Ohio, as a Member of the Ohio Arts and Sports Facilities Commission for a new term beginning April 9, 2004 and ending at the close of business December 31, 2006.

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 9th day of April in the year of our Lord, two thousand and four.

[Seal]

Bob Taft,
Governor.

STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Franklin D. Wright, Republican, from Cincinnati, Hamilton County, Ohio, as a Member of the State Dental Board for a term beginning April 9, 2004, and ending at the close of business April 6, 2008, replacing Eleanore Awadalla 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 9th day of April in the year of our Lord, two thousand and four.

[Seal]

Bob Taft,
Governor.

Said appointments were referred to the Committee on Rules.

Message from the House of Representatives

Mr. President:

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

Sub. H. B. No. 303 - Representatives Oelslager, DeGeeter, C. Evans, Kearns, McGregor, Skindell

To amend section 149.43, to enact sections 2710.01 to 2710.10, and to repeal section 2317.023 of the Revised Code to adopt the Uniform Mediation Act.

Attest: Laura P. Clemens,
Clerk.

Said bill was considered the first time.

Message from the House of Representatives

Mr. President:

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

Sub. H. B. No. 243 - Representative Raussen - et al.

Attest: Laura P. Clemens,
Clerk.

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. H. B. No. 252 - Representative Cates et al.

Attest: Laura P. Clemens,
Clerk.

The President signed said bill.

MESSAGE FROM THE PRESIDENT

Pursuant to Section 5123.60 (D) of the Ohio Revised Code, the President of the Senate appoints the following public members to serve a three-year term on the **Ohio Legal Rights Service Commission**:

William Bauer, Ph.D. CRC (term beginning April 17, 2004 and ending April 17, 2007)
Marietta, Ohio 45750

Wayne Cocchi (term beginning April 17, 2004 and ending April 17, 2007)
Columbus, Ohio 43215

Pursuant to Section 5123.60 (D) of the Ohio Revised Code, the President of the Senate reappoints the following public member to serve a three-year term on the **Ohio Legal Rights Service Commission**:

Cindy Carpenter (term beginning April 17, 2004 and ending April 17, 2007)
Hamilton, Ohio 45011

On the motion of Senator Randy Gardner, the Senate adjourned until Wednesday, April 21, 2004 at 1:30 p.m.

Attest: MATTHEW T. SCHULER,
Clerk.