OHIO

SENATE

JOURNAL

TUESDAY, FEBRUARY 25, 2003

NINETEENTH DAY
Senate Chamber, Columbus, Ohio
Tuesday, February 25, 2003, 1:30 p.m.

The Senate met pursuant to adjournment.

Prayer was offered by Rabbi Joseph Schonberger, Temple El Emeth, Youngstown, 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 bill, standing in order for second consideration, be referred to committee as recommended:

S. B. No. 36-Senators Randy Gardner, Jacobson, Harris, Carey, Robert Gardner, Fedor, Austria, Hottinger, Stivers, Carnes, Mumper, Coughlin, Armbruster, Spada, Schuring.

To repeal section 3302.041 of the Revised Code to eliminate restrictions on the expenditure by school districts of state funds received for parity aid.

To the Committee on Finance and Financial Institutions.

Said bill was 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 bill was considered a second time and referred to committee as recommended.

RESOLUTIONS REPORTED BY COMMITTEE

Am. S. J. R. No. 2-Senators Mallory, Prentiss, Jacobson, Brady, Herington, Fedor, Fingerhut, Goodman, Stivers, Dann, Amstutz.

Providing for the ratification of the Fourteenth Amendment to the United States Constitution to guarantee equal protection and due process to all

persons born or naturalized in the United States.

WHEREAS, Both houses of the thirty-ninth Congress of the United States of America, at the first session of such Congress, by a constitutional majority of two-thirds of the members of each house thereof, made a proposition to amend the Constitution of the United States in the following words, to wit:

Be it resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, (two-thirds of both houses concurring,) That the following article be proposed to the legislatures of the several states as an amendment to the constitution of the United States, which, when ratified by three-fourths of said legislatures, shall be valid as a part of the constitution, namely:

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice president of the United States, representatives in congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens, twenty one years of age in such state.

SEC. 3. No person shall be a senator or representative in congress, or elector of president or vice president, or hold any office, civil or military, under the United States, or under any state, who having previously taken an oath as a member of congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But congress may, by a vote of two-thirds of each house, remove such disability.

SEC. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States, nor any state, shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall

be held illegal and void.

SEC. 5. The congress shall have power to enforce, by appropriate legislation, the provisions of this article."

WHEREAS, The General Assembly of the State of Ohio ratified the Fourteenth Amendment to the United States Constitution by a Joint Resolution adopted January 11, 1867, but by a further Joint Resolution, voted to rescind its ratification of the Amendment on January 15, 1868, before the Amendment became effective in July 1868; and

WHEREAS, The State of Ohio is considered by many authorities to have ratified the Amendment, but other authorities assert that Ohio's rescission may have been valid; and

WHEREAS, The validity of the Fourteenth Amendment is indisputable regardless of the validity of Ohio's rescission because Congress approved it by a two-thirds majority on June 13, 1866, and every State in the Union at the time has subsequently supported it, thereby exceeding the necessary three-quarters majority; and

WHEREAS, The Fourteenth Amendment is the primary guaranty for individual rights and liberties through its protection of the privileges and immunities of citizens of the United States, its prohibition on the deprivation of life, liberty or property without due process of law, and its guaranty of equal protection of the laws; and

WHEREAS, The ratification of the Fourteenth Amendment demonstrates the support of the people of the State of Ohio for the principles embodied therein; now therefore be it

RESOLVED, By the General Assembly of the State of Ohio, that the said Amendment to the Constitution of the United States is hereby ratified; and be it further

RESOLVED, That the Secretary of State of the State of Ohio be directed to deliver to the Governor of this state a certified copy of this resolution, and such certified copy shall be forwarded at once by the Governor to the Administrator of General Services, United States Government, Washington, D.C., to the President Pro Tempore of the Senate of the United States, to the Speaker of the House of Representatives of the United States, and to the Secretary of State of the United States.

The question being, "Shall the resolution, **Am. S. J. R. No. 2**, 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 Mallory moved to amend the title as follows:

Add the names : "Armbruster, Austria, Blessing, Carey, Carnes, Coughlin, DiDonato, Randy Gardner, Robert Gardner, Hagan, Harris, Hottinger, Jordan, Miller, Mumper, Nein, Roberts, Schuler, Schuring, Spada, Wachtmann, White."

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. 37-Senator Blessing.

To amend sections 165.09, 902.11, 2915.01, 4505.06, 4981.20, 5739.01, 5739.02, 5739.03, 5739.11, and 5741.02 of the Revised Code to clarify who pays the sales or use tax on packaging material used in highway transportation for hire and to clarify when the transfer of motion picture films is a sale.

OFFERING OF RESOLUTIONS

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

S. R. No. 101-Senator Austria.

To proclaim February 21st 2003 "Give Kids a Smile! Day."

S. R. No. 102-Senator Mumper.

Honoring Ted and Ruth Gerbich on their Golden Wedding Anniversary.

S. R. No. 103-Senator Mumper.

Honoring Robert and Donna Crabtree on their Golden Wedding Anniversary.

S. R. No. 104-Senator Mumper.

Honoring Neil and Alice Dagg on their Sixty-fifth Wedding Anniversary.

S. R. No. 105-Senator Mumper.

Honoring William and Corrine Reineke on their Golden Wedding Anniversary.

S. R. No. 106-Senator Mumper.

Honoring Alex and Cleo Gray on their Golden Wedding Anniversary.

S. R. No. 107-Senator Mumper.

Honoring Harry and Jane Miller on their Golden Wedding Anniversary.

S. R. No. 108-Senator Mumper.

Honoring Earl and Margaret Rupp on their Sixtieth Wedding Anniversary.

S. R. No. 109-Senator Mumper.

Honoring Timothy and Barbara Steager on their Golden Wedding Anniverary.

S. R. No. 110-Senator Mumper.

Honoring Daniel and Betty Autullo on their Golden Wedding Anniversary.

S. R. No. 111-Senator Mumper.

Honoring Donald and Joyce Zucker on their Golden Wedding Anniversary.

S. R. No. 112-Senator Mumper.

Honoring George and Janice Neikirk on their Golden Wedding Anniversary.

S. R. No. 113-Senator Austria.

Honoring Clyde and Marjorie Baker on their Fifty-fifth Wedding Anniversary.

S. R. No. 114-Senator Austria.

Honoring Robert and Helen Strayer on their Golden Wedding Anniversary.

S. R. No. 115-Senator Austria.

Honoring James and Rose Richart on their Golden Wedding Anniversary.

S. R. No. 116-Senator Austria.

Honoring Lewis and Lora Carl on their Golden Wedding Anniversary.

S. R. No. 117-Senator Austria.

Honoring Gene and Mary Lou Austin on their Golden Wedding Anniversary.

S. R. No. 118-Senator Austria.

Honoring William and Gertrude Keaton on their Golden Wedding Anniversary.

S. R. No. 119-Senator Austria.

Honoring Ernest and Betty Phillips on their Golden Wedding Anniversary.

S. R. No. 120-Senator Austria.

Honoring Dale and Florence Shroyer on their Sixtieth Wedding Anniversary.

S. R. No. 121-Senator Austria.

Honoring Willis and Helen Tiemann on their Golden Wedding Anniversary.

S. R. No. 122-Senator Austria.

Honoring Wayne and Alma Fouts on their Golden Wedding Anniversary.

S. R. No. 123-Senator Austria.

Honoring Merl and Nettie Anstine on their Golden Wedding Anniversary.

S. R. No. 124-Senator Austria.

Honoring William and Rita Palmer on their Golden Wedding Anniversary.

S. R. No. 125-Senator Jacobson.

Honoring Mike Nugent as a 2002 All-American.

S. R. No. 126-Senator Herington.

Honoring Oreste and Edna Siciliano on their Golden Wedding Anniversary.

S. R. No. 127-Senator Herington.

Honoring Paul and Lois Silver on their Golden Wedding Anniversary.

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

So the resolutions were adopted.

MESSAGE FROM THE PRESIDENT

Pursuant to Section 3119.024 of the Ohio Revised Code, the President of the Senate appoints the following senators to serve on the **Ohio Child Support Guideline Advisory Council**:

Senator Spada

Senator Jordan

Senator Dann

Pursuant to Section 3334.03 (B) of the Ohio Revised Code, the President of the Senate appoints the following senators to serve on the **Ohio Tuition Trust Authority**:

Senator Gardner

Senator Dann

Pursuant to Section 183.04 of Am. Sub. SB 242 of the 124th General Assembly, the President of the Senate appoints the following senators to serve as non-voting members on the **Tobacco Use Prevention and Control Foundation**:

Senator Wachtmann

Senator Fingerhut

Pursuant to Section 149.32 (B) of the Ohio Revised Code, the President of the Senate appoints the following senators to serve on the **Ohio Bicentennial Commission**:

Senator Spada

Senator Mallory

Pursuant to Section 3109.15 of the Ohio Revised Code, the President of the Senate appoints the following senators to serve on the **Ohio Children's Trust Fund Board**:

Senator Schuring

Senator Prentiss

On motion of Senator Randy Gardner, the Senate recessed until 4:15 p.m.

The Senate met pursuant to recess.

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

Am. Sub. H. B. No. 40 - Representative Calvert (By Request), et al

Attest: LAURA P. CLEMENS,
Clerk.

On the motion of Senator Schuler the Senate adjourned until Wednesday, February 26, 2003 at 1:30 p.m.

Attest: MATTHEW T. SCHULER,
Clerk.