

COMMONWEALTH OF PENNSYLVANIA

Legislative Journal

MONDAY, DECEMBER 6, 1999

SESSION OF 1999

183RD OF THE GENERAL ASSEMBLY

No. 56

SENATE

MONDAY, December 6, 1999

The Senate met at 1 p.m., Eastern Standard Time.

The PRESIDENT (Lieutenant Governor Mark S. Schweiker) in the Chair.

PRAYER

The Chaplain, Reverend Dr. CHARLES MYERS, of Camp Hill, Chairman of the Religion Department at Gettysburg College, offered the following prayer:

Let us pray.

Almighty God, in whom we live and move and have our being, be with these Senators and other officials as they conduct the business of the Commonwealth of Pennsylvania this day.

As we approach the end of the year, the end of the decade, the end of the century, and the end of the millennium, we remember all those persons who have occupied the seats of this Chamber in years past. In gratitude we recall their labors and their contributions to the well-being of the State we call home. As we stand at the threshold of a new age, O Source of all wisdom, give the present occupants of this Chamber the vision and the courage to continue the legacy they have inherited.

As we anxiously await word from the surface of Mars, make these Senators anxious to hear words spoken by those who are closer to home. O God of all that is, help these officials overcome the pettiness that can characterize partisan politics and empower them instead to work for the welfare of all citizens of Pennsylvania, regardless of race, religion, creed, legislative district, or political affiliation. These men and women have responded to the high calling of government service, O Author of all truth, and the citizens of Pennsylvania are grateful for the considerable sacrifices these persons have made and continue to make in order to serve.

Save our elected and appointed officials from cynicism and sarcasm, from complaint and complacency, from arrogance and aloofness. Fill them anew with humility and the sense of the sacred task committed unto them.

O God of all faiths and all traditions, on this holy day when Jews continue their celebration of Hanukkah, when Muslims prepare for the beginning of the holy month of Ramadan later this week, and when Christians participate in the Advent season in anticipation of Christmas, bless all of us and all of our families and friends. Rekindle in us a sense of the holy and an

awareness that life is more than possessions and power and position.

In the name of all that is good, all that is true, and all that is just, we pray. So be it. Amen.

The PRESIDENT. The Chair thanks Dr. Myers, who is the guest today of Senator Mowery.

JOURNAL APPROVED

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of December 1, 1999.

The Clerk proceeded to read the Journal of the preceding Session, when, on motion of Senator LOEPER, further reading was dispensed with and the Journal was approved.

SPECIAL ORDER OF BUSINESS  
ANNOUNCEMENT BY THE SECRETARY

The SECRETARY. Consent has been given for the Committee on Transportation to meet during today's Session to consider the nomination of James Dodaro to the Turnpike Commission.

REPORTS FROM COMMITTEE

Senator TILGHMAN, from the Committee on Appropriations, reported the following bills:

SB 1184 (Pr. No. 1480) (Rereported)

An Act amending Title 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, further defining "qualified resident", and further providing for eligibility for educational assistance and for amount of educational assistance grants.

HB 868 (Pr. No. 2488) (Rereported)

An Act providing immunity for certain persons who reclaim certain abandoned lands or abate certain water pollution.

LEGISLATIVE LEAVES

The PRESIDENT. The Chair recognizes the gentleman from Berks, Senator O'Pake.

Senator O'PAKE. Mr. President, I request legislative leaves for Senator Bodack, Senator Musto, and Senator Williams.

The PRESIDENT. Senator O'Pake requests legislative leaves for Senator Bodack, Senator Musto, and Senator Williams. Without objection, those leaves are granted.

**LEAVE OF ABSENCE**

Senator O'PAKE asked and obtained leave of absence for Senator BELAN, for today's Session, for personal reasons.

**DISCHARGE PETITION**

The PRESIDENT laid before the Senate the following communication, which was read by the Clerk as follows:

December 6, 1999

A PETITION

To place before the Senate the nomination of Annette Steele, as a member of the State Board of Cosmetology.

TO: The President Officer of the Senate:

WE, The undersigned members of the Senate, pursuant to section 8 (b) of Article IV of the Constitution of Pennsylvania, do hereby request that you place the nomination of Annette Steele, as a member of the State Board of Cosmetology, before the entire Senate body for a vote, the nomination not having been voted upon within 15 legislative days:

Robert J. Mellow  
 Michael A. O'Pake  
 Richard A. Kasunic  
 J. Barry Stout  
 Vincent J. Fumo

The PRESIDENT. This communication will be laid on the table.

**SENATE CONCURRENT RESOLUTION**

**RECESS ADJOURNMENT**

Senator LOEPER offered the following resolution, which was read as follows:

In the Senate, December 6, 1999

RESOLVED, (the House of Representatives concurring), That when the Senate adjourns this week it reconvene on Tuesday, January 4, 2000, unless sooner recalled by the President Pro Tempore of the Senate; and be it further

RESOLVED, That when the Senate adjourns on January 4, 2000, it reconvene on Monday, January 24, 2000, unless sooner recalled by the President Pro Tempore of the Senate; and be it further

RESOLVED, That when the House of Representatives adjourns this week it reconvene on Tuesday, January 4, 2000, unless sooner recalled by the Speaker of the House of Representatives; and be it further

RESOLVED, That when the House of Representatives adjourns on January 4, 2000, it reconvene on Monday, January 24, 2000, unless sooner recalled by the Speaker of the House of Representatives.

On the question,  
 Will the Senate adopt the resolution?

The yeas and nays were required by Senator LOEPER and were as follows, viz:

YEA-49

Armstrong	Hart	Mowery	Tartaglione
Bell	Helfrick	Murphy	Thompson
Bodack	Holl	Musto	Tilghman

Boscola	Hughes	O'Pake	Tomlinson
Brightbill	Jubelirer	Piccola	Wagner
Conti	Kasunic	Punt	Waugh
Corman	Kitchen	Rhoades	Wenger
Costa	Kukovich	Robbins	White
Dent	LaValle	Salvatore	Williams
Earll	Lemmond	Schwartz	Wozniak
Fumo	Loeper	Slocum	
Gerlach	Madigan	Stapleton	
Greenleaf	Mellow	Stout	

NAY-0

A majority of the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate present the same to the House of Representatives for concurrence.

**SPECIAL ORDER OF BUSINESS  
 GUEST OF SENATOR CHARLES W.  
 DENT PRESENTED TO THE SENATE**

The PRESIDENT. The Chair recognizes the gentleman from Lehigh, Senator Dent.

Senator DENT. Mr. President, it is indeed my honor to introduce my friend, Tom Roth, who is here with me today just to get a good view of the State Capitol. Would my colleagues please give Tom a warm welcome.

The PRESIDENT. Would the guest of Senator Dent please rise so that the Senate may acknowledge your presence.  
 (Applause.)

**GUESTS OF SENATOR CHARLES D.  
 LEMMOND AND SENATOR RAPHAEL J.  
 MUSTO PRESENTED TO THE SENATE**

The PRESIDENT. The Chair recognizes the gentleman from Luzerne, Senator Lemmond.

Senator LEMMOND. Mr. President, Senator Musto and I represent the eight communities which make up the Wyoming Valley West School District in Luzerne County. Since it was formed in the 1960s, together with many other school districts of similar size, the district has never won a State championship in a team sport until this year. This year 22 young ladies who make up the water polo team of the Wyoming Valley West have won the State championship. They are: Jessica Bradley, Jennifer Byczek, Karissa Capitan, Kelly Chamberlain, Danielle Chipego, Cara Devine, JoAnn Fimowicz, Toni Fimowicz, Michelle Goff, Elizabeth Goss, Sarah Houck, Emily Kluger, Kelsey Kowalski, Deanna Mikhalkova, Amanda Nogic, Amanda Oriel, Megan Panowicz, Lindsay Pascoe, Cathy Roberts, Jennifer Rosick, Shana Welch, and Kathryn Whitelock, who are here with their coach, Frank Tribendis, and principal, Irvin DeRemer.

They are the best in their field. I guarantee that the other Senators will never see anything like this because I do not think we ever had a girls' water polo championship team in town. Some of us cannot swim, but they are just the best in the business. They are superbly conditioned, they are talented, intelligent young adults. There is a great educational system in the Valley West system. It is a great team, and I ask that you welcome them and their coach to our Session today.

The PRESIDENT. Would the guests of Senator Lemmond please rise so that the Senate may welcome you.

(Applause.)

The PRESIDENT. Thank you, Senator Lemmond, for underscoring that accomplishment.

### RECESS

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, at this time I request a recess of the Senate for the purpose of a Republican caucus to begin immediately in the first floor caucus room, with an expectation of returning to the floor at approximately 3:15 p.m.

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, I ask that the Democratic Members report to the caucus room in the rear of the Chamber immediately upon recess.

The PRESIDENT. For purposes of Republican and Democratic caucuses, this Senate stands in recess.

### AFTER RECESS

The PRESIDENT. The time of recess having expired, the Senate will come to order.

### NOMINATION TAKEN FROM THE TABLE AND REREFERRED TO COMMITTEE

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Salvatore.

Senator SALVATORE. Mr. President, I move that the nomination of William A. Hawkins for the Unemployment Compensation Board of Review be removed from the table and be rereferred to the Committee on Labor and Industry.

The Clerk read the nomination as follows:

#### MEMBER OF THE UNEMPLOYMENT COMPENSATION BOARD OF REVIEW

October 4, 1999

To the Honorable, the Senate  
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, William A. Hawkins, 21 Appaloosa Way, Carlisle 17013, Cumberland County, Thirty-first Senatorial District, for reappointment as a member of the Unemployment Compensation Board of Review, to serve until July 1, 2005 and until his successor is appointed and qualified.

THOMAS J. RIDGE  
Governor

The PRESIDENT. Senator Salvatore moves that the nomination of William A. Hawkins for the Unemployment Compensation Board of Review be removed from the table and be rereferred to the Committee on Labor and Industry for a public hearing.

On the question,

Will the Senate agree to the motion?

The motion was agreed to.

The PRESIDENT. The nomination will be rereferred to the Committee on Labor and Industry.

### SPECIAL ORDER OF BUSINESS ANNOUNCEMENTS BY THE SECRETARY

The SECRETARY. Consent has been given for the following committees to meet during today's Session: the Committee on Labor and Industry to consider the nomination of William A. Hawkins to the Unemployment Compensation Board of Review, and the Committee on Rules and Executive Nominations to consider Senate Bills No. 167, 555, and certain nominations.

### RECESS

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, I ask for a brief recess of the Senate for the purpose of a meeting of the Committee on Labor and Industry to take place immediately in the Rules room at the rear of the Senate Chamber and request all Members of the Committee on Labor and Industry to report to that room for a brief but important meeting.

The PRESIDENT. For a meeting of the Committee on Labor and Industry, the Senate stands in recess.

### AFTER RECESS

The PRESIDENT pro tempore (Robert C. Jubelirer) in the Chair.

The PRESIDENT pro tempore. The time of recess having expired, the Senate will come to order.

### SPECIAL ORDER OF BUSINESS ANNOUNCEMENT BY THE SECRETARY

The SECRETARY. Consent has been given for the Committee on Rules and Executive Nominations to meet further during today's Session to consider Senate Bills No. 167, 260, and certain nominations.

The PRESIDENT (Lieutenant Governor Mark S. Schweiker) in the Chair.

### LEGISLATIVE LEAVES

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, Senator Piccola has been called from the floor, and I request a temporary Capitol leave on his behalf.

The PRESIDENT. Without objection, that leave is granted.

The Chair recognizes the gentleman from Westmoreland, Senator Kukovich.

Senator KUKOVICH. Mr. President, I request a temporary Capitol leave for Senator Tartaglione.

The PRESIDENT. Without objection, that leave is granted.

**CALENDAR**

**THIRD CONSIDERATION CALENDAR**

**BILL REREPORTED FROM COMMITTEE  
AS AMENDED ON THIRD CONSIDERATION  
AND FINAL PASSAGE**

**HB 739 (Pr. No. 2710)** – The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 35 (Health and Safety) of the Pennsylvania Consolidated Statutes, providing for the Emergency Management Assistance Compact.

Considered the third time and agreed to,  
And the amendments made thereto having been printed as required by the Constitution,

On the question,  
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

**YEA-49**

Armstrong	Hart	Mowery	Tartaglione
Bell	Helfrick	Murphy	Thompson
Bodack	Holl	Musto	Tilghman
Boscola	Hughes	O'Pake	Tomlinson
Brightbill	Jubelirer	Piccola	Wagner
Corti	Kasunic	Punt	Waugh
Corman	Kitchen	Rhoades	Wenger
Costa	Kukovich	Robbins	White
Dent	LaValle	Salvatore	Williams
Earll	Lemmond	Schwartz	Wozniak
Fumo	Loeper	Slocum	
Gerlach	Madigan	Stapleton	
Greenleaf	Mellow	Stout	

**NAY-0**

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate return said bill to the House of Representatives with information that the Senate has passed the same with amendments in which concurrence of the House is requested.

**BILL REREPORTED FROM COMMITTEE  
AS AMENDED OVER IN ORDER**

**HB 1569** – Without objection, the bill was passed over in its order at the request of Senator LOEPER.

**BILL AMENDED**

**SB 300 (Pr. No. 1544)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of July 31, 1968 (P.L.805, No.247), entitled, as amended, Pennsylvania Municipalities Planning Code, further providing for the purpose of the act; adding certain definitions; authorizing intergovernmental cooperation; further providing for various matters relating to comprehensive plans; and adding provisions concerning zoning ordinances and jurisdictional challenges.

On the question,

Will the Senate agree to the bill on third consideration?

Senator BRIGHTBILL offered the following amendment No. A4648:

Amend Sec. 4 (Sec. 301), page 7, lines 18 through 20, by striking out "SHALL" in line 18, all of lines 19 and 20 and inserting: may address those activities the regulation of which is not preempted by the following statutes or other State laws:

Amend Sec. 4 (Sec. 301), page 8, line 4, by striking out "ACT;" and inserting: Act."

Furthermore, the plan shall be consistent with and not exceed requirements imposed under the following:

Amend Sec. 4 (Sec. 301), page 8, line 5, by striking "(VII)" and inserting: (i)

Amend Sec. 4 (Sec. 301), page 8, line 7, by striking out "(VIII)" and inserting: (ii)

Amend Sec. 4 (Sec. 301), page 8, line 11, by striking out "(IX)" and inserting: (iii)

On the question,

Will the Senate agree to the amendment?

It was agreed to.

On the question,

Will the Senate agree to the bill on third consideration, as amended?

Senator WAUGH offered the following amendment No. A4691:

Amend Title, page 1, line 23, by inserting after "concerning": optional integrated county and multimunicipal planning and implementation agreements,

Amend Sec. 1 (Sec. 105), page 2, line 28, by inserting after "foreseen": to provide an option for counties and their constituent municipalities to plan and provide for all appropriate land uses and public infrastructure on a regional basis through optional intergovernmental cooperative agreements;

Amend Sec. 10 (Sec. 608), page 37, line 14, by inserting after "MUNICIPALITY": by certified mail, return receipt requested,

Amend Sec. 10 (Sec. 608), page 37, line 28, by inserting after "SERVICE": as otherwise permitted by law

Amend Sec. 10 (Sec. 608), page 38, line 4, by striking out "(V)"

Amend Sec. 10 (Sec. 608), page 38, by inserting between lines 23 and 24:

(4) Nothing in this section shall be construed to authorize a municipality to regulate the allocation or withdrawal of water resources by a municipal authority or water company that is otherwise regulated by the Pennsylvania Public Utility Commission or other Federal or State agencies or statutes.

Amend Sec. 12, page 40, line 4, by striking out "an article" and inserting: articles

Amend Sec. 12, page 40, by inserting between lines 4 and 5:

ARTICLE VI-A

Optional County and Multimunicipal Agreements

Section 601-A. Purpose of Article.—It is hereby declared to be the intent and purpose of this article to encourage integrated county and multimunicipal planning by providing an option whereby a county and its constituent municipalities through intermunicipal cooperative agreements can implement regional planning by adopting an integrated

county, multimunicipal plan and consistent municipal zoning and other land use actions, thereby furthering the purposes set forth in section 105.

**Section 602-A. Definitions.**—The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Designated growth area," a region of a county described in a county or multimunicipal plan that includes and surrounds a city, borough or village, and within which residential and mixed-use development is permitted or planned for at densities of one unit to the acre or more, commercial, industrial and institutional uses are permitted or planned for and urban services are provided or planned.

"Development of regional significance and impact," any land development that, because of its character, magnitude or location will have substantial effect upon the health, safety or welfare of residents in more than one municipality.

"Future growth area," an area of a municipal or multimunicipal plan outside of and adjacent to a designated growth area where residential, commercial, industrial and institutional uses and development are permitted or planned at varying densities and urban services may or may not be provided, but future development at greater densities is planned to accompany the orderly extension and provision of urban services.

"Growth boundary," a perimeter line drawn around a designated growth area for the purpose of separating such area from rural resource areas in a municipal or multimunicipal comprehensive plan and implemented by municipalities through intermunicipal cooperative agreements, ordinances and official maps, as amended from time to time to include all or part of a future growth area.

"One-Stop Approval Process (OSAP) Plan," a detailed plan for development of an area covered by a municipal or multimunicipal comprehensive plan, which, when approved and accepted by the participating municipalities through ordinances and agreements, supersedes all other applicable ordinances.

"Rural resource area," an area described in a municipal or multimunicipal plan within which rural resource uses, including, but not limited to, agriculture, timbering, mining, quarrying and other extractive industries, forest and game lands and recreation and tourism are encouraged and enhanced, development that is compatible with or supportive of such uses is permitted, and urban services other than emergency services are not provided except in villages.

"Urban service area," a designated growth area and all or any portion of a future growth area described in a county or multimunicipal comprehensive plan where urban services will be provided.

"Urban services," services that are provided to areas with densities of one or more units to the acre, including provision of sanitary sewers and facilities for the collection and treatment of sewage, water lines and facilities for the pumping and treating of water, fire protection and other emergency services, parks and open space, streets and sidewalks, public transportation and other services that may be appropriate to areas within a growth boundary.

"Village," an unincorporated settlement that is part of a township where residential and mixed-use densities of one unit to the acre or more exist or are permitted and limited commercial, industrial and institutional uses exist or are permitted.

**Section 603-A. Authorization to Create Optional Integrated County and Multimunicipal Plans.**—The governing bodies of a county and its constituent municipalities may enter into intergovernmental cooperative agreements for the purpose of developing, adopting and implementing a comprehensive plan for the entire county or for any region of the county consisting of two or more contiguous municipalities. Such agreements may also be entered into for contiguous regions that include more than one county, and between and among counties and municipalities and State agencies, school districts, authorities and special districts providing water and sewer facilities or other services within the region of a plan. Municipalities and agencies that enter into agreements with a county to plan and/or implement a county and multimunicipal plan shall be known as participating municipalities and participating agencies.

**Section 604-A. Development and Content of Optional County and Multimunicipal Plans.**—

(1) The comprehensive plan shall be developed by the county planning agency, or agencies in the case of a plan applicable to municipalities in more than one county, with the participation of municipalities within the region of the plan, and shall include all the elements required or authorized in section 301 for the region of the plan.

(2) In addition, the plan may:

(i) Identify growth areas where development to accommodate the projected growth of the region within the next twenty years is planned for at residential and mixed-use densities of one unit or more per acre; commercial, industrial and institutional uses to provide for the economic, employment and tax base needs of the region are planned; and urban services to serve such development are provided or planned.

(ii) Identify future growth reserve areas where future development is planned to accompany the extension and provision of urban services.

(iii) Identify rural resource areas where rural resource uses are planned for, development at rural densities compatible with rural resource uses is permitted, and urban services, other than emergency services, are not planned or provided except in rural villages.

(iv) Delineate a growth boundary or boundaries around the perimeter of designated growth areas to separate such areas from future growth reserve areas and rural resource areas.

(v) Plan for the accommodation of all categories of uses within the region of the plan, including a wide range of housing opportunities for all income levels, provided that such housing need not be new housing. Further, all uses need not be provided in every municipality, but may be planned and provided for over the region of the plan.

(vi) Plan for developments of regional significance and impact, such as large shopping centers, major industrial parks, mines and related activities, office parks, storage facilities, large residential developments, regional entertainment and recreational complexes, hospitals, airports, port facilities and other uses identified in section 301(3) and (4).

(vii) Plan for the conservation and enhancement of the natural, scenic and heritage resources within the region of the plan, including, but not limited to, surface and groundwater resources, air quality, forest and game lands, historic sites and scenic vistas.

(viii) Include a separate transportation plan for the region developed with participating municipalities, the Department of Transportation and the regional metropolitan planning organization or local development district with jurisdiction in the region, which provides for the transportation needs of the region in relation to planned growth areas, future growth reserve areas, and rural resource areas, for a twenty-year period. The transportation plan shall identify State, county and municipal responsibilities for implementation of the plan and shall be accompanied by a transportation capital improvement plan for the region of the plan.

**Section 605-A. The Cooperative Planning Process.**—(a) The county shall have primary responsibility for facilitating a cooperative planning process that is regional in scope and may enter into cooperative planning agreements with participating municipalities governing particular planning subjects and responsibilities. The regional planning process shall include a public participation process to assure that all governing bodies, municipal authorities, school districts and agencies, whether public or private, having jurisdiction or operating within the region of the plan and landowners and residents affected by the plan have an opportunity to be heard prior to the public hearings required for the adoption of the plan under section 302(a).

(b) Adoption of the plan and plan amendments shall conform to the requirements of section 302. Where a county has developed and adopted a comprehensive county or multimunicipal plan that conforms to the requirements of this article within five years prior to the date of adoption of this article, the plan may be implemented by agreements as provided in this article.

**Section 606-A. Implementation Agreements.**—(a) In order to implement county and multimunicipal comprehensive plans, counties shall have authority to enter into intergovernmental cooperative agree-

ments with municipal governing bodies and other agencies, including State agencies, municipal authorities, school districts, special districts and agencies, whether public or private, having jurisdiction or operating within the region of an adopted plan. Cooperative implementation agreements between a county and two or more participating municipalities shall:

(1) Establish the process that the county and participating municipalities will use to achieve consistency between the county and multimunicipal comprehensive plan and implementing municipal plans and land-use actions, including adoption of consistent ordinances by participating municipalities within two years.

(2) Establish a process for review and approval of developments of regional significance and impact that are proposed within any participating municipality.

(3) Establish the role and responsibilities of participating municipalities and agencies with respect to implementation of the plan, including the provision of services within participating municipalities, the purchase of real property, including rights-of-way and easements, and the achievement of performance standards contained in the county and multimunicipal comprehensive plan.

(4) Require a yearly report by participating municipalities to the county planning agency and by the county planning agency to the participating municipalities concerning activities carried out pursuant to the agreement during the previous year.

(5) Describe any other duties and responsibilities as may be agreed upon by the parties.

(b) Cooperative implementation agreements may establish growth boundaries that have been delineated in the county and multimunicipal plan for the purpose of separating designated growth areas from future growth reserve areas and rural resource areas within the region of the plan. Growth boundaries shall generally be drawn around cities, boroughs and rural villages where urban services exist and future growth is planned, shall follow tax parcel lines, and may include areas in more than one municipality within the region of the plan. Growth boundaries, as delineated in a plan and agreed to in cooperative implementation agreements, shall be shown on the official map of a participating municipality as provided in Article IV. When a growth boundary is established by agreement, the agreement shall also provide a process for amending the boundary to include all or portions of future growth reserve areas.

(c) Any participating municipality may withdrawal from a cooperative implementation agreement after five years. The participating municipality must provide the county, participating municipalities and participating agencies of its intention to withdrawal from the cooperative implementation agreement at least one year prior to the effective date of withdrawal. Such notice may be given in the fourth year of participation. During the one-year notice period, the county, other participating municipalities and participating agencies shall redesign the cooperative implementation agreement as necessary to adapt to the withdrawal.

Section 607-A. Provision of Urban Services.—The county shall have primary responsibility for convening representatives of local municipalities, municipal authorities, special districts, public utilities, whether public or private, or other agencies that provide or declare an interest in providing, an urban service in an urban service area or a portion of an urban service area within a growth boundary, as established in a county or multimunicipal comprehensive plan, for the purpose of negotiating agreements for the provision of urban services. The county may provide or contract with others to provide technical assistance, mediation or dispute resolution services in order to assist the parties in negotiating such agreements.

Section 608-A. Legal Effect of Multimunicipal Plans and Cooperative Agreements.—When a county and participating municipalities have adopted a county and multimunicipal plan through cooperative agreements, and participating municipalities have adopted consistent plans, resolutions and ordinances, the following shall be applicable:

(1) The zoning ordinance of a participating municipality shall not be subject to challenge by curative amendment under sections 609.1 and 609.2.

(2) State agency decisions for the funding or permitting of infrastructure or facilities shall be consistent with the county and multimunicipal plan.

(3) Act 537 plans under the act of January 24, 1966 (1965 P.L.1535, No.537), known as the "Pennsylvania Sewage Facilities Act," for sewage facilities shall be required to be consistent with the adopted plan.

(4) In considering any challenge to the validity of the zoning ordinance of a participating municipality on the ground that the ordinance is exclusionary or does not provide for a specific use, a court shall consider all uses and zoning densities available within the region of the plan rather than within the specific municipality whose ordinance is under review, and determine whether the plan as implemented by consistent county and local ordinances makes a reasonable amount of land in reasonable geographic locations available for all uses within the region of the plan.

Section 609-A. Additional Powers.—A county and participating municipalities that have entered into implementation agreements to carry out a county and multimunicipal plan shall have the following additional powers:

(1) To provide by cooperative agreement for the sharing of tax revenues and fees by participating municipalities within the region of the plan.

(2) To adopt a transfer of development rights program by adoption of a county ordinance applicable to the entire county or to the region of the plan so as to enable development rights to be transferred from rural resource areas in any municipality within the plan to growth areas in any municipality within the county or region of the plan.

Section 610-A. One-Stop Approval Process (OSAP) Plans.—(a) A county or counties and participating municipalities shall have authority to adopt a One-Stop Approval Process (OSAP) plan for the systematic implementation of a county or multimunicipal comprehensive plan for any part of the area covered by the plan. Such OSAP plan shall include a text and a diagram or diagrams and implementing ordinances which specify all of the following in detail:

(1) The distribution, location, extent of area and standards for land uses and facilities, including design of sewage, water, drainage and other essential facilities needed to support the land uses.

(2) The location, classification and design of all transportation facilities, including, but not limited to, streets and roads needed to serve the land uses described in the OSAP plan.

(3) Standards for population density, land coverage, building intensity and supporting services, including utilities.

(4) Standards for the preservation, conservation, development and use of natural resources, including the protection of significant open spaces, resource lands and agricultural lands within or adjacent to the area covered by the OSAP plan.

(5) A program of implementation including regulations, financing of the capital improvements and provisions for repealing or amending the OSAP plan. Regulations may include zoning, storm water, subdivision and land development, highway access and any other provisions for which municipalities are authorized by law to enact. The regulations may be amended into the county or municipal ordinances or adopted as separate ordinances. If enacted as separate ordinances for the area covered by the OSAP plan, the ordinances shall repeal and replace any county or municipal ordinances in effect within the area covered by the OSAP plan and ordinances shall conform to the provisions of the OSAP plan.

(b) No OSAP plan may be adopted or amended unless the proposed plan or amendment is consistent with an adopted county or multimunicipal comprehensive plan.

(c) No capital project by any municipal authority, local government or State agency shall be approved or undertaken, and no final plan, development plan or plat for any subdivision or development of land shall be approved unless such projects, plans or plats are consistent with the adopted OSAP plan.

(d) In adopting or amending an OSAP plan, a county and participating municipalities shall use the same procedures as provided in this article for adopting comprehensive plans and ordinances.

(e) Whenever an OSAP plan has been adopted, applicants for subdivision or land development approval shall be required to submit only a final plan as provided in Article V, provided that such final plan is consistent with and implements the adopted OSAP plan.

(f) A county or participating municipalities, after adopting an OSAP plan, may impose a fee upon persons seeking governmental approvals, which are required to be consistent with the OSAP plan, for the purpose of defraying the cost of preparing, adopting, enforcing and administering the OSAP plan. As nearly as can be estimated, the fee charges shall be a prorated amount in accordance with the applicant's relative benefit derived from the OSAP plan. Counties and municipalities are authorized to enter into financial agreements with landowners who would benefit from the adoption of an OSAP plan, whereby the landowner agrees to compensate a county or municipality for the cost of preparing and adopting an OSAP plan that is consistent with an adopted county or multimunicipal comprehensive plan.

On the question,  
Will the Senate agree to the amendment?

The PRESIDENT. The Chair recognizes the gentleman from York, Senator Waugh.

Senator WAUGH. Mr. President, I want to make one point very clear, and I will not belabor this amendment, but I do sense that there is some misunderstanding of the intent and actually what the practical outcome of this amendment would be. I would just like to restate a principal point that I have tried to make during caucus, and that is that nothing in this amendment requires municipalities or binds municipalities in any way, nor does it remove the authority for zoning and planning that municipalities currently have. Everything in this amendment is voluntary and is left strictly to the decision of the municipality, and essentially what it would do is allow municipalities to enter into joint municipal planning agreements and also allow municipalities that have entered into those agreements to share tax revenues. And finally, it would create for the first time what I have given the acronym of OSAP for expedited planning in those municipalities that have joined together cooperatively to do planning and zoning. In other words, it would create a streamlined method for building in those areas that have good planning that is done on a regional basis.

I ask the Members for their support, and again remind everyone that this is simply a tool, another tool to be placed in the land use planning toolboxes of our municipalities statewide.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Westmoreland, Senator Kukovich.

Senator KUKOVICH. Mr. President, I have had a chance to look over the amendment and it does not look very controversial at all to me. As the maker of the amendment said, it is a tool, and by my reading and interpretation of it, it is a tool that would allow the types of agreements in a very voluntary way which should help not only townships and other municipalities but also counties to work in conjunction with each other. Also the model language for sort of a one-stop shop for bureaucracy approval should speed the process up, so those who might criticize or be critical of this kind of process for slowing down the work of builders or taking away power from local governments should be supportive of this amendment.

I think it is a fine balance between the powers of local government, between individual property rights and the builders. For that reason, I think it probably strengthens the bill in a number of ways, and I believe that even environmental groups would be supportive of this process, and I ask for an affirmative vote.

The PRESIDENT. The Chair recognizes the gentlewoman from Philadelphia, Senator Schwartz.

Senator SCHWARTZ. Mr. President, I, too, rise in support of this amendment and I agree with the previous speaker that this strengthens the bill quite significantly. It is very important for us to do what we can, and, again, it is voluntary, to create the opportunities, create the situations for local municipalities and counties to work together, to plan together, to be able to do so effectively and with the necessary tools.

There has been a lot of work done on this and I do respect that from the point of the bill, a lot of back and forth on this with builders. All of us who are concerned about the issue of unplanned growth are very supportive of planning and in fact being sure that we have planned growth. The amendment makes the whole legislation much more effective in dealing with the issue of sprawl in the State and helping municipalities plan together across what are now traditional boundaries. So it is very important for us to adopt this amendment to make sure that the bill does more than just speak to the issue in a broad, general way, but to give the local municipalities the tools that they need to do this kind of effective planning so that protection of open space and protection of certain kinds of use of property and land can be done in a broader geographic basis rather than at the smallest municipal basis, which is often the way it is done now.

So I very strongly support this amendment and hope that we all do so that when we and if we do pass this legislation, it is meaningful in creating the kinds of livable communities we all want and hope to live in. That will take some work. It cannot be done by just hoping that the planning happens, it is by helping municipalities to have the tools to make it happen. If we are going to pass this legislation, we want to do so by giving them the tools that make it possible. I very much appreciate the work that went into the local legislation and this amendment, and I hope that we all support the amendment and then the legislation.

Thank you, Mr. President.

And the question recurring,  
Will the Senate agree to the amendment?

The yeas and nays were required by Senator WAUGH and were as follows, viz:

YEA-25

Bell	Holl	Musto	Tomlinson
Bodack	Hughes	O'Pake	Waugh
Boscola	Kasunic	Piccola	Williams
Conti	Kitchen	Schwartz	Wozniak
Corman	Kukovich	Stapleton	
Fumo	LaValle	Stout	
Gerlach	Mellow	Tartaglione	

NAY-24

Armstrong	Hart	Mowery	Slocum
Brightbill	Helfrick	Murphy	Thompson
Costa	Jubelirer	Punt	Tilghman
Dent	Lemmond	Rhoades	Wagner
Earll	Loeper	Robbins	Wenger
Greenleaf	Madigan	Salvatore	White

A majority of the Senators having voted "aye," the question was determined in the affirmative.

Without objection, the bill, as amended, was passed over in its order at the request of Senator LOEPER.

BILL OVER IN ORDER

**SB 380** -- Without objection, the bill was passed over in its order at the request of Senator LOEPER.

BILL AMENDED

**SB 847 (Pr. No. 950)** -- The Senate proceeded to consideration of the bill, entitled

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, prohibiting criminal transmission of human immunodeficiency virus/acquired immune deficiency syndrome.

On the question,  
Will the Senate agree to the bill on third consideration?

GREENLEAF AMENDMENT A4696

Senator GREENLEAF offered the following amendment No. A4696:

- Amend Sec. 1 (Sec. 2715), page 1, line 12, by striking out "infected with" and inserting: manifesting
- Amend Sec. 1 (Sec. 2715), page 1, line 12, by striking out "virus"
- Amend Sec. 1 (Sec. 2715), page 1, line 15, by striking out "infected with the AIDS virus" and inserting: manifesting AIDS

On the question,  
Will the Senate agree to the amendment?  
It was agreed to.

On the question,  
Will the Senate agree to the bill on third consideration, as amended?

MELLOW AMENDMENT A3967

Senator MELLOW offered the following amendment No. A3967:

Amend Sec. 1 (Sec. 2715), page 1, line 13, by inserting after "intercourse": as defined in section 3101 (relating to definitions)

On the question,  
Will the Senate agree to the amendment?  
It was agreed to.

And the question recurring,  
Will the Senate agree to the bill on third consideration, as amended?

MELLOW AMENDMENT A4186

Senator MELLOW offered the following amendment No. A4186:

Amend Sec. 1 (Sec. 2715), page 1, line 10, by inserting before "A":

(a) Transmission by sexual intercourse or intravenous use of controlled substances.

Amend Sec. 1 (Sec. 2715), page 1, by inserting between lines 17 and 18:

(b) Transmission by donation of bodily fluids.—A person commits a felony of the third degree if the person, after testing positive for AIDS or HIV and receiving actual notice of that fact, knowingly donates or sells or knowingly attempts to donate or sell any blood, blood components, plasma derivatives, semen, tissue, organs, breast milk or bodily fluid for use by another and with the intent to expose another to AIDS or HIV in the event the donation is utilized except as necessary for medical research or testing.

(c) Transmission not required.—Transmission of AIDS or HIV to another person does not have to occur for a person to be convicted of a violation of this section.

On the question,  
Will the Senate agree to the amendment?  
It was agreed to.  
Without objection, the bill, as amended, was passed over in its order at the request of Senator LOEPER.

BILL ON THIRD CONSIDERATION  
AND FINAL PASSAGE

**SB 958 (Pr. No. 1090)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for confidential communications with sexual assault counselors.

Considered the third time and agreed to,

On the question,  
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEA-49

Armstrong	Hart	Mowery	Tartaglione
Bell	Helfrick	Murphy	Thompson
Bodack	Holl	Musto	Tilghman
Boscola	Hughes	O'Pake	Tomlinson
Brightbill	Jubelirer	Piccola	Wagner
Conti	Kasunic	Punt	Waugh
Corman	Kitchen	Rhoades	Wenger
Costa	Kukovich	Robbins	White
Dent	La Valle	Salvatore	Williams
Earll	Lemmond	Schwartz	Wozniak
Fumo	Loeper	Slocum	



Gerlach	Madigan	Stapleton
Greenleaf	Mellow	Stout

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

BILL AMENDED

**SB 1077 (Pr. No. 1481)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for unlawful use of a computer.

On the question,

Will the Senate agree to the bill on third consideration?

Senator EARLL offered the following amendment No. A4675:

Amend Sec. 1 (Sec. 3933), page 1, line 9, by inserting brackets before and after "an" and inserting immediately thereafter: the

Amend Sec. 1 (Sec. 3933), page 1, line 9, by inserting brackets before and after "if he" and inserting immediately thereafter: of unlawful use of a computer if he, whether in person, electronically or through the intentional distribution of a computer virus

Amend Sec. 1 (Sec. 3933), page 1, lines 13 through 17, by striking out all of said lines and inserting: intent:

(i) to interrupt the normal functioning of an organization [or]; or

(ii) to devise or execute any scheme or artifice to defraud [or], deceive or control property or services by means of false or fraudulent pretenses, representations or promises;

Amend Sec. 1 (Sec. 3933), page 2, lines 5 and 6, by striking out "including through the intentional distribution of a computer virus

Amend Sec. 1 (Sec. 3933), page 2, lines 10 through 12, by striking out the underscored comma after "base" in line 10, all of line 11 and "the intentional distribution of a computer virus" in line 12

Amend Sec. 1 (Sec. 3933), page 3, line 14, by striking out "target"

On the question,

Will the Senate agree to the amendment?

It was agreed to.

Without objection, the bill, as amended, was passed over in its order at the request of Senator LOEPER.

BILL OVER IN ORDER

**SB 1109** -- Without objection, the bill was passed over in its order at the request of Senator LOEPER.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

**SB 1163 (Pr. No. 1437)** -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for the adoption of capital projects to be financed from current revenues of the Game Fund.

Considered the third time and agreed to,

On the question,

Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEA-49

Armstrong	Hart	Mowery	Tartaglione
Bell	Helfrick	Murphy	Thompson
Bodack	Holl	Musto	Tilghman
Boscola	Hughes	O'Pake	Tomlinson
Brightbill	Jubelirer	Piccola	Wagner
Conti	Kasunic	Punt	Waugh
Corman	Kitchen	Rhoades	Wenger
Costa	Kukovich	Robbins	White
Dent	LaValle	Salvatore	Williams
Earll	Lemmond	Schwartz	Wozniak
Fumo	Loeper	Slocum	
Gerlach	Madigan	Stapleton	
Greenleaf	Mellow	Stout	

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

BILLS OVER IN ORDER

**SB 1169 and SB 1200** -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

SECOND CONSIDERATION CALENDAR

BILLS OVER IN ORDER

**HB 122, SB 201 and HB 302** -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILL ON SECOND CONSIDERATION

**SB 359 (Pr. No. 1514)** -- The Senate proceeded to consideration of the bill, entitled:

An Act establishing liens and ownership rights in dies, molds and forms used in fabrication of plastic parts under certain conditions.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

BILLS OVER IN ORDER

**SB 552, HB 552, SB 639, SB 805, SB 843, HB 849, SB 897, HB 950, SB 1032 and SB 1103** -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

## BILL ON SECOND CONSIDERATION

**HB 1150 (Pr. No. 1299)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 19, 1990 (P.L.1200, No.202), known as the Solicitation of Funds for Charitable Purposes Act, further providing for reports by charitable organizations.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

## BILLS OVER IN ORDER

**HB 1153, SB 1154, HB 1155, HB 1157, HB 1158, SB 1167 and SB 1197** -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

## BILL ON SECOND CONSIDERATION

**HB 1675 (Pr. No. 2563)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of May 13, 1915 (P.L.286, No.177), known as the Child Labor Law, further providing for employment of children at establishments where alcoholic beverages or malt liquor is sold.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

## RECESS

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, at this time I ask for a brief recess of the Senate for the purpose of a meeting of the Committee on Rules and Executive Nominations to convene immediately in the Rules room at the rear of the Senate Chamber.

The PRESIDENT. For the purpose of a meeting of the Committee on Rules and Executive Nominations to be held in the Rules room at the rear of the Senate Chamber, the Senate stands in recess.

## AFTER RECESS

The PRESIDENT. The time of recess having expired, the Senate will come to order.

**COMMUNICATIONS FROM THE GOVERNOR  
REPORTED FROM COMMITTEE ON RULES  
AND EXECUTIVE NOMINATIONS**

Senator SALVATORE, from the Committee on Rules and Executive Nominations, reported communications from His Excellency, the Governor of the Commonwealth, recalling the following nominations, which were read by the Clerk as follows:

JUDGE, COURT OF COMMON PLEAS,  
ALLEGHENY COUNTY

November 30, 1999

To the Honorable, the Senate  
of the Commonwealth of Pennsylvania:

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated October 12, 1999 for the appointment of Michael J. Creighton, Esquire, 242 Olympia Street, Pittsburgh 15211, Allegheny County, Forty-second Senatorial District, as Judge of the Court of Common Pleas of Allegheny County, to serve until the first Monday of January 2000, vice The Honorable James J. McGregor, mandatory retirement.

I respectfully request the return to me of the official message of nomination on the premises.

THOMAS J. RIDGE  
Governor

JUDGE, COURT OF COMMON PLEAS,  
BUCKS COUNTY

November 30, 1999

To the Honorable, the Senate  
of the Commonwealth of Pennsylvania:

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated September 15, 1999 for the appointment of Michael J. Petrasovits, Esquire, 1022 Oldham Place, Bensalem 19020, Bucks County, Sixth Senatorial District, as Judge of the Court of Common Pleas of Bucks County, to serve until the first Monday of January 2000, vice The Honorable Isaac S. Garb, mandatory retirement.

I respectfully request the return to me of the official message of nomination on the premises.

THOMAS J. RIDGE  
Governor

JUDGE, COURT OF COMMON PLEAS,  
ERIE COUNTY

June 14, 1999

To the Honorable, the Senate  
of the Commonwealth of Pennsylvania:

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated March 8, 1999 for the appointment of Matthew L. Wolford, 638 W. Sixth Street, Erie 16507, Erie County, Forty-ninth Senatorial District, for appointment as Judge, Court of Common Pleas, Erie County, to serve until the first Monday of January 2000, vice The Honorable Roger M. Fischer, resigned.

I respectfully request the return to me of the official message of nomination on the premises.

THOMAS J. RIDGE  
Governor

JUDGE, COURT OF COMMON PLEAS,  
MONTGOMERY COUNTY

November 30, 1999

To the Honorable, the Senate  
of the Commonwealth of Pennsylvania:

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated July 19, 1999 for the appointment of Roger E. Grimaldi, Esquire, 1043 Koffel Road, Hatfield 19440, Montgomery County, Twenty-fourth Senatorial District, as Judge of the Court of Common Pleas of Montgomery County, to serve until the first Monday of January 2000, vice The Honorable Albert R. Subers, mandatory retirement.

I respectfully request the return to me of the official message of nomination on the premises.

THOMAS J. RIDGE  
Governor

JUDGE, COURT OF COMMON PLEAS,  
PHILADELPHIA COUNTY

November 30, 1999

To the Honorable, the Senate  
of the Commonwealth of Pennsylvania:

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated July 15, 1999 for the appointment of Henry Hart, III, Esquire, 7100 McCallum Street, Philadelphia 19119, Philadelphia County, Fourth Senatorial District, as Judge of the Court of Common Pleas of Philadelphia County, to serve until the first Monday of January 2000, vice The Honorable Lisa A. Richette, mandatory retirement.

I respectfully request the return to me of the official message of nomination on the premises.

THOMAS J. RIDGE  
Governor

JUDGE, COURT OF COMMON PLEAS,  
WESTMORELAND COUNTY

November 30, 1999

To the Honorable, the Senate  
of the Commonwealth of Pennsylvania:

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated August 9, 1999 for the appointment of John K. Sweeney, Esquire, 27 Oakhill Avenue, Greensburg 15601, Westmoreland County, Thirty-ninth Senatorial District, as Judge of the Court of Common Pleas of Westmoreland County, to serve until the first Monday of January 2000, vice The Honorable Bernard F. Scherer, deceased.

I respectfully request the return to me of the official message of nomination on the premises.

THOMAS J. RIDGE  
Governor

**NOMINATIONS RETURNED TO THE GOVERNOR**

Senator SALVATORE. Mr. President, I move that the nominations just read by the Clerk be returned to His Excellency, the Governor.

The motion was agreed to.

The PRESIDENT. The nominations will be returned to the Governor.

**REPORT FROM COMMITTEE ON  
RULES AND EXECUTIVE NOMINATIONS**

Senator SALVATORE, from the Committee on Rules and Executive Nominations, by unanimous consent, reported the following nominations made by His Excellency, the Governor of the Commonwealth, which were read by the Clerk as follows:

**MEMBER OF THE STATE  
ATHLETIC COMMISSION**

October 5, 1999

To the Honorable, the Senate  
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, George Bochetto, Esquire, 1420 Locust Street, Unit 6-A, Philadelphia 19102, Philadelphia County, First Senatorial District, for reappointment as a member of the State Athletic Commission, to serve for a term of four years and until his successor is appointed and qualified.

THOMAS J. RIDGE  
Governor

**MEMBER OF THE BOARD OF TRUSTEES OF  
SCOTLAND SCHOOL FOR VETERANS' CHILDREN**

October 28, 1999

To the Honorable, the Senate  
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Howard C. Robertson, Ed.D., 1163 Pond Road, Harrisburg 17111, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the Board of Trustees of Scotland School for Veterans' Children, to serve until the third Tuesday of January 2001, and until his successor is appointed and qualified, vice Thomas P. Carey, Ed.D., Pittsburgh, resigned.

THOMAS J. RIDGE  
Governor

**MEMBER OF THE UNEMPLOYMENT COMPENSATION  
BOARD OF REVIEW**

October 4, 1999

To the Honorable, the Senate  
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, William A. Hawkins, 21 Appaloosa Way, Carlisle 17013, Cumberland County, Thirty-first Senatorial District, for reappointment as a member of the Unemployment Compensation Board of Review, to serve until July 1, 2005 and until his successor is appointed and qualified.

THOMAS J. RIDGE  
Governor

**NOMINATIONS LAID ON THE TABLE**

Senator SALVATORE. Mr. President, I request that the nominations just read by the Clerk be laid on the table.

The PRESIDENT. The nominations will be laid on the table.

**REPORTS FROM COMMITTEE**

Senator LOEPER, from the Committee on Rules and Executive Nominations, reported the following bills:

**SB 167 (Pr. No. 1550) (Amended) (Rereported) (Concurrence)**

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for possession of firearm or other dangerous weapon in court facility, for terroristic threats, for harassment and stalking, for grading of theft offenses, for harassment and stalking by communication or address and weapons or implements for escape for persons not to possess, use, manufacture, control, sell or transfer firearms; providing for possession of firearms with altered manufacturer's number, further providing for the sale or transfer of firearms and for registration of firearms; and providing for locking device for firearms; and limiting certain lawsuits.

**SB 260 (Pr. No. 1108) (Rereported) (Concurrence)**

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, defining the offense of disarming a law enforcement officer, and providing a penalty.

**CONSIDERATION OF CALENDAR RESUMED****SENATE RESOLUTION No. 112,  
AMENDED AND ADOPTED**

Senator LOEPER, without objection, called up from page 6 of the Calendar, **Senate Resolution No. 112**, entitled:

A Concurrent Resolution calling on the United States Bureau of the Census to refrain from using statistical sampling in the decennial census.

On the question,  
Will the Senate adopt the resolution?

**THOMPSON AMENDMENT A4742**

Senator THOMPSON offered the following amendment No. A4742:

Amend Heading, page 1, before line 1, by striking out "CONCURRENT"

Amend First Resolve Clause, page 3, line 24, by striking out "(the House of Representatives concurring)"

Amend First Resolve Clause, page 3, line 25, by striking out "General Assembly" and inserting: Senate

Amend Second Resolve Clause, page 4, line 2, by striking out "General Assembly" and inserting: Senate

Amend Third Resolve Clause, page 4, line 5, by striking out "General Assembly" and inserting: Senate

Amend Fourth Resolve Clause, page 4, line 12, by striking out "General Assembly demand" and inserting: Senate urgently request

Amend Fifth Resolve Clause, page 4, line 21, by striking out "General Assembly" and inserting: Senate

On the question,  
Will the Senate agree to the amendment?

It was agreed to.

On the question,  
Will the Senate adopt the resolution, as amended?

**KUKOVICH AMENDMENT A4615**

Senator KUKOVICH offered the following amendment No. A4615:

Amend Eighth Whereas Clause, page 2, line 19, by striking out "U.S. \_\_\_\_" and inserting: U.S. 316

On the question,  
Will the Senate agree to the amendment?

The PRESIDENT. The Chair recognizes the gentleman from Westmoreland, Senator Kukovich.

Senator KUKOVICH. Mr. President, all this does is put in the proper page number of the U.S. Supreme Court case cite. Apparently when the original resolution was printed, that case number probably was not available at that point because of the recent nature of it. Now that it is, we should just make sure that it is clear.

And the question recurring,  
Will the Senate agree to the amendment?  
It was agreed to.

And the question recurring,  
Will the Senate adopt the resolution, as amended?

**KUKOVICH AMENDMENT A4354**

Senator KUKOVICH offered the following amendment No. A4354:

Amend Title, page 1, lines 1 and 2, by striking out "refrain from using" and inserting: use

Amend Title, page 1, line 2, by removing the period after "census" and inserting: where permitted by the United States Constitution and Federal law.

Amend Fifth Whereas Clause, page 2, lines 1 through 5, by striking out all of said lines and inserting: United States mandates an "actual enumeration" of the population; and

Amend Seventh Whereas Clause, page 2, lines 12 through 14, by striking out all of said lines and inserting:

WHEREAS, The provisions of 13 U.S.C. § 141 permit statistical sampling in the decennial census; and

Amend Eighth Whereas Clause, page 2, line 22, by inserting after "apportionment": but did not rule that the use of sampling is prohibited for purposes other than Congressional reapportionment

Amend Resolution, page 2, lines 23 through 30; page 3, lines 1 through 14, by striking out all of said lines on said pages

Amend Resolution, page 3, lines 17 through 23, by striking out all of said lines and inserting: accurate count of the population as possible; and

WHEREAS, In 1990, the Census Bureau estimated the net undercount rate was 1.8%; and

WHEREAS, Certain minorities, notably African-Americans and Hispanics, had higher undercount rates than the population as a whole; and

WHEREAS, Children and those living in rural areas were also differentially undercounted; and

WHEREAS, The Census Bureau report to Congress estimated that the total undercount of the national population in 2000 would be 1.9% if it relies on traditional methods of enumeration alone; therefore be it

Amend First Resolve Clause, page 3, line 30, by inserting after "count": as it relates to Congressional districts

Amend Second Resolve Clause, page 4, lines 2 through 4, by striking out all of said lines

Amend Third Resolve Clause, page 4, line 5, by striking out "oppose" and inserting: urge

Amend Fourth Resolve Clause, page 4, line 14, by inserting after "redistricting": in two forms. The first form shall be

Amend Fourth Resolve Clause, page 4, line 18, by striking out "which bar the use of" and inserting: the second form shall be a tabulation using

Amend Fourth Resolve Clause, page 4, line 19, by striking out "to create, or in any way adjust, the count"

On the question,

Will the Senate agree to the amendment?

The PRESIDENT. The Chair recognizes the gentleman from Westmoreland, Senator KUKOVICH.

Senator KUKOVICH. Mr. President, this amendment changes the resolution quite a bit in two particular areas. One, I think it is important that we clarify the U.S. Supreme Court decision on which much of the resolution is based. There are a number of inaccuracies. One is that the resolution is inaccurate where it states that the Supreme Court ruled that sampling violates the Constitution. Actually, the majority opinion did not address the constitutional issue. The decision was based on the congressional statute.

There is another whereas clause where the resolution is inaccurate in that it states that the court, in the process of reaching its conclusion concerning the concept of statistical sampling, would create a dilution of voting rights. That was not true in the dicta of the case. As a matter of fact, the opposite is probably true. And the third error which I think needs to be corrected is that the resolution is wrong in its statement that the use of adjusted census data would violate the one person, one vote protections and thus result in more litigation if the Commonwealth uses such data.

As a matter of fact, legally, I think there is a solid argument that if we do not do what the rest of this amendment asks, and that is that in essence we initially do exactly what the resolution requests in terms of the physical head count, but then later that we be able to use corrected data, and that could include a statistical sampling, if we do not do that, if it becomes clear that the head count was inaccurate, as it always has been in the past, and I would bring to the Members' attention that in 1990 there was a miscount of over 8 million Pennsylvanians and a double count of 4 million Pennsylvanians, which was a loss of about 4 million. I would also point out that those who are typically undercounted are minorities, children, and often people in rural areas who are renters. Historically, those are the types of individuals who are not counted accurately by the typical head count. If we do not have an adjusted corrected count, we will be in litigation and we will be successfully sued for violating one person, one vote.

I would also point out that in Pennsylvania our undercount the last time alone was 35,140 people. Again, the undercount was even disproportionate as it addresses those people I referred to before, such as children, minorities, and certain of the rural poor. There was a projection by the U.S. Census Bureau, based

on the undercount in the past, that says if using traditional physical enumeration results, the census will result in an undercount in Pennsylvania alone of 1.9 percent, which is equal to roughly over 5 million people.

I would suggest that we address these problems, we try to avoid the legal challenge, and all this amendment does is say let us do the physical count, but let us not shortchange the State by disallowing any type of adjusted corrected count using whatever means are reasonable pursuant to the U.S. Census Bureau. I ask for an affirmative vote.

The PRESIDENT. The Chair recognizes the gentleman from Chester, Senator THOMPSON.

Senator THOMPSON. Mr. President, I ask for a negative vote on the amendment. I think the very reasons that the gentleman discussed are reasons for not changing the resolution, calling for an accurate account, head count, and then providing some follow-up checks and balances by having the post-census review, which has been eliminated in this amendment. Basically, the amendment guts the purpose of the resolution and, as a result, will not provide the assurances that the resolution asks for, so I ask for a negative vote on the amendment.

And the question recurring,

Will the Senate agree to the amendment?

The yeas and nays were required by Senator KUKOVICH and were as follows, viz:

#### YEA-19

Bodack	Kasunic	Musto	Tartaglione
Boscola	Kitchen	O'Pake	Wagner
Costa	Kukovich	Schwartz	Williams
Furno	LaValle	Stapleton	Wozniak
Hughes	Mellow	Stout	

#### NAY-30

Armstrong	Greenleaf	Mowery	Thompson
Bell	Hart	Murphy	Tilghman
Brightbill	Helfrick	Piccola	Tomlinson
Corti	Holl	Punt	Waugh
Corman	Jubelirer	Rhoades	Wenger
Dent	Lemmond	Robbins	White
Earl	Loeper	Salvatore	
Gerlach	Madigan	Slocum	

Less than a majority of the Senators having voted "aye," the question was determined in the negative.

And the question recurring,

Will the Senate adopt the resolution, as amended?

The PRESIDENT. The Chair recognizes the gentleman from Chester, Senator THOMPSON.

Senator THOMPSON. Mr. President, we have all heard predictions and concerns about the Y2K bug and how it will affect computer systems across our nation and around the world. People in business and government are preparing for the problems that may arise. However, Pennsylvania faces another potential problem that may arise next year, one that could cost us more than \$110 million in Federal funding, and that is the use of

statistical sampling rather than actual enumeration by the Federal government in conducting the Y2K census.

Several months ago a U.S. Supreme Court ruling prohibited the U.S. Bureau of the Census from using statistical sampling to compile data for congressional reapportionment. The Supreme Court's ruling is further proof that statistical sampling is not the way to go. Article I, Section 2, of our Constitution specifically calls for a census to be an actual enumeration. The Justices ruled that statistical sampling could dilute voting rights for citizens in legislative redistricting. The ruling was very narrow. It only dealt with congressional redistricting. This is just one problem that could arise by a sampling instead of taking an actual count of our citizens.

Statistical sampling could hit hard through a reduction in Federal funding for important services and programs. The U.S. Government Accounting Office projects the loss of \$110.4 million as a direct result of statistical sampling. Hardest hit would be our programs that benefit low-income families. The largest single cut would be in our Medical Assistance funding. Through sampling, we stand to lose \$102 million in Medicaid funding. That in itself would be severe, but that is just one of the programs that could see a cut in Federal funding. The GAO also predicts cuts in funding for adoption assistance, child care and development, foster care, rehabilitation services, and social services. These are programs that affect the people who need the help the most.

The resolution also calls for the continuation of a practice of post-census local review. This would assure that the population counts are correct. This review would allow local governments, which have a number of resources available to them such as tax records and 911 information to verify the information collected through the census. These steps are necessary to assure that the census is conducted fairly and legally, and that the Commonwealth and its citizens are protected. No State in the nation stands to lose more from an improper count than the Commonwealth of Pennsylvania.

I ask for your support for the resolution.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Hughes.

Senator HUGHES. Mr. President, I guess clearly I am requesting or asking for a "no" vote on the resolution. You know, in Pennsylvania, the 1990 undercount was 35,140 people. Of these numbers, 4.5 percent were African-Americans, 2.5 percent were Asians, and 4.4 percent were Hispanics. They were just not counted. One percent were American Indians. They just were not counted. Statistical sampling has been proven as an accurate means to deal with these issues. The census bureau reported, Mr. President, that the 1990 census saw the worst case in undercounting with 1.8 percent of the population, or 4.7 million people short around the country. Many people were double counted. The 1980 census was 2.8 million people below the accurate count. In the 1990 census, the undercount was not spread evenly across the nation. Instead, minorities and children were disproportionately undercounted.

Now I understand this is an argument about dollars and cents, and I appreciate that, being an individual who clearly advocates when there are extra dollars that we should be about

reinvesting those dollars in Pennsylvania's people, but we also have to be clearly concerned about the issue of accurate counting. Accurate counting through statistical sampling goes specifically to the issue of legislative apportionment. That is what it is used for. It is not necessarily used for the issue of the distribution of dollars and cents.

Why is it when it comes to the issue of counting folks of color who clearly, historically, go uncounted, and we have a methodology in place that has been proven to work and work accurately, not to the detriment of others but to enhance accuracy, and in this case the enhancement of that accuracy goes to the basic constitutional right of one person, one vote, and that is through the issue of apportionment in our legislative districts, why do we then say that we do not want to use that, we will just go with what we know to be inaccurate and not deal with what is taught in most of our statistics programs in most of our universities all across the country in the concept of sampling?

The United States Census Bureau reported that if the 2000 census is taken with traditional physical enumeration methods, the census will result in an undercount of 1.9 percent, or over 5 million people. Undercounting was also found to be disproportionate among renters in rural areas, so I guess we will just ignore them also. And the rate in 1990, 5.9 percent of renters in rural places in this country were just not counted. Just not counted. We have a methodology that is available to deal with correcting this inaccuracy. We say we want to be a State that is truly representative of all the people, yet we consciously, through this resolution, make a determination that we do not want to be representative of all the people. We want to be representative of most of the people, not all of the people. That violates the Constitution with respect to legislative apportionment.

Everybody should be counted, Mr. President. All people should be counted. I do not care if you live in the most rural portion of this State, you have a right to be counted. I do not care if you live in the most devastated communities or not even the most devastated communities, Mr. President, if you are of color, if you are of different descent, a Latino American, a Native American, you have a right to be counted and not to be ignored, which historically has occurred in the counting process, and it cannot be disputed anywhere.

I ask for a "no" vote, Mr. President, to represent all of the people in probably the most important process that occurs every 10 years in this country, the accurate counting of all of the people of this State, all of the people of this country. It has been historically proven that disproportionately minorities, African-Americans, Latino Americans, Native Americans, Asian Americans do not get counted accurately, and we can remedy that by using sampling.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Westmoreland, Senator Kukovich.

Senator KUKOVICH. Mr. President, to clarify, I am asking for a "no" vote on the resolution because the resolution does, in a number of key areas, clearly misstate the Supreme Court decision, but also because no matter what the resolution says, the Federal Bureau of the Census will do statistical sampling, and we will receive two sets of numbers, the original physical head

count and then the corrected numbers, which every 10 years we know gives us a more accurate reflection of the undercount. And if we do not accept those numbers and we reapportion our State based on obviously incorrect numbers, our whole reapportionment plan will be successfully challenged and it will be thrown out of court. That is a true threat.

But beyond that, the decennial census, more than just reapportioning districts, are the numbers that for a decade every bit of demographic information that is used by policymakers or educators or journalists or community leaders or anybody who has anything to do with the policies of this Commonwealth locally or at the State level will be using erroneous numbers. Looking at the people who were missed in Pennsylvania in the 1990 census, without adjusting that undercount, again just looking at children, and making the argument on education, in Erie alone, 568 children were not counted, in Philadelphia, 18,351 children were not counted, and in Pittsburgh, 2,227 children were not counted. That has an impact on the amount of teachers we have, the amount of schools we have, on the making of policy separate and apart from the politics. It impacts tremendously on the future of this State.

I think we deserve not only to have the most accurate count and to make sure that everyone is counted, but what we are also saying, politics aside, is that everybody in this State should count. If we were to follow the dictates strictly of this resolution, we would fail to do that, and I request a "no" vote.

The PRESIDENT. The Chair recognizes the gentleman from Chester, Senator Thompson.

Senator THOMPSON. Mr. President, no one wants a fairer count than I do. Everyone should be counted. What the opponents of this resolution fail to take into consideration and what they asked to have eliminated in the amendment was the post-census review process, which has been used in the past, which has caught those mistakes. That was an area that did catch those mistakes. The current administration wants to eliminate that post-census review and basically eliminate the ability of local officials to challenge those numbers in the way that they can to get a more accurate count.

So, I ask for a positive vote on the resolution, and also point out that the post-census review that we are asking for in this resolution is not just a partisan issue, unless the National League of Cities, the National Association of Townships, and the National Association of Development Organizations are partisan organizations. I ask for a positive vote.

And the question recurring,

Will the Senate adopt the resolution, as amended?

The yeas and nays were required by Senator LOEPER and were as follows, viz:

YEA-30

Armstrong	Greenleaf	Mowery	Thompson
Bell	Hart	Murphy	Tilghman
Brightbill	Helfrick	Piccola	Tomlinson
Conti	Holl	Punt	Waugh
Corman	Jubelirer	Rhoades	Wenger
Dent	Lemmond	Robbins	White
Earll	Loeper	Salvatore	
Gerlach	Madigan	Slocum	

NAY-19

Bodack	Kasunic	Musto	Tartaglione
Boscola	Kitchen	O'Pake	Wagner
Costa	Kukovich	Schwartz	Williams
Fumo	LaValle	Stapleton	Wozniak
Hughes	Mellow	Stout	

A majority of the Senators having voted "aye," the question was determined in the affirmative.

LEGISLATIVE LEAVE

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, I request a temporary Capitol leave for Senator O'Pake.

The PRESIDENT. Without objection, that leave is granted.

UNFINISHED BUSINESS  
CONGRATULATORY RESOLUTIONS

The PRESIDENT laid before the Senate the following resolutions, which were read, considered and adopted:

Congratulations of the Senate were extended to Mr. and Mrs. Robert Kann, Mr. and Mrs. John McKonly and to Mr. and Mrs. Paul H. Woods by Senator Armstrong.

Congratulations of the Senate were extended to Mr. and Mrs. Michael Kostyk by Senator Bell.

Congratulations of the Senate were extended to the Honorable Robert M. Tomlinson by Senator Conti.

Congratulations of the Senate were extended to Dennis M. Donovan, Jr., by Senators Conti and Greenleaf.

Congratulations of the Senate were extended to Anna Margaret Peters and to Donald T. Suit by Senator Corman.

Congratulations of the Senate were extended to Dr. Artimus Brown and to R. Anthony Snow by Senator Earll.

Congratulations of the Senate were extended to Otho Davis and to the Philadelphia Trolley Coalition, George Nebinger School, George Sharswood School and Abigail Vare School by Senator Fumo.

Congratulations of the Senate were extended to American Waste Digest and to Owen J. Roberts High School Band of Pottstown by Senator Gerlach.

Congratulations of the Senate were extended to Mr. and Mrs. George E. Sitler, Mr. and Mrs. Fred L. Laubauch and to Mr. and Mrs. Elmer E. Adams, Jr., by Senator Helfrick.

Congratulations of the Senate were extended to Sheikh Abdul-Malik Muhammad by Senator Hughes.

Congratulations of the Senate were extended to Jeffrey Squires by Senator Kasunic.

Congratulations of the Senate were extended to Mr. and Mrs. Geno Sprechini and to Mr. and Mrs. John Krupa by Senator Lemmond.

Congratulations of the Senate were extended to Elvira M. Hudson and to Jason T. Vogelsong by Senator Mowery.

Congratulations of the Senate were extended to Mr. and Mrs. Harold Muchow and to Mr. and Mrs. Anthony Shemony by Senator Stout.

Congratulations of the Senate were extended to the Northeast Community Center for Mental Health/Mental Retardation of Philadelphia by Senator Tartaglione.

Congratulations of the Senate were extended to Louise King by Senator Tomlinson.

Congratulations of the Senate were extended to the Red Lion Area Senior Center by Senator Waugh.

Congratulations of the Senate were extended to Gary D. Cookey, Ryan L. Miller, Daniel A. Lilly, Donald J. Holler and to Conestoga Wood Specialties Corp. of East Earl by Senator Wenger.

## COMMUNICATIONS FROM THE GOVERNOR

### NOMINATION REFERRED TO COMMITTEE

The PRESIDENT laid before the Senate the following communication in writing from His Excellency, the Governor of the Commonwealth, which was read as follows and referred to the Committee on Rules and Executive Nominations:

#### MEMBER OF THE MILK MARKETING BOARD

December 6, 1999

To the Honorable, the Senate  
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Barbara Ann Grumbine, 970 Halfway Drive, Myerstown 17067, Lebanon County, Forty-eighth Senatorial District, for appointment as a member of the Milk Marketing Board, to serve for a term of six years and until her successor is appointed and qualified, vice J. Robert Derry, Indiana, whose term expired.

THOMAS J. RIDGE  
Governor

### RECALL COMMUNICATIONS REFERRED TO COMMITTEE

The PRESIDENT laid before the Senate the following communications in writing from His Excellency, the Governor of the Commonwealth, which were read as follows and referred to the Committee on Rules and Executive Nominations:

#### DISTRICT JUSTICE

December 6, 1999

To the Honorable, the Senate  
of the Commonwealth of Pennsylvania:

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated June 29, 1999 for the appointment of Valerie Smith, 7723 Farndale Avenue, Harrisburg 17112, Dauphin County, Fifteenth Senatorial District, for appointment as District Justice, in and for the County of Allegheny, Magisterial District 05-2-15, to serve until the first Monday of January 2000, vice Richard J. Terrick, resigned.

I respectfully request the return to me of the official message of nomination on the premises.

THOMAS J. RIDGE  
Governor

#### DISTRICT JUSTICE

December 6, 1999

To the Honorable, the Senate  
of the Commonwealth of Pennsylvania:

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated September 14, 1999 for the appointment of Annette Steele, 2029 Bonita Court, Harrisburg 17110, Dauphin County, Fifteenth Senatorial District, for appointment as District Justice, in and for the County of Allegheny, Magisterial District 05-2-43, to serve until the first Monday of January 2000, vice John E. Swearingen, mandatory retirement.

I respectfully request the return to me of the official message of nomination on the premises.

THOMAS J. RIDGE  
Governor

#### DISTRICT JUSTICE

October 14, 1999

To the Honorable, the Senate  
of the Commonwealth of Pennsylvania:

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated September 28, 1999 for the appointment of Fritz Bittenbender, 4 King's Arms, Mechanicsburg 17055, Cumberland County, Thirty-first Senatorial District, for appointment as District Justice, in and for the County of Lebanon, Magisterial District 52-3-01, to serve until the first Monday of January 2000, vice Jo Ann Shultz, resigned.

I respectfully request the return to me of the official message of nomination on the premises.

THOMAS J. RIDGE  
Governor

#### DISTRICT JUSTICE

December 6, 1999

To the Honorable, the Senate  
of the Commonwealth of Pennsylvania:

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated September 28, 1999 for the appointment of Samuel I. Cohn, 491 Hillside Drive, Mountville 17554, Lancaster County, Thirteenth Senatorial District, for appointment as District Justice, in and for the County of York, Magisterial District 19-3-10, to serve until the first Monday of January 2000, vice Paul A. Walters, resigned.

I respectfully request the return to me of the official message of nomination on the premises.

THOMAS J. RIDGE  
Governor



## ANNOUNCEMENTS BY THE SECRETARY

The following announcements were read by the Secretary of the Senate:

### SENATE OF PENNSYLVANIA

#### COMMITTEE MEETINGS

#### TUESDAY, DECEMBER 7, 1999

9:30 A.M.	FINANCE (to consider Senate Bills No. 1101 and 1202; and House Bills No. 164 and 1180)	Room 461 Main Capitol
10:15 A.M.	AGRICULTURE AND RURAL AFFAIRS (to consider Senate Bills No. 1155 and 1170 and House Bills No. 1893 and 2020)	Room 461 Main Capitol
10:15 A.M.	JUDICIARY (to consider Senate Bills No. 636 and 1173; and House Bills No. 28, 877, 1724, 1970 and 1971)	Room 8E-B East Wing
10:30 A.M.	AGING AND YOUTH (to consider House Bill No. 1099)	Majority Caucus Rm.

#### WEDNESDAY, JANUARY 12, 2000

9:30 A.M.	CONSUMER PROTECTION AND PROFESSIONAL LICENSURE (public hearing on Y2K Consequences)	Room 8E-B East Wing
-----------	---	------------------------

## SPECIAL ORDER OF BUSINESS SUPPLEMENTAL CALENDAR No. 1

### SENATE CONCURS IN HOUSE AMENDMENTS

**SB 167 (Pr. No. 1550)** – The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for possession of firearm or other dangerous weapon in court facility, for terroristic threats, for harassment and stalking, for grading of theft offenses, for harassment and stalking by communication or address and weapons or implements for escape for persons not to possess, use, manufacture, control, sell or transfer firearms; providing for possession of firearms with altered manufacturer's number; further providing for the sale or transfer of firearms and for registration of firearms; and providing for locking device for firearms; and limiting certain lawsuits.

On the question,

Will the Senate concur in the amendments made by the House, as amended by the Senate, to Senate Bill No. 167?

Senator LOEPER. Mr. President, I move that the Senate do concur in the amendments made by the House, as amended by the Senate, to Senate Bill No. 167.

On the question,

Will the Senate agree to the motion?

The PRESIDENT. The Chair recognizes the gentleman from Montgomery, Senator Tilghman.

Senator TILGHMAN. Mr. President, I would like to speak on Senate Bill No. 167, as reported from the Committee on Rules and Executive Nominations. I do not have a copy of the bill. I

do have a copy of the amendment that was offered in the Committee on Rules and Executive Nominations.

May we be at ease for a second until I find the section I want to discuss?

The PRESIDENT. Certainly. The Senate will be at ease.

(The Senate was at ease.)

Senator TILGHMAN. Mr. President, I have a copy of the bill and I want to discuss the bottom part of page 10. It starts on line 24 on page 10 of Printer's No. 1550. This is the portion of the legislation that says, "No political subdivision may bring or maintain an action at law...against any firearms or ammunition manufacturer...." And it goes on. There is other wording in it. You can see what the wording is.

I support the entire bill with the exception of this section, and this section is so distasteful to me that I am forced to vote in the negative on this piece of legislation. I was considering dividing the question so that we could vote independently on section 7, which starts in the middle of page 10, and I would vote in the negative on that section and then I would vote in the affirmative on the rest of the legislation. I am not going to ask to do that simply because I do not think there are the votes to carry the question, and I would still be faced with the legislation as it is before us with this section in the bill.

If I may, Mr. President, I would like to refer to a letter that has been placed on our desks from the National Rifle Association of America. I spoke to the Secretary of the Senate and I asked, how did this letter get on our desks? And he stated to me that obviously people cannot come up to the back door and ask to have letters put on the desks, or something like that, but it is perfectly appropriate for a Member of this Senate if they have some literature of some kind to put it on the desks, and I assume that it came here from some Member of the Senate, which is fine. I understand that.

I would like you to look at this letter from the National Rifle Association, dated December 6, 1999. The very first paragraph states that "The two most important" parts of this legislation "are those that would (1) prohibit local government entities from bringing law suits against gun manufacturers in an attempt to circumvent the legislative process...." That is the most important part of the legislation, according to this paragraph, and the second one goes into enabling judges to sentence criminals, et cetera. I agree with the National Rifle Association that this is the most important part of this legislation, as far as I am concerned. I also understand that individuals under this legislation still have the right to sue but municipalities do not.

And I ask you to further look at the bill on page 11, line 22, and you will see that municipalities include school districts. I would not like to go to Littleton, Colorado, and tell the school district there that they could not bring a lawsuit against the ammunition manufacturer or gun manufacturer. I do not know whether they wanted to or whether they did or whether they ever thought of it, but if anything happens in a school district in my district or anyplace in this State, I would hope that the school district would have the latitude to do what it wishes. I do not think we should stand here in the General Assembly and vote for a piece of legislation that tells any portion of the public what they can and cannot sue. What is the next step?

We have had this legislation before and I voted in the negative when it was up before the Senate several days ago, and I had a person call me who was opposed to my vote, and I said, sir, if you will forget the subject matter, which is guns, generally pistols, if you will forget the subject matter, do you think the General Assembly should tell people whom they can and cannot sue? And he said, no, I do not. I said, fine. That is the only reason for my vote.

This letter goes on to talk about trigger lock mechanisms--which I support--and clarifying possession of a pistol in a court facility, except for the court officers. Who thinks anybody should have a pistol in a courtroom? I certainly do not. I support every other part of this legislation except this part of the legislation.

When we talk about trigger locks, I would go a step further and mandate that they be placed on a pistol in an unremovable fashion. This legislation just says that the gun dealer must provide a trigger lock. You go in and buy a pistol and he sells you or gives you, I am not sure which, a trigger lock. So what? You know, you lose it in the car on the way home. I once heard a person make a statement that I remember, and it is kind of a sad statement when you think about it. I would like to have that trigger lock permanently fixed by the manufacturer on the pistol. The statement says that it is easier to childproof a gun than it is to bulletproof a child. I agree.

I support every part of this legislation, with the exception of the lawsuit part. I do not want people coming up to me and saying, Senator Tilghman, you voted against this bill, you are soft on guns. That is not true. We have to make a choice in the General Assembly. Many times here in the Senate you vote for or against a piece of legislation because of a paragraph or two in the bill, and that is the situation here.

Frankly, I would make this tougher legislation if I had my choice and could take that lawsuit portion out. I do not think that we have the right under any circumstances, whether it is cars, whether it is baseball bats, whatever it is, to tell people they cannot sue. I am not a lawyer. I do not think that lawyers would be very happy about it if it started to become prevalent in the United States that you cannot sue this, you cannot sue that. Am I for stupid and ridiculous lawsuits? Of course I am not. I was a manufacturer. I had a plant running 24 hours a day making plastic bottles. I understand the difficulties of a business. I understand the lawsuits that can be brought against a small manufacturer, and I was certainly a small company.

I am sorry to take so much time at this late hour. I feel pretty strongly about this portion of the legislation for the reasons that I have enumerated to you. I like the rest of the bill. That portion of the bill is overpowering for me, and I am going to vote in the negative on the legislation.

Thank you.

The PRESIDENT. The Chair recognizes the gentlewoman from Philadelphia, Senator Schwartz.

Senator SCHWARTZ. Mr. President, I, too, rise to speak on this legislation and I agree with the previous speaker about this legislation. I would have been pleased to vote for the legislation that at least in some ways encourages the sale of trigger locks with handguns and weapons that can be concealed. I think that

was a good thing to do. We talked about this earlier in caucus and it was pointed out that trigger locks will not do anything to solve crime. That has nothing to do with crime. I think it is probably correct that trigger locks by and large are not a crime reduction measure, but they are a gun violence reduction measure.

Trigger locks do the same thing that a whole variety of other kinds of child locks do in protecting particularly our most vulnerable citizens, our children. We have child locks on medicine bottles. We have childproof medicine bottles. It has made a very big difference in helping to ensure that children do not take medicine and are not harmed by it. We have child safety locks on car doors so those doors are not opened by children and harmed by that. We have child safety seats. I could go on and on about the ways we may have accepted maybe some inconveniences for adults in order to protect the safety and health of our children, and that is a good thing for us to do and we should be doing all that we can to encourage the use of trigger locks.

We certainly do know, research shows us, that particularly guns bought and left at home primarily for self-protection are more likely to harm our loved ones through accidents than to actually protect us from criminals. Yet people purchase those guns and keep them in their homes, but being able to have trigger locks on them actually could protect children, and I would be pleased to vote for that legislation.

But I, too, cannot vote for this legislation because of the amendment that was inserted into the bill just minutes ago in the Committee on Rules and Executive Nominations. I will say that fortunately the gun manufacturers in this case have recognized that trigger locks are useful and important, and so, as I understand it, about 90 percent of guns are already sold with trigger locks as a part of the package. And so fortunately, most people are purchasing trigger locks already, particularly with new guns. I am hoping that it becomes 100 percent, but we are moving in that direction in any case.

So the significance of requiring guns to be sold with trigger locks, while a good and positive public policy, will not have a dramatic effect because it is already happening in our communities. It makes me feel a little bit better about voting "no" on this legislation, because as was stated already on this floor and I will state it more emphatically, I cannot vote for this legislation because inserted into this legislation is a choice that my colleagues are apparently willing to make that I am not willing to make, and that is that they are more willing to protect gun manufacturers from even having to answer our questions in a court of law than they are willing to stand up on behalf of potentially safer communities and, of course, more safety for our children.

It says that municipalities and school districts may not sue gun manufacturers. Now, we have talked about this before and I have already said that we do not know the outcome of those lawsuits. We do not know what the courts will find. We do not know the information that would be revealed. We do not know the answers to the questions that gun manufacturers might have to give if we actually asked them to reveal, as 28 other cities in this country have already asked them to, as to whether the way they manufacture and market guns contributes to gun violence in our communities. What if the answer is yes? That, yes, the

way they market guns, the way they manufacture guns, that they have walked away from gun safety measures, that they have walked away in careful ways from really the specific legality of the law. What if we actually find that to be the case and then demand that gun manufacturers make safer products? Why are we more afraid of the answers to the questions than we are to responding to the fear in our communities?

Mr. President, just today there was another school shooting. We stand here more concerned about protecting gun manufacturers than protecting our children. A child brought a handgun to a school in Oklahoma today and shot his classmates, four or five children were shot this morning. And instead of standing here and saying what more can we do to prevent gun violence in our community, what we are saying is we do not want gun manufacturers to have to answer any questions. Mr. President, we are betraying the trust of the citizens by protecting gun manufacturers from answering these questions instead of protecting our citizens. It is unacceptable to me that that is something that we are doing, that we are so much more concerned about their having to answer these questions than our finding out the answers.

Mr. President, this is an unreasonable and unacceptable piece of legislation. Even if you want to do the NRA's bidding, even if you want to look at that—I do not get the copies of the letters, the NRA no longer writes to me, I did not have a copy of that letter on my desk—this is not about the NRA, this is not about whether people can have guns or not have guns. This is about whether gun manufacturers contribute to gun violence in our society. We should have to have them answer questions. It is not about saying that gun manufacturers are more responsible than criminals. It is not saying that lawsuits substitute for law enforcement. None of those are the questions before us. All that this does, and it is very powerful, is say that somehow gun manufacturers are exempt from having to answer the questions, these very important questions of how they contribute to gun violence in our community.

If they have nothing to worry about, why are they so anxious to make sure that they do not have to answer those questions in a court of law? What are they afraid of, Mr. President? Well, I am not going to protect gun manufacturers in this situation. I want them to answer those questions. If they are found in the right by a court of law, then obviously they are going to be found right, but we do not know that yet. They should have to answer these questions, and, Mr. President, those of us who are concerned far more about the fear of our citizens every day, about those schoolchildren who go to school, whether it is in Oklahoma or in Pennsylvania, they should not have to worry about guns in their classroom. We should not have to worry about going to a convenience store in our own community, as there was a stabbing in Philadelphia, but there was concern about guns in the situation as well. We should respond more to the fear of our police officers, Mr. President, who are more worried about criminals having guns that they cannot even possess.

Mr. President, this is about protecting our communities and protecting our children. Do not make the choice of protecting gun manufacturers over protecting our children. It is one that I

will not make, and I hope that none of my colleagues make it either.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Hughes.

Senator HUGHES. Mr. President, here we go again. Here we go again. And I will do my best and I guess I will please some of the body by being brief with respect to my comments, Mr. President. Like I said, I am sure a number of people around here will be brief, but I will be to the point and I will just begin where I ended up the last time when we had this conversation, and the question again is what have they done? What has the gun manufacturing industry done to deserve this protection? What have they done? What have they done that allows us to move forward and provide them with this almost unprecedented protection so they can move forward with a level of cover that they just, quite frankly, from this place do not deserve? They just do not deserve it.

They make the weapons, they make all kinds of weapons, they make heavy artillery, they make military weapons, and for some reason or other, I guess unbeknownst to them, at least according to them, these weapons wind up in our streets, in our neighborhoods, in communities all across this State and all across this country. And they just feel that they are totally innocent in this whole process, and that from the point of manufacturing these weapons, after it gets outside of their offices and outside of their buildings, it is not on them anymore.

We are not talking about a manufacturing industry that makes children's toys. We are not talking about an industry that makes pencils or pens, widgets or glasses or desks or microphones or computers or paper, or anything like that. We are talking about an industry that manufactures guns, and guns even in the sporting sense kill people or kill things. Okay? And in its most destructive sense, weapons kill people. This past weekend, all across this State, people have been killed by guns, by weapons. So the question is in this most very specific industry that manufactures weapons that are used for sport and weapons that are used to maim and kill, why should we provide this particular industry this protection? Why? Why? What have they done?

Or more importantly, the second question is, Mr. President, what are they scared of? What are they scared of, as the previous speaker indicated, in the process of discovery? I am not an attorney, and I am sure there are more astute individuals in this Chamber who can probably go through the details of the process, but in the process of discovery I assume that if a lawsuit comes down, you get to access all kinds of information about how these weapons are made and what the process is all about and how from the point of manufacture to the point of when they are used by someone either for right or for wrong, you get a chance to see what the process is. You get a chance to see the details of it. I am assuming that is how it goes, but what are they scared of? Is it the process of discovery that they are looking for protection under? Or is it, Mr. President, the process in a legal matter that an individual who apparently can file suit just does not have the financial wherewithal to stand up to the National

Rifle Association or any one of these gun manufacturers in this particular industry? They just cannot handle it.

However, a municipality, and now I am to understand the kids cannot sue the gun manufacturers. The school districts cannot sue now. Now they cannot get involved in this process. So we are going to shut the most harmless group, the most harmless class out of this process. What have they done? And it sends a message to many voters and many average citizens around this Commonwealth and people around the country looking at what we are doing here, and it sends a message to them also, Mr. President. I mean, it flies in the face of some basic logic. What have they done? What have they done to deserve this protection? Nothing.

The answer holds now as it did before when we did the same amendment. That was a week or so ago, Mr. President, on another piece of legislation, that they have done nothing to deserve the special protection that only a few industries in this country have. Only a few industries in this country have this kind of protection, Mr. President, and here is another one. And it just looks on its face that a special interest group has moved this process to take care of themselves because they know that the larger groups of people, that the larger public, wants to see more scrutiny on how they do their business. And they are liable in this process. You cannot tell me in any way, shape, or form, Mr. President, that arms dealers around the world who interface directly with the gun manufacturing industry, that there is not some illicit activity going on there. I will not accept it, and the majority of the people of this Commonwealth and this country will not accept that, and it has been documented all over the place.

Obviously, Mr. President, I am a "no" vote on this one. I urge my colleagues to do the same. This industry does not deserve this protection, this very special protection for an industry that deserves more scrutiny and more analysis and more examination than any other.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Lehigh, Senator Dent.

Senator DENT. Mr. President, I rise to ask for your support for this legislation, which I originally introduced to update Title 18 to keep up with technology and make it easier for prosecutors to enforce these laws against individuals who use methods such as the Internet and e-mail to harass and terrorize others.

As you know, the bill has changed a little bit since then. But this legislation does update existing laws regarding terroristic threats and harassment by communication or address by extending these statutes to include electronic communication, again such as the Internet, e-mail, and fax transmissions. It also adds the crime of stalking by communication or address to provide a tool for law enforcement to address the incidents of stalking by electronic means. The purpose of this legislation is to close a loophole in existing law and provide protection for anyone who is threatened or harassed via electronic communication. As legislators it is important for us to keep up with these ever-changing technologies.

I would also like to note that the House made some changes to this legislation as well with respect to firearms. One of those

in particular is referred to as Operation Hard-Time, which has the full support of Attorney General Mike Fisher, and essentially that provision allows for the increase of grading from a misdemeanor I to a felony III for any felon found in possession of a firearm. I think that is very important. We need to send that message.

And with respect to the issue at hand prohibiting municipalities from suing gun manufacturers, let me simply say this: It does not make sense for a municipality to sue a gun manufacturer for an individual's criminal misuse of a legal product that is not defective, and I think that is really what the issue is that was addressed by the Senate Committee on Rules and Executive Nominations. For all these reasons, I ask for the Senate to concur in this legislation.

Thank you.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Fumo.

Senator FUMO. Mr. President, I rise in support of this legislation. The politically expedient thing for me to do would be just to sit down and vote my conscience. This is going to pass overwhelmingly, but I cannot do that, Mr. President, because, quite frankly, I am tired of all the mysticism and all the rhetoric about this issue. And I think it is important for the people of Pennsylvania to really understand what we are talking about here. This is not defending the National Rifle Association. This is not doing the bidding of the National Rifle Association, and this is not protecting some sort of unscrupulous industry and allowing it to hide behind some law so it can do misdeeds.

Mr. President, it is very easy to attack gun manufacturers, and it is easy to do that because criminal violence with guns is becoming epidemic. I would like to remind every person in Pennsylvania that every time somebody takes a gun and kills somebody with it, they have broken one of the most severe laws in this Commonwealth, and it is called the law against murder. Well, for some reason, Mr. President, that law does not seem to impress those people who are doing that. So the liberal answer to this solution, the easy answer to this problem is let us pass another law, because people are obviously not afraid of the electric chair. Maybe they will be afraid of some other stupid law that we pass. So we do that here, we go home and tell our constituents the wonderful fight that we fought. And everybody needs a Saddam Hussein, so we will make the NRA the Saddam Hussein, and we will make the gun manufacturers the Saddam Hussein. We fought the evil giant for you.

In the meantime, Mr. President, gun violence continues. Is it not amazing that the criminals do not listen when we pass these laws? So some bright-eyed moron somewhere in this country got the idea that maybe if we sue gun manufacturers, not to win the case, no, not to win the case, just to sue them to harass them so that we can hopefully bankrupt them, they will not manufacture any more guns and our problems will go away.

Let me tell you, Mr. President, in urban areas, in good liberal areas, and regrettably in some Democratic areas, that is a wonderful speech to give. If you are the mayor of a big city, you do not have to hire more policemen to go on the streets to fight crime. All you have to do to get reelected is sue the gun manufacturers, and everybody will think you are the greatest thing

since ice cream. Editorial writers will love you. But in reality, Mr. President, you will not have stopped one death, you will not have stopped one crime, and you will have abused the justice system as we know it for an illegal purpose.

Mr. President, I have recounted this before. Ed Rendell is a good friend of mine; a little bit misled sometimes on issues, but he is still a good friend. I sat in continuing legal education this summer, an endeavor which believe me I absolutely detest, along with every other lawyer in this Commonwealth, but I sat there for 2 days and the second day the topic was suing gun manufacturers. I knew enough about the subject that I was asked to teach it, along with a very distinguished panel of people who represented the gun industry, people who were against the gun industry, Representative Lita Cohen, Ed Rendell, John Street, and me. And I listened to some wonderful rhetoric. But the most poignant thing that I heard that day, and this was videotaped, it is on record, in front of the lawyers who defend the gun manufacturers, was when Mayor Rendell said, we know these lawsuits are not going to win, but if we keep it up, we can bankrupt them.

Well, in Pennsylvania there is a principle called Dragonetti, which states if you sue somebody with no cause of action, that person can come back and sue you for damages, not only for the legal fees, and there is my mayor — pardon me, America's mayor, telling these people that the real objective behind lawsuits against gun manufacturers was not that they did anything wrong, not that we have a case, but if enough of us sue them, we will bankrupt them. Well, that is not the Constitution that I swore to defend.

I listened to my colleague, Senator Hughes, get up and talk about what do these people have to hide? This law and this amendment does not say they cannot be sued. I do not think anybody read this. It says that municipalities—translate that into demagoguery politicians—cannot sue gun manufacturers for lawful design or manufacture of firearms - lawful - or the lawful marketing or sale of firearms. On the next page it says, "Nothing in this subsection shall be construed to prohibit a political subdivision from bringing or maintaining an action against a firearms or ammunition manufacturer or dealer for breach of contract or warranty as to firearms or ammunition purchased by the political subdivision." We did not say you cannot sue. We did not say you cannot get discovery. We did not say if you had a reason to sue you cannot sue. What we said, you cannot sue for lawful things that they do.

Now, I know that the trial lawyers, who are also good friends of mine, came up with the theory on cigarette guys, let us go after the cigarette guys, and it was very profitable, and it was profitable for the States. In fact, we have not even begun to fight in this Chamber about how we are going to spend all that new-found money. But, Mr. President, the theories are distinctly different, and the theory is this: Cigarette manufacturers for decades and decades told people, and knowingly lied when they told people, that smoking was good for their health. I am old enough to remember as a young kid the black and white TV ads of a guy with a doctor's uniform with buttons over here smoking a cigarette saying this was healthy for you. That was a lie. It misled people. That was the basis of the action.

I never once in my life saw a gun ad that said shoot this gun and no bullets will come out and nothing will get hurt. When you take a gun, you aim a gun, you pull a trigger, you shoot a projectile, and it does kill something if it is aimed at something living, and if it is a target, it hits a target. Nobody ever said it did not do that, yet all of a sudden the answer to urban crime, the liberal solution to this problem is let us sue them and bankrupt them. Let us totally corrupt the American jurisprudence system. That is not what this country is about, and that is not the Constitution that I voted to defend.

Mr. President, we have heard now, is it not a shame that school districts cannot sue gun manufacturers for lawful reasons? Oh my God, what an outcry? Let me tell you about the Philadelphia School District, one of my favorite examples of bureaucracy run amuck. Last year in the Philadelphia School District, despite the fact that we passed a law that said if you brought a weapon to school, you were expelled, 905 weapons were confiscated from kids who brought them into schools in Philadelphia, and 15 kids were expelled. And I do not know how those poor kids got caught and got expelled. The other ones got caught and gave some con story and did not get expelled. And there, Mr. President, we passed a law that was designed to protect kids, we gave it to administrators who took the weapons but did not have the guts to expel the kids, so we think by suing gun manufacturers we are going to solve the problem? Let us get real.

The answer to gun violence in this country is enforcement. It is enforcing the laws that we already have. It is not easy, it is day in and day out. I know our Police Commissioner in Philadelphia, John Timoney. Somebody asked him, gee, can you give me a 10-point thing on crime, what are we going to do about crime, give me 10 points real quick, and he said that is a bunch of nonsense. He said the way you fight crime is go out each and every day and fight crime. It is not magic, PR, or news releases. It is not dramatic. It stinks. It is every day walking streets and looking out for things to protect people. It is not easy, and it is not simple. But urban politicians, and regrettably all of us at one time or another, love simple 30-second sound bites so we can go home and be heroes and tell people we solved something when all we have done is lied to them. I would rather do nothing than lie to people.

If we think that telling the city of Philadelphia that it can sue and set itself up for a \$100 million Dragonetti action is good for the city of Philadelphia and crime, I would be the first one to do it. Mr. President, it is a bunch of garbage, and I regret that some of my colleagues have been so misled by the quick 30-second ads and the editorial writers who have never had a gun in their hands because, oh, I am afraid. They do not even know what it does. Let us get real. Let us all get our hands dirty and find out what these things do. Let us spend some time in a police car and find out how to fight crime, not this kind of nonsense.

This was a political campaign promise. It did not mean anything, and the only reason it became a political campaign promise was because Representative Evans spent \$1 million on TV about guns and got 4 percent of the vote. That is how many people cared. But when you are in an election and win by 9,000 votes, 4 percent is important.

Mr. President, we are doing everybody a favor here today, and more so than anybody, John Street is going to be the biggest beneficiary from this so he will not look like a fool 6 years from now when he gets thrown out of court and we have to pay \$100 million in damages.

Let us all work together, liberals and conservatives alike, and find what is going on and go fight it. We passed in Pennsylvania a bill that I wrote 3 years ago which was on the cutting edge of gun control, backed by Handgun Control, Inc., with Sarah Brady, and the National Rifle Association, a bill that Joe Biden told me I could not even get out of committee. We passed it here. And do you know what it did? It said that illegal gun sales, if you sold a gun to somebody and they committed a crime with that gun, that you were liable for the crime as an accessory before the fact. We took something that was profitable, i.e., selling guns illegally with no penalty, and flipped the pages on it. And you know what, Mr. President? Not one prosecution in Pennsylvania by any district attorney, no one dared to try to use that tool. And yet they want to come up here and tell me they need more tools? Use what we gave you.

I heard stories in Philadelphia, well, we have lenient judges. So what? Go in front of a lenient judge and lose, and let the editorial writers plaster that lenient judge. But we do not even try. We are so wrapped up in the damn process we do not want to know about results, and people want results. People want to feel safe on the streets, and this bill is not going to make them feel one damn bit safer. It may go over well at some nice little cocktail parties, but it is not going to do a damn thing to protect people leaving those cocktail parties.

Mr. President, I urge an affirmative vote on this, and I urge that we all work together to try to find an answer to this and stop the silly nonsense. And I know I say that at my peril, the Inquirer tomorrow will scathe me, as probably will The Daily News, but somewhere along the line somebody has to speak the truth or we will keep doing this and 20 years from now we will be up here debating the same nonsense without any result. It is time for us to act and act smart on crime and really try to get a result.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President, I had not really intended to stand up and speak on this issue, and as a supporter of the bill I am certainly not going to give any more eloquent remarks than what the Senator from Philadelphia just did, but some comments made earlier in the debate really compelled me to rise to make some comments for myself.

We debated this issue last month for a while, and although the debate at times was quite passionate, it was a good solid debate. I listened very intently to people making their cases on both sides of the issue, and today for the most part, that remained the same, but one comment really brought the hair up on the back of my neck when one of my colleagues, the gentleman from Philadelphia, and I am trying to quote her correctly, said, the supporters of this bill care more about gun manufacturers than they do about our children. Now that may not be a direct quote, and I tried to write it down as soon as it was said,

but certainly the intent was the same. And I may be new to this body, I have only been here about a year, but I do not believe there is one Member of this Senate, Republican or Democrat, 50 of us, who care more about gun manufacturers than we do our children.

Now, we may have opposite approaches on how to deal with crime and opposite ideas on this issue, but to bring the debate down to that level I think is uncalled for and has no place in this body today.

While I am up, I do want to make one remark on this piece of legislation. As I said, I do support the legislation, but there is one provision that I am not particularly supportive of, and that is the area dealing with trigger locks. I think we should do what we can for gun safety, and I think education is a very important part of gun safety, but this part of the bill is what we call feel-good legislation. What we have done in mandating the sale of trigger locks is saying you have to buy this whether you want it or not. Not that you have to use it, you just have to buy it. So those who do not want it will buy the trigger lock, walk out the door, and throw it out. Those who do want it, who could buy it now under law, will go home and put it on their guns and hopefully will have safer guns because of that. But no, we are going to mandate that everyone do it so, again, not accomplishing anything here, they will just throw it out as soon as they walk out the door, but at the same point we are going to mandate it anyway.

And that is okay. We can live with that, and it is not that big a deal, but what does bother me, what is a big deal is I had a chance to talk to some of the gun dealers in my area, and they are a little fearful that in some handguns with the trigger lock on it and a loaded pistol, they could still fire off a round. Now by mandating this gun lock, are we giving them a false sense of security that this gun will not go off with this lock on it? That is what makes me fearful.

However, again, that is just one part of the bill. There are many good things in this bill. Senator Dent did some very good work early on, and I think the Senator from Philadelphia, Senator Fumo, spoke eloquently on the liability issue. I will support this bill today.

Thank you very much.

The PRESIDENT. The Chair recognizes the gentleman from Cambria, Senator Wozniak.

Senator WOZNIAK. Mr. President, I do not even know if it is worth getting up after the eloquent speech the gentleman from Philadelphia gave and hit just about every point I was going to make. Is there a maker here of the amendment I could interrogate?

Well, very good.

Senator FUMO. Mr. President, I need Counsel MacNett over here.

Senator WOZNIAK. Mr. President, let us do a little more of the King's English so we can understand. It was brought up during discussion of the gentleman's amendment that municipalities, local governments, subdivisions cannot sue gun manufacturers for the lawful manufacture or sale of these products, is that correct?

Senator FUMO. Mr. President, that is correct.

Senator WOZNIAK. Mr. President, if there is a defect, if they sell to an illegal entity, they can certainly be sued, can they not?

Senator FUMO. Yes, Mr. President.

Senator WOZNIAK. Very good, Mr. President. I think that is an important point that the gentleman hit on before.

I have a question about the trigger locks, and I guess that happened over in the House. If I sell a gun to my friend, what are the hoops that I have to jump through on something like that? Would I have to have a trigger lock? Do I have to go down to Horning's Hardware and buy a trigger lock myself and then sell it over and get it documented?

Senator FUMO. Mr. President, on a private sale between individuals, and this is not my language, the way I read it, it talks about licensees, and I would assume that is a licensed gun dealer, so you would not have that obligation, although there is a gray area in the law that says you have to register the transaction, but I still do not think you would have an obligation to provide a gun lock on a private sale.

Senator WOZNIAK. Mr. President, on the bill itself. I think it is pretty obvious, we have been up here for a few hours now, and the reality of it is that having trigger locks be mandatory is going to cost a couple extra bucks per gun, and nobody will get too bent out of shape over that. How effective and enforceable is it? Probably absolutely zip, zero. If you were going to use them, you would buy them. If you are not going to use them, you would buy them and take them off. But that individual is not going to be liable if somebody uses that gun in a household. He will not be fined criminally or civilly if that occurs.

In addition to that, it has nothing to do with the millions of handguns that are probably in this Commonwealth alone. I think that provision in this law is probably redundant, it is useless, I think it is onerous to both the dealers and the purchasers of the firearms. On the Paul Harvey page 2 of that, we are now protecting the lawful manufacturers, the lawful dealers, and the people dealing in guns appropriately and legally, and that means a whole lot of hunters, sportsmen, and a heck of a lot of individuals out there who use these firearms, particularly handguns, for their own personal privacy and for their own protection. I think the other piece of this bill dealing with stalking is enough to make it look like we need to support this legislation.

Every time we bring up the issue of making it tighter or putting a noose around the legal gunowners or legal dealers, all we are doing is making more hoops, more jumps, and more expenses for the people who own handguns legally. Every day of the week in every city in this nation, somebody is opening up the trunk of their car and selling things left and right. That is the problem. It is not the legal, honorable hunters and sportsmen and those who use guns for self-protection.

Let us pass this legislation. Unfortunately, the trigger mechanism is a little bit of a hoop that they will have to jump through, but I think the overriding concept of not suing manufacturers for the legal production far exceeds that small onerous piece that is in here. So with that, I end my little dissertation here and ask for the support of the Members of the Senate.

The PRESIDENT. The Chair recognizes the gentleman from Warren, Senator Slocum.

Senator SLOCUM. Mr. President, I rise to strongly support Senate Bill No. 167. I would repeat, as one of my colleagues speaking in opposition to this asked, what is next? If I recall in my remarks last week, I asked the same question. If we were to permit this type of frivolous lawsuit, what is next? Are we going to sue alcohol producers for the cost and misuse of their products? Are we going to sue automobile manufacturers for the accidents caused by speeding or reckless driving? Are we going to sue our fast food chains for creating the high medical costs for those of us with high cholesterol problems? As ridiculous as those all seem, they could be next if we do not today make a statement by passing this bill. As my colleague from Philadelphia, Senator Fumo, mentioned, we are probably saving the city of Philadelphia millions of dollars by not enacting a frivolous lawsuit. I certainly think that is appropriate.

One of the concerns that I have about this legislation, and I received a number of letters and communications from constituents and others this week, was in opposition to the trigger locks. They are very supportive of the elimination of the lawsuits against our gun manufacturers, but they are upset by the fact that the bill deals with trigger locks. Much of that information was false information that was relayed to those folks. This legislation does not provide a mandatory use of trigger locks. It provides that trigger locks should be sold with the gun sales that are made by dealers within the Commonwealth. I think that is an extremely important part of this legislation. We are not mandating the use of those trigger locks and providing a false sense of security for those people who might use them, because most folks who are experts on guns will tell you that trigger locks are only effective with an unloaded gun. Most of us would have no problems with people with unloaded guns. But to further strengthen our commitment to support the freedom of choice for all Pennsylvanians, we have included language in that bill that protects all gun owners from being sued when they choose not to use a trigger lock.

But more importantly, Mr. President, this legislation goes to the heart of the problem that we have with crime in our country, as mentioned previously by my colleague from Philadelphia. Mr. President, this legislation also addresses the problem of convicted felons illegally, and let me stress illegally, possessing firearms. This bill will enhance the effect of Pennsylvania's Operation Hard-Time program. With the passage of this bill, no longer will convicted felons receive probation or just a few months in jail for illegally possessing guns. Our judges will now have additional tools to keep gun-toting felons off the streets and behind bars serving hard time.

Mr. President, this is good commonsense legislation, and I ask all Members to support the bill.

Thank you.

The PRESIDENT. The Chair recognizes the gentleman from Schuylkill, Senator Rhoades.

Senator RHOADES. Mr. President, I rise holding two letters here, one from the National Rifle Association, which says the NRA asks you to "support the omnibus legislation in order to ensure their enactment."

So I have the NRA saying please support the bill, and from the Gun Owners of America there is a letter that they sent to

their members and then to us: *(Reading)*

I respectfully ask you to oppose any and all forms of Lock Up Your Safety legislation—such as SB 167—that is the first step to forcing gun owners like me to lock away guns or install so-called 'trigger locks.'

If passed, these ill-conceived pieces of legislation would try to make a gun virtually useless when I need it most—to protect my family or property when absolutely necessary and legal.

As my elected representative in the Pennsylvania Senate I also ask you to oppose all other forms of gun control—that may be hidden in SB 167 or in other bills.

It is interesting that everyone will stand here and with all the dialogue we have had here today, we have, I am going to say, two very important gun lobbies, gun citizens, one telling me yes, and one telling me no. I look at that and think that after all the discussion today, you will make your judgment based on whether you believe there should be legal liability of gun manufacturers or not and the issue of gun locks. The other interesting thing is, we only require that they sell it with the gun. There is no requirement in there that it has to be used.

My other thing, too, and let me weigh both of these things on the issues, but look at the bill. If we vote "no" and put this bill down, we begin to say that with the possession of firearms, you can take them into courthouses, there is nothing wrong with that, you do not have to check for them. We have expanded the definition of terroristic threats in here, either directly or indirectly. Well, we are going to put that down. We are talking about trying to get some control, we are talking about crimes of violence, crimes that cause an evacuation of a building or transportation or assembly. We are talking about serious public inconvenience. We are saying that now we are going to throw all that out. We talked about harassment and stalking, and we are adding to it now a term that deals and expands the definition to include lewd, lascivious, threatening or obscene words, language, drawings, caricatures or actions, either in person or anonymously.

We are talking about upgrading theft offenses for a felony of the second degree if the property stolen is a firearm or if you are receiving or holding or retaining a stolen firearm. We are expanding the use of weapons that they use in prisons and including the term "ammunition" in there. We come back to that harassment and stalking and say, if you communicate repeatedly in an anonymous manner at extremely inconvenient hours or fear of bodily harm or intent to cause substantial emotional distress, all these things we put down if we defeat this bill.

We prohibit any person convicted of an offense from a gun possession—I did not even know this until I looked through this and saw it—if there is an equivalent Federal statute or equivalent statute from another State and you violate it, you cannot have a gun in Pennsylvania, and you cannot have a gun if the manufacturer's number is altered, changed, removed, or obliterated.

I look at it and say, I have to weigh one against the other and I have listened to that debate, but I also say there are other issues in here that weigh on top of that debate which deal with the quality of life. Quality of life is that I should be able, by my constitutional rights, to have my gun and use it, but I also should be safe in my person, and that is why I say vote "yes" for this bill.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Costa.

Senator COSTA. Mr. President, originally I had not wanted to get up and speak about this particular legislation, but remarks in the course of the dialogue and debate that we have had on this bill prompted me to do so, in particular remarks by my colleague, one of the sponsors last week of the gun manufacturer's exemption bill. But before I get into that, Mr. President, I think the statements by my colleague who just spoke are very telling. There are a lot of good measures in this particular bill. I happen to take offense to the measure related to the gun manufacturers in the bill, and I think that the measures relating to the trigger locks are very worthy, and that is why I stand here to speak about those particular issues.

With regard to the trigger locks, Mr. President, I clearly think this is an issue of safety. My colleague from Philadelphia mentioned in her discussion on this legislation that about 85 or 90 percent of the guns sold today are sold with trigger locks, and that is a fascinating statement. But with this legislation, Mr. President, the additional 10 or 15 percent, 100 percent will now be sold with trigger locks, and if only some of those 10 or 15 percent put the trigger locks on when they walk out of that gun dealer's shop, that is a win for us and hopefully and probably will be saving someone's life.

Mr. President, with respect to the issue about where do we go from here, my colleague made reference to alcohol manufacturers, and we all know there are many laws in Pennsylvania pertaining to the use of alcohol; drunk driving laws, for example. And, Mr. President, where we go from here as it relates to that discussion and drawing that analogy to the gun manufacturers, if we had an alcohol manufacturer who went out of his way to develop ways and advertise ways in which to circumvent DUI laws, for example, or other laws related to how we enforce the use of alcohol in our Commonwealth, then certainly I think we should stand ready to sue that particular manufacturer. If we have someone like some of the other gun manufacturers out there who are finding ways to circumvent the lawful use of guns with destroying serial numbers and some of the bulletproof vest-piercing bullets that are out there, then we need to take a look at those particular entities, and if other industries are doing something comparable to that, we must step forward and take steps to do what is necessary to protect the citizens of this Commonwealth.

Mr. President, I, like many other Members, had a very difficult time with this legislation. I would have much preferred to have voted on the trigger lock measure as well as the other measures that are a part of that particular bill and would rather not have had to deal with the issue of the gun manufacturer's exemption, but unfortunately that is not before us. I wish Senator Tilghman would have put the motion together to divide these two issues, but that is neither here nor there at this point in time. When I balance things out and think about the safety of our communities and the safety of the children across our Commonwealth most particularly, and to me that is what is driving my support for this particular legislation, the children of our



Commonwealth who will not be harmed accidentally by not having a trigger lock on a weapon.

So, I encourage my colleagues to support this bill for the reasons I have stated, and hopefully someday we will have an opportunity to revisit this issue with the gun manufacturers, at some point to address it and realize what we have done may not be the best thing with respect to that particular issue.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Hughes.

Senator HUGHES. I have to rise, Mr. President, after listening to a number of the comments and what was started to be a little bit of a lovefest for this particular industry, I have to rise and offer some comment. I just want to show a very simple equation, and if we had charts, I would try to put it on a chart.

What I know is this, Mr. President: somebody is making the guns, somebody is making the weapons. Let us imagine there is a building right here to my left, and they are making the weapons there. And then there is a building right here, right in the middle of us, and that is the legally licensed salesperson or dealer. He is selling them, and here is the manufacturer. So his guy at the loading dock pulls all the boxes up with the guns in them, and they get in the truck or the train, or whatever they get into, and they drive to the legally licensed dealer, right? The dealer. Okay. Or they send them UPS, okay? Then, Mr. President, so he is in the middle here, and then to my right, just imagine, Mr. President, here is the illegal dealer, salesperson, who has no license, nothing, but he is selling those weapons, selling them a lot quicker, no background checks, no licenses, nothing. He is moving a lot of material, quick. I mean, it is like Christmas 12 months a year for him. He has no problem, no issue. He is moving them. You do not have to worry about that.

Now, I guess the question that I have, Mr. President, if the manufacturer is the same guy who delivered them to the legally licensed dealer, and he is the same guy who sent those weapons UPS, FedEx, okay, or whatever, or dropped them off with their truck that backed up at the loading dock, to the illegally licensed dealer? If you follow what I am saying, they were made somewhere. Somebody made these weapons, Mr. President. Somebody made these weapons, and the legal guy got a chance to sell them and the illegal guy got a chance to sell them. But they came from a manufacturer, because somebody had to make them. They did not come from heaven, and they probably came from a place close to hell, but somebody made them. Now, we have to figure out, Mr. President, how they are getting from the manufacturer who now has protection, he has protection now because this is going to fly based on what I am hearing on the floor, he is going to have some protection. We have to figure out how they are getting from the loading dock, from the manufacturer to the street, in my neighborhood.

Is it an enforcement issue? Enforce the gun laws. What gun laws? We have no gun laws to enforce. The NRA keeps beating down everything that comes through here, except the great work of my colleague from my fair city. The problem, Mr. President, is they are getting on the street, somebody is making them, and we have to find out how they are getting from the manufacturer to the street. There is a legal process, I got that one, I can figure

that out, but then there is an illegal process. I can tell you right now that the guy selling the guns out of the trunk of his car is not going to the dealer to get them and then resell them. I know that, because I know the dealer would never do anything like that. But they are getting on the street, and they are killing people.

And yeah, somebody pulled the trigger, all right, but somebody made that weapon to allow somebody to pull that trigger in an illegally purchased process. And the guy who made them, remember the picture now, his guys are putting them in the boxes and they are picking them up and they are transporting them and they are getting someplace. Somebody is involved in this process, and it is not just the guy on the street. To make anybody believe that it is just the guy on the street is ludicrous, because they are made somewhere, and it is the same process with the mass transactions that happen in countries all over the world. Somebody is making them. We need to find out why. And until we find out why, let us not provide the protection.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Fumo.

Senator FUMO. Mr. President, I would like to know if the previous speaker would stand for brief interrogation?

The PRESIDENT. Senator Hughes, do you stand for interrogation?

Senator HUGHES. I could not hesitate, Mr. President.

The PRESIDENT. Senator Fumo, he is yours.

Senator FUMO. Mr. President, from the scenario that the gentleman just gave us, which quite frankly I found a little bit confusing, but I am going to try to work my way through it, the gentleman would lead me to believe that the bad guy--there always has to be a bad guy--is the manufacturer. Is that true, Mr. President?

Senator HUGHES. Mr. President, I think the manufacturer is part of the process.

Senator FUMO. Mr. President, would the gentleman say, if I follow his thesis out to the end, that the way in which he would like to solve the problem of the illegal sale from the trunk, the guy that has Christmas every day for 12 months, would be to stop the manufacturer from manufacturing the gun in the first place. Would that solve the problem?

Senator HUGHES. Mr. President, I do not know if that necessarily would solve the problem, but I think it would allow us to have some more information and understanding of how the illegal salesperson on the street gets access to the weapons that he is selling. I do not have that one figured out yet, and maybe I missed something along the way.

Senator FUMO. Mr. President, so the gentleman does not want to cut off the manufacturing of these weapons?

Senator HUGHES. Mr. President, what I would like to have is access to the process to understand how the manufacturer is making them and how they are getting to the point of illegal distribution, the point of illegal sales. And if the manufacturer is directly involved in that process, then he needs to be shut down in some fashion. He needs to be sanctioned. He might even need to be sued.

Senator FUMO. Mr. President, does the gentleman understand that under this amendment, if the manufacturer were supplying those guns to the illegal salesperson, that he could be sued by the municipality, so if he does an illegal act he can be sued?

Senator HUGHES. Mr. President, I understand that.

Senator FUMO. Mr. President, what does the gentleman expect to accomplish by allowing taxpayer funds to be used to sue a legitimate manufacturer if he is doing something that is legal and lawful?

Senator HUGHES. Mr. President, I think the Commonwealth and every municipality should have full access to the entire process.

Senator FUMO. Mr. President, what process is the gentleman talking about?

Senator HUGHES. Mr. President, both the legal side and illegal side.

Senator FUMO. Mr. President, what process does the gentleman think he would ever find out in a lawsuit against a manufacturer, say, such as Smith and Wesson, which I believe is in New Haven, Connecticut, is going to give him to his constituent who is selling guns out of the trunk of his car in his district? What data does the gentleman think he is going to get of a lawsuit on lawful activity?

Senator HUGHES. Mr. President, I am not sure, but if we had the opportunity to sue, maybe we might find out.

Senator FUMO. Mr. President, so the gentleman would throw away the rights of this minority, the gun manufacturer? And believe me, he is a minority in this particular set of facts. He would rather throw away his rights, allow him to be harassed just in case he might be able to find out something about some thug in his district who is selling guns out of his trunk. We should put them out of business, harass them to that point just so he can find out information?

Senator HUGHES. Mr. President, they should be scrutinized.

Senator FUMO. Mr. President, I thank the gentleman.

Mr. President, this amendment, this bill, restates the obvious. There are two parts to the lawsuit provision in this legislation. The first part says that you cannot use taxpayer money to sue a manufacturer for doing something which is legal and lawful. Now, that is common sense. You should not be able to sue that person at all for doing something that is legal and lawful. But in America we are allowed to sue anybody for anything. So all we are saying here is that you cannot use taxpayer money to sue that manufacturer for something he might be doing that is legal and lawful.

The second part of the bill, which nobody seems to want to look at, which is on page 11, says you can use taxpayer money to sue that manufacturer for anything he does that is illegal, unlawful, breaks a warranty, breaks a contract, implied or otherwise. And, Mr. President, this is not the first time that this General Assembly has ever said who you can sue, under what circumstances can you sue, when and where. We have done all that in this Chamber. I remember debates in here that make this thing look like a Sunday brunch.

When we talked about automobile insurance and the debate was do we want to limit someone's right to sue or not, we came

up with some kind of bastardized situation which said if you have money and you could buy an expensive policy, you were allowed to sue. If you did not have money and you had to buy the cheap policy, you were not allowed to sue. Nobody got upset about that. We did that. We do it on product liability. We do it on tort reform. It is done all the time.

This is the only instance in recent times when we have had to restate the obvious to protect a minority class of manufacturers who are being blatantly threatened, not with legalities, but blatantly being threatened with harassment, and not harassment by the mayors and their personal money, God forbid, but the mayors and their access to the public till. Taking taxpayer money to do an illegal act, which is to sue a manufacturer for doing something that he is doing which is completely legal in this country. That is all we said. That is all this says. And this great debate, even those who believe philosophically that they should have the right to harass a minority manufacturer out of business, they will not solve their problem.

Mr. President, there are probably in this country today 100 million guns, and I think that is a conservative number, so if you stop manufacturing them today, they would be available to criminals. Let us not forget the basic concept of gun control, and that is to a criminal, a gun is the tool of their trade. They will get that gun if they have to kill somebody for it or if they have to manufacture it. They will get that weapon. And all this nonsense, feel-good, touchy-feely liberal nonsense only prevents legitimate citizens who would not steal a gun, who would go to the legally licensed purchaser and buy it and put up with the nonsense, it stops them, it impedes them from being able to get the tool they need to protect them from the criminal.

Mr. President, it is all feel-good, touchy, confusing garbage. But the essence is all this bill says is we are not going to allow municipalities to take taxpayer money and harass anybody who is doing something legal. I know that Senator Hughes would be the first one on this floor to get upset about that the police were walking down the street arresting people because they did not like the color of their skin, they did not like what they were wearing, they did not like where they were standing, and they did not like what they were saying. And I would be the second one right behind him defending that right.

This is no different, except the liberal media has found a way to make this minority into a Saddam Hussein. And I am a member of the ACLU, and I firmly believe that you fight for everybody's rights, even the scum of the earth, because if you take away their rights, it will not be long until they take away my rights. And that goes for every minority, be it ethnic, racial, religious, or by what they manufacture. That is what this country is about, and because a couple of misled politicians found a way to get national publicity by not fighting crime, we are going to roll over and let them do that? I am not, and certainly not with my money in my State under my Constitution.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentlewoman from Philadelphia, Senator Schwartz.

Senator SCHWARTZ. Mr. President, I am reluctant to speak again, but I feel that I do want to make clear what I understand this legislation really does do. And the previous speaker's com-

passion for the gun manufacturers, the need to protect the gun manufacturers was, I suppose, supposed to elicit tremendous response and compassion from us, that they are even a minority manufacturer. I am not quite sure what that means, but I suppose they are a weak industry or something that they deserve this protection from us because they do not have the capacity to respond to these questions that they might somehow, by the threat of a lawsuit, crumple and disband. I find that quite incredulous. The fact that we would also imagine that we would use public dollars to sue gun manufacturers, that that would go against the grain of everything that is good and right in this country.

Well, the fact is that gun violence in the city of Philadelphia alone is estimated to cost \$58 million a year. That is a lot of public cost. Now, I do not know that the gun manufacturers would be held responsible for that cost in a court of law. I do not know what they would respond if they were asked to what degree are they somehow an accomplice in some of these concerns we have. They may have very, very reasonable answers to all of this, but the fact is that we have to use all the tools at our disposal, including the possibility of a lawsuit, in dealing with gun manufacturers to make sure that their products are safe, and if they are going to be available in our community, and they are available in all of our communities, there are guns in all of our communities that consumers of that product have very few rights right now.

Guns are one of the least regulated products in this country. Toy guns are far more regulated than real guns. Now why is that? Are they really a greater threat? No, they are not. But it is because we are supposed to, we are told, have some tremendous extraordinary compassion for gun manufacturers. They are different than all other manufacturers in this country. They deserve some special protection. You have heard about that from a previous speaker. And yet their products are intended to harm and to kill. Now we accept in our society that they will be in our homes, they will be on our street as people carry them on their persons. We have accepted that.

But if we have accepted that, why not make sure that they are safer? Why not make sure that they are as safe as they can be? Why not make sure that if they are used by criminals that they are not made of metal so that the fingerprints rub off? Why not? Why not make sure that the gun manufacturers make their products safe and help us in law enforcement?

It may be reasonable for us to say to gun manufacturers that we want you to make your products so that they are more easily detected when used in a crime, and that might be a public good. But instead guns are off limits for even the most commonsense rules. And instead we say it is all about the criminals who get their hands on guns, and we cannot quite figure out how they do it so we cannot quite do anything about it, and that I agree is also wrong because we do know how they get these guns and we can do something about it and we should. But it does not excuse or exempt the gun manufacturers who do have a responsibility to make sure that their products do not unreasonably harm and maim and be used in crime.

And that is what this legislation is about. It is a public responsibility, and it is action that we should take not to protect

gun manufacturers but to make sure that they participate to make sure that our communities are as safe as possible, and that is what this legislation is about. And that is why I believe that it is about the choice of protecting gun manufacturers from having to answer any questions or participate in this dialogue about how to make our communities safer or whether it is about speaking up on behalf of, yes, our communities and our families and our children.

Thank you, Mr. President.

And the question recurring,  
Will the Senate agree to the motion?

The yeas and nays were required by Senator LOEPER and were as follows, viz:

YEA-42

Armstrong	Gerlach	Mellow	Stapleton
Bell	Hart	Mowery	Stout
Bodack	Helfrick	Murphy	Thompson
Boscola	Holl	Musto	Tomlinson
Brightbill	Jubelirer	O'Pake	Wagner
Conti	Kasunic	Piccola	Waugh
Corman	Kukovich	Punt	Wenger
Costa	LaValle	Rhoades	White
Dent	Lemmond	Robbins	Wozniak
Earll	Loeper	Salvatore	
Fumo	Madigan	Slocum	

NAY-7

Greenleaf	Kitchen	Tartaglione	Williams
Hughes	Schwartz	Tilghman	

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate inform the House of Representatives accordingly.

ADJOURNMENT

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, I ask the Members to please pay attention to the adjournment motion today because I move that the Senate do now adjourn until 11 a.m., Tuesday, December 7, 1999, Eastern Standard Time.

The motion was agreed to.

The Senate adjourned at 7:56 p.m., Eastern Standard Time.