

COMMONWEALTH OF PENNSYLVANIA
Legislative Journal

WEDNESDAY, APRIL 24, 2002

SESSION OF 2002 186TH OF THE GENERAL ASSEMBLY

No. 30

SENATE

WEDNESDAY, April 24, 2002

The Senate met at 11 a.m., Eastern Daylight Saving Time.

The PRESIDENT (Lieutenant Governor Robert C. Jubelirer) in the Chair.

PRAYER

The Chaplain, Reverend ANTHONY C. ALEXANDER, of Grace United Methodist Church, Harrisburg, offered the following prayer:

Let us pray.

Holy One, we stand in awe of the beauty of this day. We are grateful for citizens of this nation, and particularly the citizens of Pennsylvania. We give thanks for the leaders of our government, and especially this Senate. We pray that wisdom and discernment may guide their thoughts, decisions, and actions on this day, for the safety, honor, and welfare of all the people committed to their care.

When the voices of the crowds are followed before conscience and heart, let there be grace. When the response to human need and suffering is met with apathy, injustice, or indifference, let there be grace. When there is waste and pollution of the created order, let there be grace.

Further, we pray that all things may be so ordered and settled by the effort of this Senate that peace and happiness, truth and justice may be established for future generations to come. This prayer we offer in the name of all that is holy. Amen.

The PRESIDENT. The Chair thanks Reverend Alexander, who is the guest today of Senator Piccola.

JOURNAL APPROVED

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of April 23, 2002.

The Clerk proceeded to read the Journal of the preceding Session, when, on motion of Senator BRIGHTBILL, and agreed to by voice vote, further reading was dispensed with and the Journal was approved.

COMMUNICATIONS FROM THE GOVERNOR

NOMINATIONS 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:

**MEMBER OF THE STATE BOARD
OF MEDICINE**

April 23, 2002

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, Ollice Bates, Jr., M.D., 309 Jade Avenue, Danville 17821, Montour County, Twenty-seventh Senatorial District, for reappointment as a member of the State Board of Medicine, to serve for a term of four years or until his successor is appointed and qualified, but not longer than six months beyond that period.

Mark S. Schweiker
Governor

TREASURER, VENANGO COUNTY

April 23, 2002

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, Pamela J. Clerici, 317 Gurney Road, Franklin 16323, Venango County, Twenty-first Senatorial District, for appointment as Treasurer, in and for the County of Venango, to serve until the first Monday of January 2004, vice Margaret R. Spence, resigned.

Mark S. Schweiker
Governor

DISTRICT JUSTICE

April 23, 2002

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, John J. Shimek, III, 545 Lincoln Avenue, Erie 16505, Erie County, Forty-ninth Senatorial District, for appointment as District Justice, in and for the County of Erie, Magisterial District 06-2-01, to serve until the first Monday of January 2004, vice A. Joseph Weindorf, resigned.

Mark S. Schweiker
Governor

HOUSE MESSAGES**HOUSE BILLS FOR CONCURRENCE**

The Clerk of the House of Representatives presented to the Senate the following bills for concurrence, which were referred to the committees indicated:

April 23, 2002

HB 50 -- Committee on Finance.

HB 2296 -- Committee on Transportation.

BILLS INTRODUCED AND REFERRED

The PRESIDENT laid before the Senate the following Senate Bills numbered, entitled, and referred as follows, which were read by the Clerk:

April 24, 2002

Senators MOWERY, ARMSTRONG, COSTA, MURPHY, KITCHEN, BOSCOLA, THOMPSON, WAUGH, LOGAN, A. WILLIAMS, CORMAN and WENGER presented to the Chair **SB 1416**, entitled:

An Act amending the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of 1921, further providing for application of act.

Which was committed to the Committee on BANKING AND INSURANCE, April 24, 2002.

Senators HOLL, SCHWARTZ, MOWERY, BODACK, LEMMOND, MUSTO, LAVALLE, TOMLINSON, PUNT, TARTAGLIONE, WAUGH, BOSCOLA, C. WILLIAMS, KUKOVICH, M. WHITE, WAGNER, O'PAKE, EARLL, MELLOW, GREENLEAF, BRIGHTBILL, STACK and THOMPSON presented to the Chair **SB 1417**, entitled:

An Act amending the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, further providing for mastectomy and breast cancer reconstruction.

Which was committed to the Committee on BANKING AND INSURANCE, April 24, 2002.

RESOLUTION INTRODUCED AND REFERRED

The PRESIDENT laid before the Senate the following Senate Resolution numbered, entitled, and referred as follows, which was read by the Clerk:

April 24, 2002

Senators GERLACH, STACK, ERICKSON, LOGAN, KITCHEN, DENT, CONTI, O'PAKE, MUSTO, KUKOVICH, THOMPSON, TOMLINSON, COSTA, WAGNER, HOLL, GREENLEAF, PUNT, TARTAGLIONE, LEMMOND, D. WHITE, WAUGH, BOSCOLA, SCARNATI, BELL, SCHWARTZ, C. WILLIAMS, BODACK, MELLOW and EARLL presented to the Chair **SR 215**, entitled:

A Resolution memorializing the Governor to support maintenance of the current eligibility rules for medical assistance for children with disabilities including the disregard of parental income.

Which was committed to the Committee on PUBLIC HEALTH AND WELFARE, April 24, 2002.

LEGISLATIVE LEAVES

The PRESIDENT. The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Mr. President, I ask for legislative leaves for Senator Bell and Senator Helfrick, and a temporary Capitol leave for Senator Armstrong.

The PRESIDENT. Senator Brightbill requests legislative leaves for Senator Bell and Senator Helfrick, and a temporary Capitol leave for Senator Armstrong. Without objection, those leaves are granted.

The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, I request a legislative leave for Senator Bodack, and a temporary Capitol leave for Senator Musto.

The PRESIDENT. Senator Mellow requests a legislative leave for Senator Bodack, and a temporary Capitol leave for Senator Musto. Without objection, those leaves are granted.

CALENDAR**SENATE RESOLUTION No. 198
CALLED UP OUT OF ORDER, ADOPTED**

Senator BRIGHTBILL, without objection, called up from page 5 of the Calendar, as a Special Order of Business, **Senate Resolution No. 198**, entitled:

A Resolution designating April 25, 2002, as "Take Our Daughters to Work Day" in Pennsylvania.

On the question,

Will the Senate adopt the resolution?

The PRESIDENT. The Chair recognizes the gentlewoman from Montgomery, Senator C. Williams.

Senator C. WILLIAMS. Mr. President, I rise to ask your support for Senate Resolution No. 198, which will designate tomorrow, April 25, as "Take Our Daughters to Work Day." "Take Our Daughters to Work" was created in 1992 with the help of the Ms. Foundation for Women's public education campaign. The day has been devoted to keeping girls healthy, confident, and resilient in their young adult years. Now in its 10th year, this program provides opportunities for businesses, educators, community-based organizations, and government officials to take girls to work and to make girls visible, valued, and heard. I must say, we take boys to work too, but it was really developed to show young women the opportunities that they have coming up in their lives.

I am delighted to sponsor this resolution. Virtually all the State agencies, including the Governor's Office, participate, and over the past decade, millions of girls across the country and around the world have gone to workplaces with caring adult mentors who pay attention to the girls' ideas and future hopes and dreams and show them the different life options that are available to women. "Take Our Daughters to Work Day" is spending time

with our young women, and it gives us the opportunity to better understand the challenges that they face.

My daughters are grown up, but tomorrow I will have several adopted daughters share a day in the life of a Senator. I hope many of you will also open up your schedule to them, and I hope that you will vote "yes" on this resolution.

Thank you.

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

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

YEA-50

Armstrong	Greenleaf	Mowery	Tartaglione
Bell	Helfrick	Murphy	Thompson
Bodack	Holl	Musto	Tomlinson
Boscola	Hughes	O'Pake	Wagner
Brightbill	Jubelirer	Orie	Waugher
Conti	Kasunic	Piccola	Wenger
Corman	Kitchen	Punt	White, Donald
Costa	Kukovich	Rhoades	White, Mary Jo
Dent	LaValle	Robbins	Williams, Anthony H.
Earli	Lemmond	Scarnati	Williams, Constance
Erickson	Logan	Schwartz	Wozniak
Fumo	Madigan	Stack	
Gerlach	Mellow	Stout	

NAY-0

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

**SPECIAL ORDER OF BUSINESS
GUEST OF SENATOR STEWART J.
GREENLEAF PRESENTED TO THE SENATE**

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

Senator GREENLEAF. Mr. President, I rise to introduce a guest, Lesha Chaifetz, who has served as an intern in my office. She is a third-year law student at the Pennsylvania University Law School. She is planning to graduate next month and take a position with one of the larger law firms in Philadelphia, in their New Jersey office, and will be taking the bar examination soon. She was very helpful in drafting legislation and doing legal research during her last semester this spring. Today is her last day and I would like to introduce her to the Senate.

The PRESIDENT. Would the guest of Senator Greenleaf kindly rise so we may welcome you to the Senate of Pennsylvania.

(Applause.)

**GUESTS OF SENATOR JAMES J.
RHOADES PRESENTED TO THE SENATE**

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

Senator RHOADES. Mr. President, I have the pleasure today of introducing 30 students from the Schuylkill Career

Technology Center, who are here with their instructors. They are here from the curriculums of plumbing and heating, carpentry, cosmetology, and machinists. What I am most impressed with is they are all here with their shirts and ties on, so they are young businesspeople ready to take on the challenges of Pennsylvania.

Accompanying them are Mr. Albert Wank, Mr. George Zwiebel, Mrs. Lisa Bickelman, and Mr. Ned Eisenhuth. I would appreciate it if the Senate would extend its usual warm welcome to our guests from the Schuylkill Career Technology Center.

The PRESIDENT. Would the guests of Senator Rhoades kindly rise so we may welcome you to the Senate of Pennsylvania.

(Applause.)

CONSIDERATION OF CALENDAR RESUMED

THIRD CONSIDERATION CALENDAR

PREFERRED APPROPRIATION BILL AMENDED

SB 1358 (Pr. No. 1794) -- The Senate proceeded to consideration of the bill, entitled:

An Act making appropriations from the Professional Licensure Augmentation Account and from restricted revenue accounts within the General Fund to the Department of State for use by the Bureau of Professional and Occupational Affairs in support of the professional licensure boards assigned thereto.

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

Senator THOMPSON offered the following amendment No. A1865:

Amend Sec. 2, page 1, line 16, by striking out "\$3,199,000" and inserting: \$6,747,000

Amend Sec. 2, page 2, line 4, by striking out "\$669,000" and inserting: \$1,172,000

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

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

Senator THOMPSON. Mr. President, this is an amendment which increases the appropriations to the State Board of Medicine and the State Board of Osteopathic Medicine by \$3,548,000 and \$503,000, respectively. These increases are necessary as a result of additional personnel and operating costs resulting from the enactment of Act 13, the Medical Malpractice Act, earlier this year.

And the question recurring,
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 BRIGHTBILL.

BILL AMENDED

HB 247 (Pr. No. 3459) -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for a community services block grant program; and further providing for powers and duties of the Department of Community and Economic Development.

On the question,

Will the Senate agree to the bill on third consideration?

Senator THOMPSON offered the following amendment No. A1543:

Amend Sec. 2, page 4, line 5, by striking out "(PUBLIC LAW 97-35, 95 STAT. 357)"

Amend Sec. 3, page 5, lines 24 and 25, by striking out "(PUBLIC LAW 97-35, 95 STAT. 357)"

Amend Sec. 3, page 7, by inserting between lines 1 and 2:

"Omnibus Budget Reconciliation Act of 1981." The Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35, 42 U.S.C. § 9901 et seq.).

Amend Sec. 4, page 7, line 29, by striking out "(PUBLIC LAW 97-35, 95 STAT. 357)"

Amend Sec. 5, page 8, lines 10 and 11, by striking out "(PUBLIC LAW 97-35, 95 STAT. 357)"

Amend Sec. 6, page 11, lines 27 and 28, by striking out "(PUBLIC LAW 97-35, 95 STAT. 357)"

Amend Sec. 6, page 12, line 15, by striking out "676A" and inserting: 678C(b)

Amend Sec. 6, page 12, line 16, by striking out "95 STAT. 357" and inserting: 42 U.S.C. § 9915(b)

Amend Sec. 8, page 14, line 20, by striking out "(PUBLIC LAW 97-35, 95 STAT. 357)"

Amend Sec. 8, page 15, line 8, by inserting after "1981": (Public Law 97-35, 42 U.S.C. § 9920)

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 THOMPSON offered the following amendment No. A1359:

Amend Sec. 6, page 12, line 1, by removing the period after "\$150,000" and inserting: or a pro rata amount if insufficient funds are available to provide the minimum amount.

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 BRIGHTBILL.

BILLS OVER IN ORDER

HB 411, SB 824 and SB 1319 -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE

SB 1367 (Pr. No. 1931) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 15 (Corporations and Unincorporated Associations) of the Pennsylvania Consolidated Statutes, further providing for qualifications of directors.

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

Senator DENT. Mr. President, I rise today and ask for an affirmative vote on Senate Bill No. 1367, a bill that would allow teenagers 16 and over to serve as members of not-for-profit organization boards. Currently under Pennsylvania law, board members must be at least 18 years of age. It is important to note that Senate Bill No. 1367 is a "may" bill. There are no requirements nor any mandates here. Instead, nonprofit boards would have the option to let younger people serve. The bill limits the number of minors serving on a board to less than half of the number that would make up a quorum.

Some of my colleagues have raised questions and concerns about allowing minors, who otherwise have no voting rights, to serve as voting members for nonprofit agencies and therefore make serious financial and contractual decisions. First, I suggest that these boards will act responsibly in selecting young people to serve. I have faith in our young people. I know there are many who are responsible and they can truly learn many valuable lessons while helping their communities through this service. There is a need for mentoring here, but I am sure there are more benefits than negatives in letting young people have a voice in making important decisions. And if there are any questions, these nonprofit agencies can have minors serve in nonvoting roles. There is flexibility built into this legislation. The scope and range of service by minors would be set by the organizations' bylaws.

Mr. President, I contend that many organizations, especially those that work with young people, would benefit from having minors serve on their boards. This would give those groups an inside perspective on the issues of importance among the young people they serve. I ask my colleagues for their support of Senate Bill No. 1367, and I very much enjoyed the opportunity of working with my colleague, Senator Waugh, who is very active on this issue.

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

Senator WAUGH. Mr. President, last summer Senator Dent and I received a request to develop legislation that would encourage more youth participation in nonprofit organizations in our State. The legislation the Senate has before it today is the end result of months of research and discussion with a youth advocacy group headquartered in Senator Dent's area in the

Lehigh Valley called Teenagers Taking Action to Power Solutions, or Teen.TAPS, for short. Senate Bill No. 1367 is a direct result of the maturity, dedication to purpose, and volunteer spirit of the young people of Teen.TAPS. They came to us and suggested that the law in Pennsylvania be amended to allow minors, certain minors, to become members of the boards of directors for nonprofit organizations.

Under existing Pennsylvania law, board members must be natural citizens, quote, "of full age." Quote, "of full age" is defined as a person 18 years of age or older. So in other words, in Pennsylvania today we specifically exclude or preclude people under the age of 18 being involved in these boards. These young people saw the existing law as actually discouraging youth participation, and we agree. While we would like to say that Pennsylvania is riding the cutting edge here when it comes to youth participation in nonprofit organizations, our research shows that the Commonwealth is really behind the times on this issue. Forty-three States are silent on the qualifications of nonprofit corporation board members. Effectively, the decision to include young people in these 43 States is left up to the organization. Most recently, New York and Michigan have amended their laws to specifically allow minors, age 16 and 17, to serve on boards.

Teen.TAPS makes a great argument for changing Pennsylvania law, and it is one that Members really should understand, and I am sure they do. You know, teenagers play an active role in serving these organization already, and in fact, national surveys and polls today show that since September 11, young people or young adult involvement in organizations nationally is on the rise. Teens benefit from nonprofit organizations, particularly those that serve youth interests, and if the members of Teen.TAPS are any indication, teenagers will bring with them a new energy and a fresh perspective. You know, allowing teenagers to become formally involved in a decisionmaking process, by including them on the board, just makes good sense. They are productive, it is a good educational experience for them, it adds different perspectives, quite frankly, and it prepares young people to be leaders. And furthermore, it certainly inspires civic participation, something that we are all asking for and looking for.

When we drafted this legislation, we recognized that there might be liability issues involved, as Senator Dent pointed out. The fact is, Teen.TAPS' members have already begun research on this issue, and what they found was that in the dozens of States that allow minors to serve as board members, in particular New York and Michigan, there were no reports of liability problems with minors serving on nonprofit boards. We found that liability issues for minors serving on these boards essentially evaporated. In fact, the only legal impediment that would keep a minor from serving as a full-fledged board member today in Pennsylvania is the very statute that we seek to amend by this legislation.

Some may question whether the nonprofit community would support changing this law. Well, this legislation has received a number of endorsements from nonprofits in the Lehigh Valley, and I also conducted a survey of nonprofit organizations in my home area in York County. The results of the survey that we conducted overwhelmingly supported Teen.TAPS. Of the

surveys that were responded to, 77.5 percent of the results indicated that nonprofits support changing this law. One of the respondents commented like this, and I quote, "It is absolutely important to get youth involved on the board level. Teens today are motivated to serve and volunteer. Let us harness that energy and take them seriously."

Our legislation would allow nonprofit organizations that serve the needs of youth to amend their articles of incorporation to allow 16- and 17-year-olds to serve on their boards. Although the number of minors who would serve would be left up to the individual nonprofits, the maximum number of persons not of full age could not exceed half the number of members necessary for a quorum in that organization. Most importantly, this legislation leaves the decision to include minors as board members to the organization itself. By this legislation, we do not force nonprofit organizations to include minors, so it is left up to them. We simply open the door to allow nonprofits to include service-oriented young folks on their boards.

Today we ask that Pennsylvania's laws be expanded to allow this to happen so that we may tap into the resource of unlimited enthusiasm and energy, and I urge the Members' support of Senate Bill No. 1367.

Thank you, Mr. President.

And the question recurring,
Shall the bill pass finally?

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

YEA-50

Armstrong	Greenleaf	Mowery	Tartaglione
Bell	Helfrick	Murphy	Thompson
Bodack	Holl	Musto	Tomlinson
Boscola	Hughes	O'Pake	Wagner
Brightbill	Jubelirer	Orie	Waugh
Conti	Kasunic	Piccola	Wenger
Corman	Kitchen	Punt	White, Donald
Costa	Kukovich	Rhoades	White, Mary Jo
Dent	LaValle	Robbins	Williams, Anthony H.
Earll	Lemmond	Scarnati	Williams, Constance
Erickson	Logan	Schwartz	Wozniak
Fumo	Madigan	Stack	
Gerlach	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 OVER IN ORDER

HB 1458 -- Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

BILL LAID ON THE TABLE

HB 2070 (No. 2938) -- 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 simple assault and for the crime of retaliation against prosecutor or judicial officer.

Upon motion of Senator BRIGHTBILL, and agreed to by voice vote, the bill was laid on the table.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 2305 (Pr. No. 3615) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of August 9, 1955 (P.L.323, No.130), known as The County Code, further providing for elected officers.

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-50

Table listing names of senators who voted 'YEA' in four columns: Armstrong, Bell, Bodack, Boscola, Brightbill, Conti, Cornan, Costa, Dent, Earl, Erickson, Fumo, Gerlach, Greenleaf, Helfrick, Holl, Hughes, Jubelirer, Kasunic, Kitchen, Kukovich, LaValle, Lemmond, Logan, Madigan, Mellow, Mowery, Murphy, Musto, O'Pake, Ori, Piccola, Punt, Rhoades, Robbins, Scarnati, Schwartz, Stack, Stout, Tartaglione, Thompson, Tomlinson, Wagner, Waugh, Wenger, White, Donald, White, Mary Jo, Williams, Anthony H., Williams, Constance, Wozniak.

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 without amendments.

SECOND CONSIDERATION CALENDAR

BILLS OVER IN ORDER

SB 1060, SB 1118, SB 1164, SB 1225 and HB 1237 -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

BILL LAID ON THE TABLE

SB 1321 (Pr. No. 1748) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for action for gender-motivated violence.

Upon motion of Senator BRIGHTBILL, and agreed to by voice vote, the bill was laid on the table.

BILL OVER IN ORDER

SB 1413 -- Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

BILL ON SECOND CONSIDERATION

HB 1459 (Pr. No. 1741) -- The Senate proceeded to consideration of the bill, entitled:

An Act prohibiting a political subdivision or its authority or agency from requiring a proportion of workers on a construction project to be residents of a particular municipality.

Considered the second time and agreed to, Ordered, To be printed on the Calendar for third consideration.

BILLS OVER IN ORDER

HB 1933 and HB 2398 -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

EXECUTIVE NOMINATIONS

EXECUTIVE SESSION

Motion was made by Senator ROBBINS, That the Senate do now resolve itself into Executive Session for the purpose of considering certain nominations made by the Governor.

Which was agreed to by voice vote.

NOMINATIONS TAKEN FROM TABLE

Senator ROBBINS. Mr. President, I call from the table certain nominations and ask for their consideration.

The Clerk read the nominations as follows:

MEMBER OF THE PENNSYLVANIA DRUG, DEVICE AND COSMETIC BOARD

March 19, 2002

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, Mark B. Guise, M.S., V.M.D., 2336 Forest Hills Drive, Harrisburg 17112, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the Pennsylvania Drug, Device and Cosmetic Board, to serve for a term of four years or until his successor is appointed and qualified, but not longer than six months beyond that period, vice Lawrence R. Soma, V.M.D., Glen Mills, whose term expired.

Mark S. Schweiker Governor

**MEMBER OF THE STATE BOARD
OF EDUCATION**

February 27, 2002

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, Edith Isacke, 516 27th Avenue, Altoona 16601, Blair County, Thirtieth Senatorial District, for reappointment as a member of the State Board of Education, to serve until October 10, 2007, or until her successor is appointed and qualified.

Mark S. Schweiker
Governor

**MEMBER OF THE STATE BOARD
OF FUNERAL DIRECTORS**

March 19, 2002

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, James O. Pinkerton, 124 Timberlane Drive, Pittsburgh 15229, Allegheny County, Fortieth Senatorial District, for reappointment as a member of the State Board of Funeral Directors, to serve for a term of five years and until his successor is appointed and qualified, but not longer than six months beyond that period.

Mark S. Schweiker
Governor

**MEMBER OF THE MUNICIPAL POLICE OFFICERS'
EDUCATION AND TRAINING COMMISSION**

March 28, 2002

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, Bart Burne, Ed.D., 37 Old Mill Road, Laflin 18702, Luzerne County, Fourteenth Senatorial District, for reappointment as a member of the Municipal Police Officers' Education and Training Commission, to serve for a term of three years, and until his successor is appointed and qualified.

Mark S. Schweiker
Governor

**MEMBER OF THE STATE BOARD
OF OPTOMETRY**

March 18, 2002

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, Steven J. Reto, O.D., 840 Harmony Hill Road, West Chester 19380, Chester County, Nineteenth Senatorial District, for reappointment as a member of the State Board of

Optometry, to serve for a term of four years and until his successor is appointed and qualified, but not longer than six months beyond that period.

Mark S. Schweiker
Governor

**COMMONWEALTH TRUSTEE OF THE UNIVERSITY
OF PITTSBURGH—OF THE COMMONWEALTH
SYSTEM OF HIGHER EDUCATION**

March 4, 2002

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, Sy M. Holzer, 545 Miranda Drive, Upper St. Clair 15241, Allegheny County, Thirty-seventh Senatorial District, for reappointment as a Commonwealth Trustee of the University of Pittsburgh of the Commonwealth System of Higher Education, to serve until October 5, 2005, and until his successor is appointed and qualified.

Mark S. Schweiker
Governor

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

March 19, 2002

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, John W. Neeves, 2077 D Raleigh Road, Hummelstown 17036, 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 2005, and until his successor is appointed and qualified, vice Bob P. King, Waynesboro, resigned.

Mark S. Schweiker
Governor

**MEMBER OF THE STATE BOARD OF EXAMINERS
IN SPEECH, LANGUAGE AND HEARING**

March 19, 2002

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, Sonya M. Wilt, Ph.D., 262 Leech Road, Greenville 16125, Mercer County, Fiftieth Senatorial District, for reappointment as a member of the State Board of Examiners in Speech, Language and Hearing, to serve for a term of three years and until her successor is appointed and qualified, but not longer than six months beyond that period.

Mark S. Schweiker
Governor

**MEMBER OF THE STATE BOARD
OF VETERINARY MEDICINE**

March 19, 2002

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, Mary D. Evans (Public Member), 1078 Squire Cheyney Drive, West Chester 19382, Chester County, Ninth Senatorial District, for reappointment as a member of the State Board of Veterinary Medicine, to serve for a term of four years or until her successor is appointed and qualified, but not longer than six months beyond that period.

Mark S. Schweiker
Governor

DISTRICT JUSTICE

April 1, 2002

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, Elissa M. Lang, 106 Church Lane, Pittsburgh 15238, Allegheny County, Fortieth Senatorial District, as District Justice, in and for the County of Allegheny, Magisterial District 05-2-04, to serve until the first Monday of January 2004, vice John T. Bender, resigned.

Mark S. Schweiker
Governor

DISTRICT JUSTICE

April 11, 2002

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, Douglas W. Reed, 5827 Alder Street, Pittsburgh 15232, Allegheny County, Forty-third Senatorial District, as District Justice, in and for the County of Allegheny, Magisterial District 05-2-29, to serve until the first Monday of January 2004, vice Guido A. DeAngelis, resigned.

Mark S. Schweiker
Governor

On the question,
Will the Senate advise and consent to the nominations?

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

YEA-50

Armstrong	Greenleaf	Mowery	Tartaglione
Bell	Helfrick	Murphy	Thompson
Bodack	Holl	Musto	Tomlinson
Boscola	Hughes	O'Pake	Wagner
Brightbill	Jubelirer	Orie	Waugh

Conti	Kasunic	Piccola	Wenger
Corman	Kitchen	Punt	White, Donald
Costa	Kukovich	Rhoades	White, Mary Jo
Dent	LaValle	Robbins	Williams, Anthony H.
Earll	Lemmond	Scarnati	Williams, Constance
Erickson	Logan	Schwartz	Wozniak
Fumo	Madigan	Stack	
Gerlach	Mellow	Stout	

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.
Ordered, That the Governor be informed accordingly.

EXECUTIVE SESSION RISES

Senator ROBBINS. Mr. President, I move that the Executive Session do now rise.

The motion was agreed to by voice vote.

**SPECIAL ORDER OF BUSINESS
ANNOUNCEMENT BY THE SECRETARY**

The SECRETARY. Consent has been given for the Committee on Banking and Insurance to meet off the floor in the Rules room to consider Senate Bills No. 1222 and 1417.

RECESS

The PRESIDENT. The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Mr. President, at this time I ask for a recess for the purpose of a meeting of the Committee on Banking and Insurance, which will be held immediately in the Rules room, and then we will come back. We do not expect to have any more votes.

The PRESIDENT. Senator Brightbill requests a recess of the Senate for the purpose of a meeting of the Committee on Banking and Insurance to be held at the rear of the Senate Chamber beginning immediately. Without objection, for that purpose, the Senate will stand in recess.

AFTER RECESS

The PRESIDING OFFICER (Senator M.J. White) in the Chair.

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

**UNFINISHED BUSINESS
REPORTS FROM COMMITTEE**

Senator HOLL, from the Committee on Banking and Insurance, reported the following bills:

SB 1222 (Pr. No. 1938) (Amended)

An Act amending Title 17 (Credit Unions) of the Pennsylvania Consolidated Statutes, relating to credit unions; making revisions, corrections and additions; providing for parity with Federal credit unions and for involuntary dissolution; and making editorial changes.

SB 1417 (Pr. No. 1935)

An Act amending the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, further providing for mastectomy and breast cancer reconstruction.

SENATE RESOLUTION ADOPTED

Senator SCHWARTZ, on behalf of Senators STACK, KITCHEN, TARTAGLIONE, TOMLINSON, WAGNER, WENGER, LOGAN, EARLL, O'PAKE, COSTA, ORIE, C. WILLIAMS, MELLOW, RHOADES and GREENLEAF, by unanimous consent, offered **Senate Resolution No. 219**, entitled:

A Resolution designating the week of April 28 through May 4, 2002, as "Chastity Awareness Week" in Pennsylvania.

Which was read, considered, and adopted by voice vote.

CONGRATULATORY RESOLUTIONS

The PRESIDING OFFICER laid before the Senate the following resolutions, which were read, considered, and adopted by voice vote:

Congratulations of the Senate were extended to Mr. and Mrs. David Royer by Senator Armstrong.

Congratulations of the Senate were extended to Eric Matthew Venturini by Senator Bell.

Congratulations of the Senate were extended to Walter Thinnes by Senator Bodack.

Congratulations of the Senate were extended to John Angelucci, Marco Friend, North Central Little League of Bethlehem, City Line Little League of Bethlehem and to the Easton Home by Senator Boscola.

Congratulations of the Senate were extended to Matthew Lambach, Jr., by Senator Brightbill.

Congratulations of the Senate were extended to Nicholas J. Daddario, Lawrence A. Wind, Brett M. Zaba, Laszlo S. Oroszvary and to Matthew Fenty by Senator Conti.

Congratulations of the Senate were extended to Mr. and Mrs. Herman E. Barth by Senator Corman.

Congratulations of the Senate were extended to LifeSpan volunteers by Senator Costa.

Congratulations of the Senate were extended to Joseph Walter Sobrinski, Peter John Kareha, Ann Elizabeth Schlegel, Robert B. Kratz, Maryann Weaver, Mayo Lanning, Dr. George A. Kirchner, Marlene Fowler, Dennis M. Danko, Alvin H. Butz, Inc., of Allentown and to the Lehigh Valley Arts Council by Senator Dent.

Congratulations of the Senate were extended to Andrew John Chiappazzi and to Geoff Meyer by Senator Earll.

Congratulations of the Senate were extended to Joseph B. Sherman and to Jamell M. Beasley by Senator Gerlach.

Congratulations of the Senate were extended to the Coatesville Area Senior Center by Senators Gerlach and Thompson.

Congratulations of the Senate were extended to Stephen Daniel Voorhees by Senator Greenleaf.

Congratulations of the Senate were extended to Richard H. Floyd and Communities in Schools of Philadelphia, Inc., by Senator Hughes.

Congratulations of the Senate were extended to Mr. and Mrs. Donald C. Litzenberger, Mr. and Mrs. Ralph Stover and to Jarrett Musselman by Senator Jubelirer.

Congratulations of the Senate were extended to Mr. and Mrs. Ralph E. Atkinson, Jr., by Senators Jubelirer and D. White.

Congratulations of the Senate were extended to Kevin Allen Mock by Senator Kasunic.

Congratulations of the Senate were extended to Dr. Harvey M. Spector by Senator Kitchen.

Congratulations of the Senate were extended to Helen Malpezzi and to Idlewild Park by Senator Kukovich.

Congratulations of the Senate were extended to Louis J. Zefran and to Sean Smith by Senator Lemmond.

Congratulations of the Senate were extended to Richard L. Miller by Senator Logan.

Congratulations of the Senate were extended to Mr. and Mrs. Kenneth Higley, Sr., Mr. and Mrs. Paul W. Laudig, Mr. and Mrs. E. Donald Christian and to Gary L. Mayers by Senator Madigan.

Congratulations of the Senate were extended to Mr. and Mrs. Robert Tomassoni, Linda Collins, Julia Chimiowski, Geraldine Evanko, Carole Heydon, John Palko, Frances Cecci, Fortunato R. Votano, Wayne Elvidge, Edward Marionni, Richard Meloni, Joseph Puzio, Bernard Kohut, Angelo Marsico, George Price, Paris Alunni, Theresa Zaluski, Juanita Alexander, Margaret R. Gibblets, Dana Chelak, Lydia Smith, Sarah Piccini, Nicole Marie Nguyen and to Golden Technologies, Inc., of Old Forge by Senator Mellow.

Congratulations of the Senate were extended to Mr. and Mrs. Eugene T. Wertz, Matthew P. Dodd, Eric Bomberger, Donald Bennett, Cheer Tyme Co-ed Cheerleading Squad of Camp Hill, Cheer Tyme Junior All-Stars Cheerleading Squad of Camp Hill, Cheer Tyme Junior Prep-Youth All-Stars Cheerleading Squad of Camp Hill and to Cumberland Valley High School Varsity Cheerleading Squad of Mechanicsburg by Senator Mowery.

Congratulations of the Senate were extended to Mark Krotec, P. J. Tate, Bethel Park High School Boys' Varsity Ice Hockey Team and to Peters Township Varsity Ice Hockey Team by Senator Murphy.

Congratulations of the Senate were extended to Louise M. Gower by Senator Musto.

Congratulations of the Senate were extended to Patricia A. Lauer, Dr. Preston Scoboria, Arthur Hill, Dr. Stanley Furrow and to the Berks Classical Children's Chorus by Senator O'Pake.

Congratulations of the Senate were extended to Bill Minear, Paul Wain, Leslie Snyder, Brian Zalakar, Rachel Atkins, Nikki Michalik, Amber Martin, Emily Vaccaro, Matt McSorley, Jozef Leonarski, Cassie Dudley and to the Reverend John T. Campbell by Senator Orie.

Congratulations of the Senate were extended to Matilda Allen, Mary Kuhn, Alice Stopfel, Zeldia Mountz and to Kirk Smallwood by Senator Piccola.

Congratulations of the Senate were extended to Charles Roberts and to Katie Grant by Senator Rhoades.

Congratulations of the Senate were extended to Kathryn Ferer Mutlu, Shirley Bovard, Beverly Home Health Care of Cambridge Springs and to the Radisson Hotel of West Middlesex by Senator Robbins.

Congratulations of the Senate were extended to Peter Stern and Joan Johnston-Stern and to Dr. Penelope C. Cutler by Senator Schwartz.

Congratulations of the Senate were extended to Mr. and Mrs. Francis Adair, Michael Houck, Drew Abshire and to the 2001-2002 Contemporary Government Class of Roxborough High School by Senator Stack.

Congratulations of the Senate were extended to John T. Salyer by Senator Thompson.

Congratulations of the Senate were extended to Mr. and Mrs. David John Thier, Dennis Patrick Curran, Jr., and to Joseph A. Fluehr III by Senator Tomlinson.

Congratulations of the Senate were extended to Paulette Ortiz by Senator Wagner.

Congratulations of the Senate were extended to Michael Raymond Koch and to Kayla Carbaugh by Senator Waugh.

Congratulations of the Senate were extended to Anne Brossman Sweigart and to the Ephrata Monument Association by Senator Wenger.

Congratulations of the Senate were extended to Ryan Bloser, Phil Hahn, Devon Bowser and to Laura Krulikowski by Senator D. White.

Congratulations of the Senate were extended to Mr. and Mrs. Claud Swisher, Joseph J. Gracik, Sandie Starr Everhart, Larry Thompson, Robert DiSpirito, Sr., Mark Harvey and to LaVerne Kline by Senator M.J. White.

Congratulations of the Senate were extended to Thomas James Quinn by Senator C. Williams.

Congratulations of the Senate were extended to Lenore Davidson by Senator Wozniak.

CONDOLENCE RESOLUTIONS

The PRESIDING OFFICER laid before the Senate the following resolutions, which were read, considered, and adopted by voice vote:

Condolences of the Senate were extended to the family of the late Dr. M. Dale Yocum by Senator Brightbill.

Condolences of the Senate were extended to the family of the late Edward H. Jones by Senator Hughes.

Condolences of the Senate were extended to the family of the late John F. Potteiger by Senator Jubelirer.

Condolences of the Senate were extended to the family of the late Joseph Vincent Tesone by Senator Orié.

POSTHUMOUS CITATIONS

The PRESIDING OFFICER laid before the Senate the following citations, which were read, considered, and adopted by voice vote:

A posthumous citation honoring the late Reverend Dr. Sarah Potter Smith was extended to the family by Senator Hughes.

A posthumous citation honoring the late Ed Hoyn was extended to the family by Senator M.J. White.

BILLS ON FIRST CONSIDERATION

Senator WENGER. Madam President, I move that the Senate do now proceed to consideration of all bills reported from committee for the first time at today's Session.

The motion was agreed to by voice vote.

The bills were as follows:

SB 1222 and SB 1417.

And said bills having been considered for the first time, Ordered, To be printed on the Calendar for second consideration.

PETITIONS AND REMONSTRANCES

The PRESIDING OFFICER. The Chair recognizes the gentlewoman from Northampton, Senator Boscola.

Senator BOSCOLA. Madam President, I wanted to thank all the senior citizens and members of AARP who came to Harrisburg last week, especially those who came from the Lehigh Valley. It was impressive to see so many buses bringing seniors to our State Capitol, and it was even more impressive to see so many men and women all wearing their red T-shirts rallying on the Capitol steps. But as one woman told me: It is nice to come here and hold a rally, Lisa, but it would be a whole lot nicer if somebody would do something to help us. The help our senior citizens need comes in the form of a pill. It is a pill their doctor said they must take to control their high blood pressure, to treat their glaucoma, or to lower their cholesterol level. That pill is their prescription for good health and for pain-free, active retirement years. But for many of our seniors, it is just one more pill they cannot afford to buy and they cannot afford to take. That is why they came to Harrisburg last week, and that is why they held a rally on the Capitol steps to bring attention to this issue, and that is why they need our help.

Madam President, older Pennsylvanians should not get a sick feeling every time they feel sick and need to have a prescription filled, and they should not even have to think about making very, very difficult choices in order to afford the medicine they need, being forced to choose between buying food or buying medicine, having to decide whether to pay their electric bill or have their prescription refilled, or having to make the choice facing one couple, John and Mary, who live in Whitehall Township. John wrote to me recently and said: My wife and I would have to get a divorce to qualify for PACE, because we are slightly above the income requirements.

Then there is the letter I received from one of my constituents on behalf of his mother. He was upset because his mother received a cost-of-living adjustment in her Social Security check, and he was begging, begging the Department of Aging not to take her off of PACENET. He wrote: She cannot afford her many prescriptions without this service. She was forced to use her retirement funds for added medical treatments for her health. If she loses PACENET, she will not be able to pay for her property taxes, and any quality of life she has will surely decrease.

Madam President, these letters are from people just as real as those seniors who rode all the way down to Harrisburg on those buses last week, all those men and women in their red AARP T-shirts who have real difficult choices to make every single day because they cannot afford the prescription drugs that they need. They need our help, and they need us to do something before it is too late to lower drug prices and to join with them in their fight

against the big pharmaceutical companies and for the high prices they are forcing our senior citizens to pay.

Thank you, Madam President.

The PRESIDING OFFICER. The Chair recognizes the gentleman from Dauphin, Senator Piccola.

Senator PICCOLA. Madam President, a number of weeks ago the legislature adopted House Bill No. 1802, which was designed to address the medical malpractice insurance crisis which the Commonwealth faces, and in fact House Bill No. 1802 did offer and provide some short-term relief in that crisis. However, Madam President, there is mounting evidence that the crisis in fact continues, and there is some evidence right here in central Pennsylvania that the crisis has hit us with a vengeance.

I had the opportunity today to speak with some representatives of the Milton S. Hershey Medical Center, and I was astounded to learn that in just 5 short years their medical malpractice insurance premium has risen from \$4 million annually in 1997 to what they expect to be \$24 million in the current fiscal year. That is a six-time increase in the cost of medical malpractice insurance. But that is only money, Madam President, that is only money, and the crisis goes deeper than money. The crisis goes to the providing of medical services to our constituents. I was also informed that the medical center has a vacancy in its OB/GYN chair, and they have lost two of their prime candidates to fill that vacancy who would have come from out of State but specifically declined to come into Pennsylvania, into central Pennsylvania, because of the medical malpractice crisis and the cost of medical malpractice insurance.

In addition, the center is losing, I am told, up-and-coming mid-level physicians who are at a point in their career where they need to make decisions about whether they are going to stay where they are or move on to other locations, and they are starting to lose those individuals to out-of-State medical facilities.

Madam President, at the time that we adopted House Bill No. 1802, I said on the floor of this Senate that while it was a good first step forward, that we would never solve the crisis, either of medical malpractice or the general tort crisis, the general liability insurance crisis that we have in this State, until we faced up to the problem of reforming, in a very comprehensive and systemic way, our civil justice system; in other words, tort reform, and we need to address that.

On that subject, Madam President, Senator Mowery has introduced Senate Bill No. 1376, which is a repeal of the principle of joint and several liability, and that bill has been referred to the Senate Committee on Judiciary, and I am very pleased that the chairman of that committee has agreed to hold a hearing on that subject on May 13. I am hopeful that will be a very enlightening hearing, one that will demonstrate quite clearly the need for this kind of tort reform in Pennsylvania, one of the few States that has not enacted comprehensive tort reform, and that we will be able to, shortly thereafter, advance that bill to the floor of the Senate for consideration of the full body.

Madam President, if we are going to be serious about the problems of medical malpractice, if we are going to really be serious about the problems of general liability insurance costs and the unavailability of those kinds of insurances, then we are going to have to deal with comprehensive and systemic changes

in our civil justice system, namely tort reform or lawsuit abuse reform.

Madam President, I thank you for the opportunity to speak on these matters, and I look forward to the hearing on May 13.

The PRESIDING OFFICER. The Chair recognizes the gentlewoman from Philadelphia, Senator Schwartz.

Senator SCHWARTZ. Madam President, I just wanted to add some comments to the previous speaker's comments about the concerns about medical malpractice. I think we did pass legislation that we hope brings down the cost of medical malpractice for hospitals and physicians in this State, and I certainly share the speaker's concerns about the need and the importance of having the high quality doctors and hospitals that exist in this Commonwealth. We should be very proud. It is an important part of our economy, an important part of providing health services to the citizens of Pennsylvania.

I do say that there is a whole other area that we have yet to tackle in this whole issue. There really are at least three parties, if not more, to the issue of medical malpractice. There is the judicial system, of course, and the previous speaker spoke about that, and we made some changes, some significant changes in that. And, of course, there are the physicians and the hospitals, and I think, again, in the legislation we passed we did address some of the issues about patient safety and some of the actions that we could take and they were willing to take and could be much more aggressive about.

The third problem is the insurance industry. We were assured, the General Assembly was assured that if we passed the last bill, which we did, that that would help create stability in the marketplace and the private marketplace, and that we could rely on the private marketplace to rise to the occasion and to come back into Pennsylvania and be able to offer a competitive marketplace to physicians and hospitals. That, of course, remains to be seen. It has only been a couple of months, and I do not think we have seen the kind of response yet that we would like, but we have to be hopeful that will take place.

What we did not do in the previous legislation, and I believe some of us think we ought to move forward on, is to engage the insurance industry in this process in a more deliberative way, and in some ways I would say we should be more aggressive about that. We may not be able to leave it completely to the private marketplace, and if they do not respond and are not able to, we need to have more information about the insurance industry and the way they function in Pennsylvania and maybe across the country.

There are several pieces of legislation that have yet to be acted on or really engaged in this process, two that have been around for a while. One of them requires much more disclosure of information about the insurance industry, to tell us more about it. Of course, we have to have approval on some of this. It is a regulated industry by the State, but to have more information from the insurance companies themselves about not only their reserves and their rates, but in fact their capacity for the future. We have had several insurance companies go bankrupt nationally. We have had several leave this State, as was pointed out before, and I think there is some question about whether the Insurance Department either does not have the tools in this Commonwealth to take the actions they need to protect

consumers, which in this case are both hospitals and doctors and ultimately all of us as patients, but also whether in fact they do have some of the tools but are not choosing to use them. So I think we need to look into that. I think we will hear more about that. There is a resolution that calls on us to do that, to get that kind of investigation and those findings, and I think that Senator O'Pake will speak to that in just a minute.

I also have legislation that would provide for an Office of Consumer Advocate within the Department of Insurance, just as we do within the PUC. There is someone who is extremely knowledgeable who is both inside the department providing that information and also serves as an advocate for the consumers. It has been very valuable, I think, to all of us, particularly as we have seen enormous changes in the utility markets and open competition, to have a Consumer Advocate be able to provide very detailed information and explanations and to be able to serve as our advocate in this process. I think that would be an invaluable service to the Commonwealth to incorporate an Office of Consumer Advocate in the Insurance Department, and I would like to see that legislation move as we move forward on this.

So, Madam President, I would like to say, given that the issue has come to the floor, and I know there are some ideas on the other side of the aisle about what more we can do in terms of tort reform, I do believe that we are leaving out an enormously important partner in this process, and that is the insurance industry. I, for one, and I know a number of my colleagues are interested in bringing them into the fold, opening up information about the insurance industry to consumers and to all of us in Pennsylvania, and encouraging that competitive marketplace that will be able to bring down rates for all of the hospitals and doctors. I know they were left out of the discussion in terms of engaging them in any serious way, except to say we were not going to touch them. I think that is unacceptable if we are really talking about bringing down the cost of medical malpractice insurance.

So I look forward to working with my colleagues, hopefully to accomplish opening the records to a greater light and being able to be assured that consumers' interests in this system are really protected, both now and into the future.

Thank you, Madam President.

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

Senator O'PAKE. Madam President, there is not much more to be said on the subject, but I would like to call to the attention of my colleagues that we do have a Senate Resolution, Senate Resolution No. 197, which I have introduced, and is cosponsored by many Senate Democrats, that calls on this body to set up, through the Joint State Government Commission, a thorough review into the practices of the insurance companies, particularly with regard to their medical malpractice coverage, or lack thereof. We all know that the last legislative battle over medical malpractice was portrayed as a battle between lawyers and doctors. The sad fact is that insurance companies, for whom we try to make this market more attractive in medical malpractice coverage, really emerged basically unscathed, and now we will be watching very closely to see whether or not all of our legislative efforts do in fact encourage more insurance companies to sell medical malpractice insurance in Pennsylvania. They

decide what the rates shall be and when they shall remove themselves from this market.

There are a lot of unanswered questions out there, and thus the reason for the resolution. But basically what we are saying is let us do a very thorough investigation, let us have the Joint State Government Commission, a nonpartisan, professional research arm of the General Assembly, raise and answer a lot of the questions that we, frankly, do not have the answers to here. We do know that many Insurance Commissioners wind up on the boards of insurance companies after they leave their cabinet level status here in this State. We do know that there have been some very unwise investment decisions that have been made by the insurance companies, and of course, when they are playing with other people's money and they lose money, the temptation is then to say, well, we just will not sell any medical malpractice, when in fact that may not be the reason for the financial difficulty that they have found themselves in. The bottom line is that, yes, we should look very, very carefully at the insurance companies, their refusal or their unwillingness or their reluctance to sell medical malpractice insurance. We know now that it should be more attractive for them to be able to offer those services.

Let us get to the bottom of this. Let us do what Senate Resolution No. 197 suggests, and that is let a nonpartisan, professional research group, the Joint State Government Commission, look into, and I will quote from the resolution, "...undertake a comprehensive review of the causes of and various social, health-related and financial impacts resulting from recent changes and long-term trends in the medical malpractice insurance market." We suggest that this is the responsible way to go. The resolution now lies with the Senate Committee on Banking and Insurance. I have asked the chairman of that committee to call it up for consideration, and we welcome support from the other side of the aisle to get some answers to the questions that doctors are raising, patients are raising, and we as responsible public officials should be raising as well. What is the role of the insurance industry in this whole problem, what can we do to correct the evils and mistakes of the past, and how do we make it more attractive to offer medical malpractice insurance at a reasonable cost so that we can continue to keep good doctors and attract good physicians to Pennsylvania?

Thank you, Madam President.

GUESTS OF SENATOR MICHAEL A. O'PAKE PRESENTED TO THE SENATE

Senator O'PAKE. Madam President, I would like to introduce a group of students in the gallery who have been waiting patiently here. They are the fourth grade class from the Schuylkill Valley Elementary School in Berks County, and they are here with Karen Stone. I would like the Senate to extend its usual warm welcome to the students from Schuylkill Valley Elementary School in Berks County.

The PRESIDING OFFICER. The Chair recognizes the presence of the children in the gallery and welcomes them to the Senate of Pennsylvania.

(Applause.)

PETITIONS AND REMONSTRANCES
(Continued)

The PRESIDING OFFICER. The Chair recognizes the gentleman from Dauphin, Senator Piccola.

Senator PICCOLA. Madam President, if I could just briefly reply to my good friends from the other side of the aisle, and really the reply to my initial comments on tort reform and the need for it here in the Commonwealth of Pennsylvania do not come as any surprise to me, because that is usually the response that you get on these kinds of things from that side of the aisle, but I can tell you, Madam President, government is not the answer to this problem, government is the problem, Madam President. It is very easy, it is very easy to put the insurance industry up there and make them a whipping boy and blame them for all the problems, but I can tell you that the insurance industry, and I think the gentlewoman from Philadelphia alluded to this, is probably one of the most, if not the most, regulated businesses in the Commonwealth of Pennsylvania. Maybe public utilities are the only ones that are more regulated than the insurance industry.

But the bottom line, Madam President, the bottom line is that insurance companies are private companies, and they buy and sell products just like all other companies, and they are looking for markets in which they can compete, competitively compete, and the government of Pennsylvania, through its civil justice system and its regulation, has created a market in which they cannot compete. They do not want to come here and compete, and that is what we have to do, Madam President, we have to create an environment in this Commonwealth where insurance companies are going to want to come and compete with each other to sell their product. That is what it is all about, and having a government study or having a government regulation or rolling back prices by government mandate is not going to create the market necessary to reduce the premiums that hospitals and doctors are paying for medical malpractice insurance. It is not going to reduce the premiums that businesses are paying to provide product liability insurance or liability insurance for their businesses to protect them and their employees and their businesses.

None of this government action is going to work unless we create an environment where they can compete. And right now, Madam President, where we are disadvantaged here in Pennsylvania, is in one critical area, and that is in the area of civil justice. We have a system that is not fair, it is balanced to the plaintiff, overwhelmingly balanced to the plaintiff, and we need to enact comprehensive and systemic changes in that civil justice system, and Senate Bill No. 1376 in the Senate Committee on Judiciary is a very, very good first step in that direction, Madam President.

Again, I look forward to the hearing on May 13, which I think will clearly demonstrate the need for this legislation and why that is the answer to the problem, not more government, Madam President, not more regulation, not more studies, but Senate Bill No. 1376.

Thank you, Madam President.

The PRESIDING OFFICER. The Chair recognizes the gentlewoman from Philadelphia, Senator Schwartz.

Senator SCHWARTZ. Just briefly, Madam President, I do not think this is the place to have the debate about future legislation that we may see, and certainly, hopefully, there will be an opportunity to do that, but let me just respond by saying I believe very strongly, and I know there may be disagreement, that particularly in a heavily regulated industry, such as the insurance industry, that we do have the responsibility to get it right on behalf of the consumers. If in fact our regulations are too onerous to allow for that kind of competitive marketplace, then we ought to know that, and that is what the resolution would be calling for. The findings might be that the regulations are too onerous. In fact, the findings might be the opposite, it might be that we are missing some other huge area where we might be able to open up the competitive marketplace within the insurance industry.

The fact is if we do not know, if we are not allowed to, quote, "touch" the insurance industry, they are off-limits, they are not part of the discussion, then we are really doing a disservice as government not to be taking that responsibility on behalf of consumers. And that is, it is too easy to demonize government as the enemy. Of course, there are times when that is not the case. It is too easy, it is too simple, and in fact it is often not the answer. The fact is that we have to look appropriately at the kinds of regulations, the kinds of oversights, the kinds of demands that we place on essential industries, and in fact our law requires doctors and hospitals to have malpractice insurance. It is one of the reasons that we then have the responsibility as a government to assure that it is there. If it is not, then we have to lift their not having that requirement. But because we require it to have a license to practice medicine in the State, to be a hospital, to have insurance, you have to make sure there is a marketplace. If not, as we have done with the Catastrophic Loss Fund, we need to be able to create other remedies.

I think that the previous speaker's comments that government is the enemy leaves us nowhere in this debate, and in fact it is not the answer to say that it is the criminal justice system or the civil justice system that is at fault here. I think the gentleman fails to recognize that sometimes there are people injured in the process and they have a right, as I think he might want to suggest because of his own private practice, that in fact there are times when you do need to go to the courts and you do need to seek legal remedies. That is something that I think many of us in this country believe that we have to maintain.

So I appreciate his endorsement of the comparison of the heavily regulated industry, the insurance industry, and the Insurance Department might need a Consumer Advocate. I would be happy to work with him on getting that done so, in fact, consumers do have access to the information, and having an insider advocate would be very helpful. So I would just say, as a part of Petitions and Remonstrances, that we leave open the possibility that the insurance industry itself, the insurance marketplace itself requires attention from us, requires potentially some action to assure that there is affordable and available medical malpractice insurance for both hospitals and doctors in this Commonwealth. Shouting down the civil justice system, shouting down government as the enemy will not get us there, Madam President.

Thank you.

BILL SIGNED

The PRESIDING OFFICER. The Chair wishes to announce the following bill was signed by the President in the presence of the Senate:

HB 2088.

ADJOURNMENT

The PRESIDING OFFICER. The Chair recognizes the gentleman from Dauphin, Senator Piccola.

Senator PICCOLA. Madam President, I move that the Senate do now adjourn until Monday, April 29, 2002, at 2 p.m., Eastern Daylight Saving Time.

The motion was agreed to by voice vote.

The Senate adjourned at 12:32 p.m., Eastern Daylight Saving Time.