

COMMONWEALTH OF PENNSYLVANIA
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WEDNESDAY, JUNE 12, 2002

SESSION OF 2002 186TH OF THE GENERAL ASSEMBLY

No. 42

SENATE

WEDNESDAY, June 12, 2002

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

The PRESIDING OFFICER (Senator Mary Jo White) in the Chair.

PRAYER

The Chaplain, Rabbi ALLAN S. MEYEROWITZ, of Beth El Temple, Harrisburg, offered the following prayer:

Distinguished Members of the Senate, in the ancient book 2000 years ago known as Ethics of the Fathers, Pirkei Avot, Rabbi Yossi teaches us: *(English translation from Hebrew)*

"In matters of political consequence, do not make decisions alone, for there is but one who judges alone."

And he continues to say, never say to your colleagues you must adopt my view, for yours is not the prerogative to coerce but to seek unity through wisdom.

Let us pray.

Heavenly Parent, allow us to seek unity and wisdom through very difficult times, and help us to discover the courage to face these times with conviction, with fortitude, and even with joy. Help us to discover the courage to educate our children, to find ways to challenge them to grow as human beings, to challenge them to live up to their God-given potentials.

Allow us to educate our children and teach them values of family, values of loving kindness, and a strict love and adherence to the law. Give us courage to fight terrorism as one people united with our allies abroad, honoring those who honor humanity, which is created in Thine image, and despising those who despise humanity and innocently waste human life.

Let us have the courage to fight terror in the United States and in the Middle East, and wherever its ugly head may rear. Let us have the courage to demand of our allies courage and resolve to join us in this great mission. Let us have the courage not to make decisions alone, but as one people bringing Your love and Your justice into the world, like a mighty stream, and let peace fill the earth as waters fill the sea. And let us say, Amen.

The PRESIDING OFFICER. The Chair thanks Rabbi Meyerowitz, who is the guest today of Senator Piccola.

JOURNAL APPROVED

The PRESIDING OFFICER. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of June 11, 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.

HOUSE MESSAGES

**HOUSE CONCURS IN SENATE AMENDMENTS
TO HOUSE BILLS**

The Clerk of the House of Representatives informed the Senate that the House has concurred in amendments made by the Senate to **HB 1356** and **2527**.

SENATE BILLS RETURNED WITH AMENDMENTS

The Clerk of the House of Representatives returned to the Senate **SB 212** and **391**, with the information the House has passed the same with amendments in which the concurrence of the Senate is requested.

The PRESIDING OFFICER. Pursuant to Senate Rule XIV, section 5, these bills will be referred to the Committee on Rules and Executive Nominations.

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

The SECRETARY. Consent has been given for the Committee on Education to meet in the Rules room during today's Session to consider Senate Bill No. 1465.

REPORTS FROM COMMITTEES

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

SB 1424 (Pr. No. 2073) (Amended)

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 requisites for foreign companies to do business; deleting provisions relating to admitted assets; further providing for standard nonforfeiture law for individual deferred annuities, and for title insurance agents;

further defining "wet marine and transportation insurance"; and further providing for placement of surplus lines insurance, for requirements for eligible surplus lines insurers, for surplus lines licensee's duty to notify insured, for declarations, for licensing of surplus lines licensee, for records of surplus lines licensee, for suspension, revocation or nonrenewal of surplus lines licensee's license and for service of process in actions against surplus lines insurer.

Senator MADIGAN, from the Committee on Transportation, reported the following bills:

SB 704 (Pr. No. 2074) (Amended)

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, authorizing automated red light enforcement systems.

SB 1393 (Pr. No. 1911)

An Act amending Titles 18 (Crimes and Offenses) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for child passenger protection and for related penalties.

SB 1396 (Pr. No. 1914)

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for length of vehicles.

SB 1419 (Pr. No. 1960)

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for permit for movement of waste coal and beneficial combustion ash.

SB 1462 (Pr. No. 2057)

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for visual signals on emergency vehicles.

SB 1463 (Pr. No. 2075) (Amended)

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for size, weight and load scope and application; and abrogating regulations.

HB 1670 (Pr. No. 4016) (Amended)

An Act designating a certain bridge of SR 0054 over the North Branch of the Susquehanna River connecting Riverside, Northumberland County and Danville and Mahoning Townships, Montour County, as the Danville-Riverside Bridge.

BILLS INTRODUCED AND REFERRED

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

June 12, 2002

Senators CORMAN, ARMSTRONG, STOUT, ROBBINS, TARTAGLIONE, SCARNATI, WENGER, KITCHEN, BOSCOLA, LEMMOND and DENT presented to the Chair **SB 1378**, entitled:

An Act amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, defining "rural telecommunications carrier"; and further providing for reports by public utilities, for duty to furnish information to commission and for reports.

Which was committed to the Committee on CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, June 12, 2002.

Senators GERLACH, KUKOVICH, TARTAGLIONE, A. WILLIAMS, COSTA, HOLL, EARLL, ERICKSON, TOMLINSON, LEMMOND, WOZNIAK, BOSCOLA and WAUGH presented to the Chair **SB 1466**, entitled:

An Act amending the act of November 22, 1978 (P.L.1166, No.274), referred to as the Pennsylvania Commission on Crime and Delinquency Law, establishing the Targeted Community Revitalization and Crime Prevention Advisory Committee and providing for its powers and duties.

Which was committed to the Committee on JUDICIARY, June 12, 2002.

Senators LAVALLE, KUKOVICH, WAGNER, COSTA, KITCHEN, LOGAN, MUSTO, BODACK, BELL, STOUT, ORIE, TARTAGLIONE, CONTI, BOSCOLA and RHOADES presented to the Chair **SB 1467**, entitled:

An Act providing for health care assistance for certain steelworkers; establishing the Steelworker Health Care Assistance Retiree Board and the Steelworker Health Care Assistance Retiree Trust Fund; providing for issuance of bonds; making an appropriation; and making a repeal.

Which was committed to the Committee on LABOR AND INDUSTRY, June 12, 2002.

Senators DENT, KUKOVICH, STOUT, COSTA, TARTAGLIONE, BOSCOLA, HELFRICK, BODACK, O'PAKE and WAUGH presented to the Chair **SB 1468**, entitled:

An Act amending the act of June 23, 1931 (P.L.932, No.317), known as The Third Class City Code, further providing for payments under existing pension plans.

Which was committed to the Committee on URBAN AFFAIRS AND HOUSING, June 12, 2002.

Senators GREENLEAF, LEMMOND, COSTA, ORIE, O'PAKE, M. WHITE, KUKOVICH and KITCHEN presented to the Chair **SB 1469**, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for six month limitations and for deficiency judgments.

Which was committed to the Committee on JUDICIARY, June 12, 2002.

LEGISLATIVE LEAVE

The PRESIDING OFFICER. The Chair recognizes the gentleman from Cambria, Senator Wozniak.

Senator WOZNIAK. Madam President, I request a legislative leave for Senator Tartaglione.

The PRESIDING OFFICER. Senator Wozniak requests a legislative leave for Senator Tartaglione. Without objection, that leave is granted.

CALENDAR

SENATE RESOLUTION No. 220
CALLED UP OUT OF ORDER, ADOPTED

Senator BRIGHTBILL, without objection, called up from page 12 of the Calendar, as a Special Order of Business, **Senate Resolution No. 220**, entitled:

A Resolution observing the third Saturday of June 2002 as "Juneteenth National Freedom Day" in Pennsylvania.

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

**SPECIAL ORDER OF BUSINESS
GUESTS OF SENATOR GIBSON E.
ARMSTRONG PRESENTED TO THE SENATE**

The PRESIDING OFFICER. The Chair recognizes the gentleman from Lancaster, Senator Armstrong.

Senator ARMSTRONG. Madam President, in the gallery today I have some important guests with us. We have Nelson Sears, a constituent who serves on the board of trustees at Millersville University. He has been very active at Channel 8, one of the pioneers of TV in this area. With him is his granddaughter, Valerie Sears, who is 9 years old.

We also have William "Smokey" Roberts, who has had a long career in underwater photography. He has worked with National Geographic filming the Titanic, and he worked with Scott Carpenter, an astronaut, on several projects. Smokey has filmed the discovery of the Atocha and the Concepcion. The Atocha had over \$100 million worth of gold, and he filmed the discovery of that important ship.

Also with us in the gallery is Bob Thompson, Sr. Bob, Sr., is the father of my legal assistant, and he has worked for 52 years on the Lancaster Police force. He is still active today, and he is over 80 years old. So, Madam President, I ask the Senate to give my guests a warm Senate welcome.

The PRESIDING OFFICER. Would the guests of Senator Armstrong please rise so the Senate may welcome you.
(Applause.)

CONSIDERATION OF CALENDAR RESUMED

SB 1225 CALLED UP OUT OF ORDER

SB 1225 (Pr. No. 1955) -- Without objection, the bill was called up out of order, from page 3 of the Third Consideration Calendar, by Senator BRIGHTBILL, as a Special Order of Business.

BILL AMENDED

SB 1225 (Pr. No. 1955) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for definitions, for vehicles not requiring certificate of title and for vehicles exempt from registration; providing for electric personal assistive mobility devices; and further providing for driving upon sidewalk.

On the question,
Will the Senate agree to the bill on third consideration?
Senator CORMAN offered the following amendment No. A2237:

Amend Sec. 1, page 1, line 11, by striking out "DEFINITIONS" and inserting: definition

Amend Sec. 1, page 1, line 12, by striking out "AND "vehicle""

Amend Sec. 1, page 1, line 13, by striking out "ARE" and inserting: is

Amend Sec. 1 (Sec. 102), page 2, lines 14 through 21, by striking out all of said lines

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.

RECESS

The PRESIDING OFFICER. The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Madam President, I ask for a recess of the Senate for the purpose of a Republican caucus, which will begin immediately in the Majority Caucus Room. I imagine it will probably take us an hour, an hour and a half.

The PRESIDING OFFICER. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Madam President, I request a Democratic caucus.

The PRESIDING OFFICER. For purposes of Republican and Democratic caucuses, with the expectation of returning to Session at 2 p.m., without objection, the Senate will stand in recess.

AFTER RECESS

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

CONSIDERATION OF CALENDAR RESUMED

**BILL ON CONCURRENCE IN HOUSE
AMENDMENTS TO SENATE AMENDMENTS**

BILL OVER IN ORDER TEMPORARILY

SB 1089 -- Without objection, the bill was passed over in its order temporarily at the request of Senator THOMPSON.

**SENATE CONCURS IN HOUSE AMENDMENTS
AS AMENDED**

SB 766 (Pr. No. 2072) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 24, 1931 (P.L.1206, No.331), known as The First Class Township Code, further providing for certain reimbursement.

On the question,

Will the Senate concur in the amendments made by the House, as amended by the Senate, to Senate Bill No. 766?

Senator THOMPSON. Madam President, I move that the Senate do concur in the amendments made by the House, as amended by the Senate, to Senate Bill No. 766.

On the question,

Will the Senate agree to the motion?

The yeas and nays were required by Senator THOMPSON 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 inform the House of Representatives accordingly.

THIRD CONSIDERATION CALENDAR

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

SB 832 (Pr. No. 2052) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of February 9, 1999 (P.L.1, No.1), known as the Capital Facilities Debt Enabling Act, further providing for appropriation for and limitation on redevelopment assistance capital projects.

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-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.

**PREFERRED APPROPRIATION BILL
OVER IN ORDER**

HB 2530 -- Without objection, the bill was passed over in its order at the request of Senator PICCOLA.

BILLS OVER IN ORDER

HB 170, SB 857, SB 1164 and SB 1222 -- Without objection, the bills were passed over in their order at the request of Senator PICCOLA.

**BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE**

SB 1257 (Pr. No. 2071) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, defining the offense of environmental harassment; and providing a penalty.

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

Senator O'PAKE. Madam President, I want to call to the attention of the Members of our Caucus our discussion on this bill. There was some concern about some of the provisions.

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

Senator PICCOLA. Madam President, could we be at ease for a moment?

The PRESIDING OFFICER. The Senate will stand at ease. (The Senate was at ease.)

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-36

Armstrong	Gerlach	Mellow	Stack
Bell	Greenleaf	Mowery	Stout
Bodack	Helfrick	Murphy	Thompson
Brightbill	Holl	Musto	Tomlinson
Conti	Jubelirer	Orie	Waugh
Corman	Kasunic	Piccola	Wenger
Dent	LaValle	Punt	White, Donald
Earll	Lemmond	Robbins	White, Mary Jo
Erickson	Madigan	Scarnati	Wozniak

NAY-14

Boscola	Kitchen	Rhoades	Williams, Anthony H.
Costa	Kukovich	Schwartz	Williams, Constance
Fumo	Logan	Tartaglione	
Hughes	O'Pake	Wagner	

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 AMENDED

SB 1366 (Pr. No. 2025) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, further regulating abandoned property.

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

Senator THOMPSON offered the following amendment No. A3283:

Amend Sec. 2 (Sec. 1301.3), page 3, line 29, by striking out the bracket before ", or"

Amend Sec. 2 (Sec. 1301.3), page 3, line 30, by striking out the bracket after "years,"

Amend Sec. 4 (Sec. 1301.10), page 9, line 26, by striking out "BECOMES" and inserting: become

Amend Sec. 5 (Sec. 1301.11), page 10, line 23, by inserting after "information": consistent with law

Amend Sec. 5 (Sec. 1301.11), page 10, line 24, by inserting brackets before and after "rules or"

Amend Sec. 5 (Sec. 1301.11), page 11, lines 11 and 12, by striking out ", by a justice, judge or district justice" and inserting: or an officer

Amend Sec. 6 (Sec. 1301.12), page 14, line 8, by inserting after "[he]": the

Amend Sec. 9 (Sec. 1301.17), page 19, line 20, by striking out "CASHED" and inserting: being sold

Amend Sec. 10 (Sec. 1301.18), page 20, line 13, by striking out "[(b) Before" and inserting: (b) [Before

Amend Sec. 10 (Sec. 1301.18), page 20, line 19, by inserting after "charges.]:" The General Assembly shall annually appropriate to the State Treasurer such funds as it deems necessary and appropriate to administer this article.

Amend Sec. 12 (Sec. 1301.24), page 22, line 24, by inserting after "discovery.": The State Treasurer bears the burden of proof regarding the estimation of the value of property pursuant to this article.

Amend Sec. 12 (Sec. 1301.26), page 23, line 29, by striking out "PRIOR" and inserting: Within 12 months of the effective date of this subsection, the State Treasurer shall promulgate regulations regarding estimation calculations. Pending the promulgation of the regulations and prior

Amend Sec. 12 (Sec. 1301.26), page 24, line 5, by inserting after "STANDARDS.": The statement of policy shall expire upon promulgation of final regulations or one year from the effective date of this subsection, whichever occurs first.

Amend Sec. 14 (Sec. 1301.29), page 24, lines 26 and 27, by striking out "[is] and all other provisions of law which are inconsistent with this article are hereby" and inserting: is

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 PICCOLA.

SB 1370 (Pr. No. 2037) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 29, 1996 (P.L.434, No.67), known as the Job Enhancement Act, further providing for definitions, for the Pollution Prevention Assistance Account and for eligibility and terms and conditions of loans; providing for job training; and further providing for the power and authority for the Pennsylvania Economic Development Financing Authority; and making a repeal.

On the question,
Will the Senate agree to the bill on third consideration?
Senator O'PAKE, on behalf of Senator FUMO, offered the following amendment No. A3171:

Amend Sec. 2 (Sec. 1303), page 4, line 29, by striking out the bracket before "areas"

Amend Sec. 2 (Sec. 1303), page 4, lines 29 and 30, by striking out "] business sectors"

Amend Sec. 2 (Sec. 1303), page 5, line 2, by striking out the brackets before and after "located in distressed communities"

Amend Sec. 2 (Sec. 1303), page 5, line 10, by inserting a bracket before "provisions"

Amend Sec. 2 (Sec. 1303), page 5, line 12, by inserting after "subsection":] small business enterprise must agree to retain, at a minimum, jobs in existence as of the date of loan application

Amend Sec. 2 (Sec. 1303), page 5, line 21, by striking out the bracket before "(2)"

Amend Sec. 2 (Sec. 1303), page 5, line 22, by inserting after "tract": or other specifically defined geographic area

Amend Sec. 2 (Sec. 1303), page 6, line 4, by striking out the bracket after "Bulletin."

Amend Sec. 4 (Sec. 2905), page 27, line 25, by striking out "APPLICANT IS" and inserting: application is submitted on behalf of

Amend Sec. 4 (Sec. 2907), page 30, line 3, by striking out "2906(B)" and inserting: 2906

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. A3315:

Amend Sec. 4 (Sec. 2902), page 24, lines 11 and 12, by striking out all of said lines and inserting:

(a) Program continuation.—The customized job training program within the department is continued and reestablished. Funds

Amend Bill, page 31, by inserting after line 30:

Section 7. The addition of Chapter 29 of the act shall be deemed a continuation of the program authorized by the former act of December 20, 1985 (P.L.492, No.116), known as the Customized Job Training Act, and, except where in conflict with the provisions of this act, the regulations promulgated under that former act shall remain in force and effect until they are amended or repealed in accordance with law.

Amend Sec. 7, page 32, line 1, by striking out "7" and inserting: 8

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 PICCOLA.

BILL OVER IN ORDER

SB 1406 -- Without objection, the bill was passed over in its order at the request of Senator PICCOLA.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 1416 (Pr. No. 2035) -- The Senate proceeded to consideration of the bill, 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 definitions related to agents and brokers.

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-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 PICCOLA.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 2005 (Pr. No. 4013) -- 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 compensation of solicitors appointed by county officers and for private services by certain county employees.

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-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 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 OVER IN ORDER

HB 2125 -- Without objection, the bill was passed over in its order at the request of Senator PICCOLA.

BILL OVER IN ORDER TEMPORARILY

HB 2164 -- Without objection, the bill was passed over in its order temporarily at the request of Senator PICCOLA.

SECOND CONSIDERATION CALENDAR

BILLS REREPORTED FROM COMMITTEE AS AMENDED ON SECOND CONSIDERATION

SB 1258 (Pr. No. 2053) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of May 15, 1933 (P.L.565, No.111), known as the Department of Banking Code, making extensive changes to modernize and update the law in the general areas of preliminary provisions; jurisdiction and maintenance of the Department of Banking; restrictions upon department and employees; examinations by and reports to the department; action by department after offenses by, or changes in, condition of institutions; taking of possession by the Secretary of Banking as receiver and surrender of possession; rights, powers and duties of secretary as receiver; secretary in possession of trust department; proof of claims, accounting and distribution; and special criminal history record information provisions.

Considered the second time and agreed to,

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

SB 1272 (Pr. No. 2054) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 24 (Education) of the Pennsylvania Consolidated Statutes, providing for return to school service in an extracurricular position.

Considered the second time and agreed to,

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

BILL REREPORTED FROM COMMITTEE AS AMENDED OVER IN ORDER

HB 2398 -- Without objection, the bill was passed over in its order at the request of Senator PICCOLA.

BILL OVER IN ORDER

HB 286 -- Without objection, the bill was passed over in its order at the request of Senator PICCOLA.

BILL LAID ON THE TABLE

HB 330 (Pr. No. 347) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 18, 1998 (P.L.622, No.80), entitled "An act providing for a procedure and method of execution; and making repeals," providing for a short title; and further providing for definitions and for witnesses to execution.

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

BILLS OVER IN ORDER

SB 449 and **SB 451** -- Without objection, the bills were passed over in their order at the request of Senator PICCOLA.

BILL ON SECOND CONSIDERATION

SB 559 (Pr. No. 621) -- The Senate proceeded to consideration of the bill, 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 certain outreach duties of the Insurance Department.

Considered the second time and agreed to,

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

BILL OVER IN ORDER

HB 582 -- Without objection, the bill was passed over in its order at the request of Senator PICCOLA.

BILL ON SECOND CONSIDERATION

HB 590 (Pr. No. 3851) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of August 5, 1941 (P.L.752, No.286), known as the Civil Service Act, further providing for the commissioner's salary and meeting times; providing for delegation of authority to the director; further providing for residency and for recordkeeping requirements; eliminating the certification of payrolls; requiring the commissioners to submit an annual report; revising the records retention period; deleting citizenship and oath requirements; further providing for the filling of vacancies; requiring citizenship to be the deciding factor in a case of equal qualifications; eliminating certain

requirements for promotion without examination; further providing for the distribution of public notice of examinations and requirements for maintaining eligibility lists and for the procedure for certain eligibles who waive consideration for a promotion, for procedures for filling a position, for the requirements of the probationary period; providing for the expansion of the authority of the director to approve temporary assignments; eliminating certain performance standards; requiring probationary performance evaluations and evaluation forms; further providing for a period of removal from eligibility lists; authorizing the commissioner to impose penalties; and providing copies and notices to the director.

Considered the second time and agreed to,

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

BILL LAID ON THE TABLE

HB 641 (Pr. No. 697) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, repealing provisions relating to certain appeals from the Pennsylvania Labor Relations Board.

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

BILL OVER IN ORDER

HB 751 -- Without objection, the bill was passed over in its order at the request of Senator PICCOLA.

BILL ON SECOND CONSIDERATION

HB 754 (Pr. No. 3927) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 19, 1996 (P.L.1478, No.190), entitled "An act relating to the recycling and reuse of waste tires; providing for the proper disposal of waste tires and the cleanup of stockpiled tires; authorizing investment tax credits for utilizing waste tires; providing remediation grants for the cleanup of tire piles and for pollution prevention programs for small business and households; establishing the Small Business and Household Pollution Prevention Program and management standards for small business hazardous waste; providing for a household hazardous waste program and for grant programs; making appropriations; and making repeals," adding definitions; further providing for disposal of whole waste tires, for the priority enforcement list and for remediation grants; providing for remediation liens, for an authorization program, for documentation and recordkeeping, for revocation of authorization and for collection programs; authorizing civil penalties; and repealing provisions relating to tire recycling investment tax credits.

Considered the second time and agreed to,

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

BILLS OVER IN ORDER

HB 767, SB 856, HB 878 and SB 885 -- Without objection, the bills were passed over in their order at the request of Senator PICCOLA.

BILL REREFERRED

HB 930 (Pr. No. 4009) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, further providing for definitions relating to consolidation or merger, for initiative of electors seeking consolidation or merger without home rule; providing for initiative of electors seeking consolidation or merger with a new home rule charter; further providing for conduct of referenda and for consolidation or merger agreement; and making editorial changes.

Upon motion of Senator PICCOLA, and agreed to by voice vote, the bill was rereferred to the Committee on Appropriations.

BILL OVER IN ORDER

HB 1012 -- Without objection, the bill was passed over in its order at the request of Senator PICCOLA.

BILLS ON SECOND CONSIDERATION

SB 1187 (Pr. No. 1492) -- The Senate proceeded to consideration of the bill, entitled:

An Act authorizing the Department of General Services, with the approval of the Governor, to grant and convey to Tolentine Community Center and Development Corporation certain lands and building situate in the City of Philadelphia, Philadelphia County.

Considered the second time and agreed to,

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

SB 1210 (Pr. No. 2039) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for suspension of operating privilege and for offenses relating to homicide by vehicle and aggravated assault by vehicle.

Considered the second time and agreed to,

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

BILLS OVER IN ORDER

SB 1243, SB 1256 and HB 1272 -- Without objection, the bills were passed over in their order at the request of Senator PICCOLA.

BILL ON SECOND CONSIDERATION

SB 1290 (Pr. No. 1699) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, authorizing certain members of the Pennsylvania National Guard to operate State-owned vehicles for certain security purposes.

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

BILL OVER IN ORDER

SB 1323 -- Without objection, the bill was passed over in its order at the request of Senator PICCOLA.

BILLS ON SECOND CONSIDERATION

SB 1364 (Pr. No. 1820) -- The Senate proceeded to consideration of the bill, entitled:

An Act authorizing and directing the Department of General Services, with the approval of the Governor and the Pennsylvania Historical and Museum Commission, to accept by donation a tract of land situate in the Township of Penn, Westmoreland County.

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

SB 1368 (Pr. No. 1828) -- The Senate proceeded to consideration of the bill, entitled:

An Act authorizing and directing the Department of General Services, with the approval of the Governor and the Pennsylvania Historical and Museum Commission, to acquire by settlement agreement three tracts of land in Foster Township, Luzerne County.

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

BILLS OVER IN ORDER

SB 1372, SB 1374, SB 1380, SB 1401, SB 1403, SB 1409, SB 1410, SB 1423 and SB 1433 -- Without objection, the bills were passed over in their order at the request of Senator PICCOLA.

BILLS ON SECOND CONSIDERATION

SB 1448 (Pr. No. 2022) -- The Senate proceeded to consideration of the bill, entitled:

An Act authorizing and directing the Department of General Services, with the approval of the Governor, to grant and convey to Pennsylvania Suburban Water Company (as successor to Philadelphia Suburban Water Company by merger), certain lands situate in Canaan Township, Wayne County, and Carbondale and Fell Townships in Lackawanna County.

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

SB 1453 (Pr. No. 2028) -- The Senate proceeded to consideration of the bill, entitled:

An Act authorizing the Department of General Services, with the approval of the Department of Transportation and the Governor, to grant and convey to the West Chester Area School District, certain lands in West Goshen Township, Chester County.

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

SB 1459 (Pr. No. 2029) -- The Senate proceeded to consideration of the bill, entitled:

An Act authorizing and directing the Department of General Services, with the approval of the Governor, to grant and convey to the Student Association, Inc., a certain tract of land situate in the Borough of California, Washington County, in exchange for a certain tract of land.

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

BILLS OVER IN ORDER

HB 1478, HB 1501, HB 1804, HB 1952, HB 2020, HB 2200 and HB 2445 -- Without objection, the bills were passed over in their order at the request of Senator PICCOLA.

**SENATE CONCURRENT RESOLUTION
No. 233, AMENDED AND ADOPTED**

Senator PICCOLA, without objection, called up from page 12 of the Calendar, **Senate Concurrent Resolution No. 233**, entitled:

A Concurrent Resolution memorializing the Congress of the United States to develop a nationwide reciprocity agreement among the states regarding individual income taxes.

On the question,
Will the Senate adopt the resolution?
Senator DENT offered the following amendment No. 2394:

Amend First Whereas Clause, page 1, line 4, by inserting after "in":
different

Amend First Resolve Clause, page 2, line 5, by inserting after "out-of-state":
earned

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?
A voice vote having been taken, 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
SUPPLEMENTAL CALENDAR No. 1**

**BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE**

SB 1225 (Pr. No. 2078) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for definitions, for vehicles not requiring certificate of title and for vehicles exempt from registration; providing for electric personal assistive mobility devices; and further providing for driving upon sidewalk.

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-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.

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. Madam President, I call from the table certain nominations and ask for their consideration.
The Clerk read the nominations as follows:

**MEMBER OF THE PENNSYLVANIA
COUNCIL ON AGING**

May 20, 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, Denise Illig Robison, Nine Niagara Pier, Erie 16507, Erie County, Forty-ninth Senatorial District, for appointment as a member of the Pennsylvania Council on Aging, to serve until October 8, 2004, and until her successor is appointed and qualified, vice Reverend Amos Goodwine, Sr., Erie, resigned.

Mark S. Schweiker
Governor

**MEMBER OF THE STATE BOARD
OF AUCTIONEER EXAMINERS**

May 2, 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, Anne N. Davies, PO Box 163, Huntsville Road, Dallas 18612, Luzerne County, Twentieth Senatorial District, for appointment as a member of the State Board of Auctioneer Examiners, to serve for a term of three years or until her successor is appointed and qualified, but not longer than six months beyond that period, vice Robert W. Wentzel, Halifax, whose term expired.

Mark S. Schweiker
Governor

**MEMBER OF THE BOARD OF TRUSTEES
OF HARRISBURG STATE HOSPITAL**

April 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, Virginia Jones, 1260 Boiling Springs Road, Boiling Springs 17007, Cumberland County, Thirty-first Senatorial District, for appointment as a member of the Board of Trustees of Harrisburg State Hospital, to serve until the third Tuesday of January 2003, and until her successor is appointed and qualified, vice Willie M. Cooney, Harrisburg, resigned.

Mark S. Schweiker
Governor

**MEMBER OF THE HEALTH
POLICY BOARD**

May 2, 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, David K. Kelley, M.D., MPA, 2700

Roberts Valley Road, Harrisburg 17110, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the Health Policy Board, to serve for a term of three years and until his successor is appointed and qualified, vice Kimberly A. Rankin, New Providence, whose term expired.

Mark S. Schweiker
Governor

MEMBER OF THE PENNSYLVANIA
HUMAN RELATIONS COMMISSION

May 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, Timothy Cuevas, 4683 Stafford Avenue, Bethlehem 18020, Northampton County, Eighteenth Senatorial District, for appointment as a member of the Pennsylvania Human Relations Commission, to serve for a term of five years or until his successor is appointed and qualified, vice Gregory J. Celia, Lancaster, whose term expired.

Mark S. Schweiker
Governor

MEMBER OF THE PENNSYLVANIA MINORITY
BUSINESS DEVELOPMENT AUTHORITY

May 7, 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, Pedro A. Cortes, 1602 Churchill Road, Harrisburg 17111, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the Pennsylvania Minority Business Development Authority, to serve until June 2, 2003, and until his successor is appointed and qualified, vice Sid Booker, Fairview, resigned.

Mark S. Schweiker
Governor

MEMBER OF THE MUNICIPAL POLICE OFFICERS'
EDUCATION AND TRAINING COMMISSION

May 20, 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, Robert S. Markle, 1799 Spring Run Road, Williamsport 17701, Lycoming County, Twenty-third Senatorial District, for appointment 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, vice Thomas F. Rockenbach, Jr., Allison Park, resigned.

Mark S. Schweiker
Governor

MEMBER OF THE BOARD OF TRUSTEES OF
WERNERSVILLE STATE HOSPITAL

May 8, 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 C. Inge, 3122 Woodridge Drive, Landisville 17538, Lancaster County, Thirty-sixth Senatorial District, for appointment as a member of the Board of Trustees of Wernersville State Hospital, to serve until the third Tuesday of January 2005 and until his successor is appointed and qualified, vice Pattee Miller, Reading, resigned.

Mark S. Schweiker
Governor

MEMBER OF THE BOARD OF TRUSTEES OF
WERNERSVILLE STATE HOSPITAL

May 8, 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, Dennis D. Louwerse, 103 Park Street, Lebanon 17042, Lebanon County, Forty-eighth Senatorial District, for reappointment as a member of the Board of Trustees of Wernersville State Hospital, to serve until the third Tuesday of January 2007 and until his successor is appointed and qualified.

Mark S. Schweiker
Governor

MEMBER OF THE CLEARFIELD COUNTY
BOARD OF ASSISTANCE

May 15, 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, Charlotte L. Kanour, (Republican), 706 West Locust Street, Clearfield 16830, Clearfield County, Thirty-fifth Senatorial District, for reappointment as a member of the Clearfield County Board of Assistance, to serve until December 31, 2003, and until her successor is appointed and qualified.

Mark S. Schweiker
Governor

MEMBER OF THE CLEARFIELD COUNTY
BOARD OF ASSISTANCE

May 15, 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, Martha F. Lynch, (Republican), 121 Clearfield Street, Clearfield 16830, Clearfield County, Thirty-fifth Senatorial District, for reappointment as a member of the Clearfield

County Board of Assistance, to serve until December 31, 2003, and until her successor is appointed and qualified.

Mark S. Schweiker
Governor

MEMBER OF THE FAYETTE COUNTY
BOARD OF ASSISTANCE

May 14, 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, Donald M. Miller, II, (Republican), 123 Ben Lomond Street, Uniontown 15401, Fayette County, Thirty-second Senatorial District, for appointment as a member of the Fayette County Board of Assistance, to serve until December 31, 2003, and until his successor is appointed and qualified, vice Joseph Dorazio, Uniontown, whose term expired.

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. Madam President, I move that the Executive Session do now rise.
The motion was agreed to by voice vote.

RECESS

The PRESIDING OFFICER. The Chair recognizes the gentleman from Dauphin, Senator Piccola.
Senator PICCOLA. Madam President, at this time I request a brief recess of the Senate for the purpose of a meeting of the Committee on Education to be held immediately in the Rules room.

The PRESIDING OFFICER. Senator Piccola requests a recess of the Senate for the purpose of a meeting of the Committee on Education in the Rules room at the rear of the Senate. Without objection, the Senate will stand in recess.

AFTER RECESS

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

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

RECESS

The PRESIDENT. The Chair recognizes the gentleman from Dauphin, Senator Piccola.

Senator PICCOLA. Mr. President, at this time I request a recess of the Senate to the call of the Chair, for approximately an hour.

The PRESIDENT. Senator Piccola has requested a recess to the call of the Chair and advises the Members of the Senate that we likely will reconvene at approximately 5 o'clock.

Without objection, the Senate will stand in recess.

AFTER RECESS

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

LEGISLATIVE LEAVES

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

Senator BRIGHTBILL. Mr. President, I ask for a legislative leave for Senator Bell.

The PRESIDENT. Senator Brightbill requests a legislative leave for Senator Bell. Without objection, that leave will be granted.

The Chair recognizes the gentleman from Allegheny, Senator Wagner.

Senator WAGNER. Mr. President, I ask for a legislative leave for Senator Bodack.

The PRESIDENT. Senator Wagner requests a legislative leave for Senator Bodack. Without objection, that leave is granted.

LEAVE OF ABSENCE

Senator BRIGHTBILL asked and obtained a leave of absence for Senator HOLL, for today's Session, for personal reasons.

**SPECIAL ORDER OF BUSINESS
SUPPLEMENTAL CALENDAR No. 3**

**BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE**

SB 1370 (Pr. No. 2080) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 29, 1996 (P.L.434, No.67), known as the Job Enhancement Act, further providing for definitions, for the

Pollution Prevention Assistance Account and for eligibility and terms and conditions of loans; providing for job training; and further providing for the power and authority for the Pennsylvania Economic Development Financing Authority; and making a repeal.

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

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.

**SPECIAL ORDER OF BUSINESS
SUPPLEMENTAL CALENDAR No. 2**

**BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE**

SB 1366 (Pr. No. 2079) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, further regulating abandoned property.

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 Allegheny, Senator Wagner.

Senator WAGNER. Mr. President, I simply ask for a negative vote on Senate Bill No. 1366.

The PRESIDENT. The Chair recognizes the gentleman from Bucks, Senator Conti.

Senator CONTI. Mr. President, I rise to submit some remarks for the record.

(The following prepared statement was made a part of the record at the request of the gentleman from Bucks, Senator CONTI:)

Mr. President, several months ago I had the honor of joining the Treasurer of the Commonwealth of Pennsylvania, Barbara Hafer, to announce the legislation that we are now considering - Senate Bill No. 1366.

This measure would amend the State's unclaimed property law, reducing the "dormancy period," or the time businesses have to report abandoned property, from 7 to 5 years.

This may not seem like a substantial change, but the remarkable thing about this legislation is that it would significantly increase the amount of unclaimed property returned to the General Fund, generating \$173.4 million in additional nontax revenue for the Commonwealth in fiscal year 2002-03.

Currently, Pennsylvania's unclaimed property program generates about \$50 million a year. Senate Bill No. 1366 would more than triple that amount, providing at least another \$170 million to fund State programs. And as we all know, we could certainly use the added revenue.

This legislation would also make our system of reporting and claiming unclaimed property more efficient and more cost-effective.

Other States that have reduced their dormancy periods have experienced tremendous success, doubling or even tripling their unclaimed property revenue, and now is a good time for Pennsylvania to do the same.

I would like to thank Treasurer Hafer for leading the way on this issue, and I would urge a positive vote for Senate Bill No. 1366.

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-28

Armstrong	Erickson	Mowery	Scarnati
Bell	Gerlach	Murphy	Thompson
Brightbill	Greenleaf	Orie	Tomlinson
Conti	Helfrick	Piccola	Waugh
Corman	Jubelirer	Punt	Wenger
Dent	Lemmond	Rhoades	White, Donald
Earll	Madigan	Robbins	White, Mary Jo

NAY-21

Bodack	Kitchen	Musto	Tartaglione
Boscola	Kukovich	O'Pake	Wagner
Costa	LaValle	Schwartz	Williams, Anthony H.
Fumo	Logan	Stack	Williams, Constance
Hughes	Mellow	Stout	Wozniak
Kasunic			

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.

RECESS

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

Senator BRIGHTBILL. Mr. President, at this time I ask for a recess of the Senate until approximately 7:30 for the purpose of a Republican caucus, which will be held in the Majority Caucus Room.

For the information of the Members, since it is 7 p.m., the food is just now arriving, so we should be able to have about 30 minutes for dinner, and caucus is at 7:30.

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

Senator WAGNER. Mr. President, I ask for a Democratic caucus beginning at 7:30 also.

The PRESIDENT. For the information of the Members, dinner is currently arriving, and immediately following dinner, at approximately 7:30, there will be Republican and Democratic caucuses in their respective caucus rooms.

For those purposes, without objection, the Senate will stand in recess.

AFTER RECESS

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

LEGISLATIVE LEAVES

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

Senator MELLOW. Mr. President, I request legislative leaves for Senator Costa, Senator Fumo, and Senator A.H. Williams.

The PRESIDENT. Senator Mellow requests legislative leaves for Senator Costa, Senator Fumo, and Senator A.H. Williams. Without objection, those leaves are granted.

CONSIDERATION OF CALENDAR RESUMED

SB 1089 CALLED UP

SB 1089 (Pr. No. 2041) -- Without objection, the bill, which previously went over in its order temporarily, was called up, from page 1 of the Calendar, by Senator BRIGHTBILL.

MOTION TO SUSPEND RULE XIV

The PRESIDENT. The Chair recognizes the gentleman from Dauphin, Senator Piccola.

Senator PICCOLA. Mr. President, I move that Rule XIV, section 5, be suspended for the purpose of offering amendment A3406 to Senate Bill No. 1089.

The PRESIDENT. Senator Piccola moves that Rule XIV be suspended for the purpose of offering an amendment to Senate amendments to House amendments to Senate Bill No. 1089, which is not debatable.

POINT OF ORDER

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

Senator MELLOW. As a point of order, Mr. President, does this motion to suspend only deal with the amendment that is going to be offered by the gentleman to Senate Bill No. 1089?

The PRESIDENT. That would be the Chair's opinion.

Senator MELLOW. Also, just for an additional point of order, Mr. President, is an amendment to the amendment in order?

The PRESIDENT. Senator Mellow has asked for a ruling on whether an amendment to an amendment would be in order. It is a close call. The Chair rules that an amendment to an amendment would be in order at this time.

On the question,

Will the Senate agree to the motion to suspend Rule XIV?

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

YEA-49

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

NAY-0

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

The PRESIDENT. Senate Rule XIV is suspended.

BILL ON CONCURRENCE IN HOUSE AMENDMENTS TO SENATE AMENDMENTS, AMENDED

SB 1089 (Pr. No. 2041) -- 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 DNA testing of certain offenders; reestablishing the State DNA Data Base and the State DNA Data Bank; further providing for duties of the Pennsylvania State Police; imposing costs on certain offenders; reestablishing the DNA Detection Fund; further providing for the apportionment of liability and damages; imposing penalties; and making a repeal.

On the question,

Will the Senate concur in the amendments made by the House to Senate amendments to Senate Bill No. 1089?

Senator PICCOLA offered the following amendment No. A3406:

Amend Sec. 2 (Sec. 7102), page 20, line 5, by striking out all of said line and inserting:

(b.1) Recovery against joint defendant; contribution.—

(1) Where

Amend Sec. 2 (Sec. 7102), page 20, lines 13 through 19, by striking out all of said lines and inserting

(2) Except as set forth in paragraph (3), a defendant's liability shall be several and not joint; and the court shall enter a separate and several judgment in favor of the plaintiff and against each defendant for the apportioned amount of that defendant's liability.

(3) A defendant's liability in any of the following actions shall be joint and several, and the court shall enter a joint and several judgment in favor of the plaintiff and against the defendant for the total dollar amount awarded as damages:

- (i) Intentional misrepresentation.
- (ii) An intentional tort.
- (iii) Where a defendant has been held liable for not less than 60% of the total liability apportioned to all parties.
- (iv) A release or threatened release of a hazardous substance under section 702 of the act of October 18, 1988 (P.L.756, No.108), known as the Hazardous Sites Cleanup Act.
- (v) A civil action in which a defendant has violated section 497 of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code.

Amend Sec. 2 (Sec. 7102), page 21, line 5, by striking out "SUBSECTION" and inserting: section

Amend Sec. 2 (Sec. 7102), page 21, line 11, by inserting after "PURPOSE.": Nothing in this section shall affect the admissibility or nonadmissibility of evidence regarding releases, settlements, offers to compromise or compromises as set forth in the Pennsylvania Rules of Evidence. Nothing in this section shall affect the rules of joinder of parties as set forth in the Pennsylvania Rules of Civil Procedure.

Amend Sec. 2 (Sec. 7102), page 21, lines 12 through 30; page 22, line 1, by striking out all of said lines on said pages

Amend Bill, page 23, by inserting between lines 6 and 7:

Section 6.1. The provisions of this act are severable. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

Amend Sec. 7, page 23, by inserting between lines 11 and 12:

- (2) The following provisions shall take effect in 60 days:
 - (i) The amendment of 42 Pa.C.S. § 7102.
 - (ii) Section 3 of this act.
 - (iii) Section 6 of this act.

Amend Sec. 7, page 23, line 12, by striking out "(2)" and inserting: (3)

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

The PRESIDENT. The Chair recognizes the gentleman from Dauphin, Senator Piccola.

Senator PICCOLA. Mr. President, Senate Bill No. 1089 is a bill that came over from the House last week with some amendments in it dealing with the legal concept of joint and several liability. The bill contains a number of provisions, and there have been a number of concerns raised about some of those provisions, and this amendment is designed to deal with some of the concerns that have been raised here in the Senate. I would like to just briefly describe what is contained in the amendment, and then urge an affirmative vote on the amendment.

The amendment makes some technical corrections to make sure that the language is proper. The amendment provides for a hazardous substance carve-out and an exception to the changes in the joint and several concept, and it also provides for a dram-shop exception to those new joint and several rules that will be in place when this bill becomes law. The amendment also makes it crystal clear that the rules concerning evidence, the admissibility of evidence, the nonadmissibility of evidence

regarding releases and settlements as they apply in this bill remain the same as they are in the current law, and that the rules concerning the joinder of parties remains the same as the current law. In addition, this amendment takes out section b.3 of the bill, which is a section changing the effect of releases that are entered into with respect to settlements of cases that would involve joint and several liability.

Finally, Mr. President, this amendment changes the effective date from immediately to 60 days from the date the bill becomes law. I urge that the amendment be adopted, Mr. President.

Thank you.

The PRESIDENT. On the amendment to House amendments to Senate amendments as offered by Senator Piccola, the Chair recognizes the gentleman from Berks, Senator O'Pake.

Senator O'PAKE. Mr. President, would the gentleman consent to very brief interrogation?

The PRESIDENT. Senator Piccola indicates he will.

Senator O'PAKE. Mr. President, is it the intention of this amendment to remove from the original Senate Bill No. 1089, as sent over from the House, the so-called empty chair defense?

Senator PICCOLA. Yes, Mr. President.

Senator O'PAKE. Thank you, Mr. President.

The second question: Is it the purpose of this amendment to keep current law in force with respect to releases and settlements?

Senator PICCOLA. Mr. President, as that applies to their admissibility in a court proceeding, yes.

Senator O'PAKE. Thank you, Mr. President.

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

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

YEA-42

Armstrong	Greenleaf	Mowery	Thompson
Bell	Helfrick	Murphy	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, Constance
Earll	Lemmond	Schwartz	Wozniak
Erickson	Logan	Stack	
Gerlach	Madigan	Stout	

NAY-7

Bodack	Mellow	Scarnati	Williams, Anthony H.
Fumo	Musto	Tartaglione	

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

On the question,
Will the Senate concur in House amendments, as amended, to Senate Bill No. 1089?

MOTION TO SUSPEND RULE XIV

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

Senator MELLOW. Mr. President, I move to suspend Rule XIV, section 5, for the purpose of offering an amendment that would call for an automatic 10-percent reduction in premium, based on the legislation that is being considered.

The PRESIDENT. Senator Mellow moves that Senate Rule XIV be suspended for the purpose of offering further amendments to House amendments to Senate Bill No. 1089.

On the question,
Will the Senate agree to the motion to suspend Rule XIV?

RECESS

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

Senator BRIGHTBILL. Mr. President, I request a brief on-the-floor caucus at the Majority Leader's podium.

The PRESIDENT. Without objection, the Senate will stand in recess.

AFTER RECESS

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

And the question recurring,
Will the Senate agree to the motion to suspend Rule XIV?

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

YEA-21

Bodack	Kitchen	Musto	Tartaglione
Boscola	Kukovich	O'Pake	Wagner
Costa	LaValle	Schwartz	Williams, Anthony H.
Fumo	Logan	Stack	Williams, Constance
Hughes	Mellow	Stout	Wozniak
Kasunic			

NAY-28

Armstrong	Erickson	Mowery	Scarnati
Bell	Gerlach	Murphy	Thompson
Brightbill	Greenleaf	Orie	Tomlinson
Conti	Helfrick	Piccola	Waugh
Corman	Jubelirer	Punt	Wenger
Dent	Lemmond	Rhoades	White, Donald
Earl	Madigan	Robbins	White, Mary Jo

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

The PRESIDENT. Are there any other amendments?

The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Yes, Mr. President, I have a lot of amendments, but it is obvious that the Majority will not give me the opportunity to offer them, so what is the sense of me going through the exercise of asking to suspend the rules. They would not vote on a 10-percent rate reduction, so they are not going to vote on the others.

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

Senator BRIGHTBILL. Mr. President, I know of no other amendments.

On the question,
Will the Senate concur in House amendments, as amended, to Senate Bill No. 1089?

MOTION TO CONCUR

The PRESIDENT. Would you care to make the motion?

Senator BRIGHTBILL. I am happy to do that, Mr. President. I move that the Senate concur in House amendments to Senate amendments, as amended.

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

MOTION WITHDRAWN
BILL OVER IN ORDER

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

Senator BRIGHTBILL. Mr. President, I would like to withdraw that motion.

I request that Senate Bill No. 1089 go over in its order, as amended.

The PRESIDENT. Senator Brightbill requests that Senate Bill No. 1089 go over in its order. It is my understanding that a Supplemental Calendar will be coming down, and at that point a motion on concurrence would be in order.

**SPECIAL ORDER OF BUSINESS
GUEST OF SENATOR MICHAEL A.
O'PAKE PRESENTED TO THE SENATE**

The PRESIDENT. The Chair recognizes the gentleman from Berks, Senator O'Pake, who has a guest in the gallery. Your guest stays up very late, Senator.

Senator O'PAKE. Yes, Mr. President. Anyone who has been waiting patiently all day in the gallery deserves an introduction. I would like the body to extend its usual warm welcome to Jason Bobst, an intern who is here. He is a student at Saint Joseph's University, from Reading in my district. Saint Joe's is in Senator Hughes's district--

The PRESIDENT. But it is your alma mater, Senator.

Senator O'PAKE. Thank you, Mr. President.

The PRESIDENT. Would the guest of Senator O'Pake kindly rise so we may welcome you.

(Applause.)

RECESS

The PRESIDENT. Without objection, the Senate will stand in recess.

AFTER RECESS

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

**SPECIAL ORDER OF BUSINESS
SUPPLEMENTAL CALENDAR No. 4**

**SENATE CONCURS IN HOUSE AMENDMENTS
AS AMENDED**

SB 1089 (Pr. No. 2082) -- 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 DNA testing of certain offenders; reestablishing the State DNA Data Base and the State DNA Data Bank; further providing for duties of the Pennsylvania State Police; imposing costs on certain offenders; reestablishing the DNA Detection Fund; further providing for the apportionment of liability and damages; imposing penalties; and making a repeal.

On the question,

Will the Senate concur in House amendments, as amended, to Senate Bill No. 1089?

Senator BRIGHTBILL. Mr. President, I move that the Senate do concur in House amendments, as amended, to Senate Bill No. 1089.

On the question,

Will the Senate agree to the motion?

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

Senator MELLOW. Mr. President, I am sorry that no one was going to speak on this, but I guess if someone has to start the debate on the issue, then I will be the individual who will start the debate. Mr. President, I am only sorry that we are considering this proposal at 1 o'clock in the morning. There is a pattern that has developed over recent years that we take these particular pieces of legislation that are not good for the people of Pennsylvania and we do them in the middle of the night so as to not expose them to the sunlight of the afternoon when people and the news media would have an opportunity to cover exactly what we are doing here. It is unfortunate, Mr. President, that we do this with every major piece of legislation, that we wait to pass such legislation until the papers have gone to rest for the evening and the televisions in homes have been turned off.

Mr. President, there are a few things that I would like to place on the record with regard to joint and several liability. Mr. President, who does this legislation protect and at whose expense? In order for a plaintiff to recover, the defendant's conduct must have been a substantial factor in causing the injury. I understand that maybe some people are not interested in this because of the importance of the issue and the absolute necessity

of passing it here this evening, but these are interesting comments that I think we should at least try to address.

Mr. President, the defendants affected by the legislation are not innocent parties, their contribution to the injury is not insignificant. Every single defendant affected by this legislation has done something wrong. Every single defendant affected by this legislation has contributed to a victim's injury. The legislation, Mr. President, protects negligent, reckless, or deliberate party acts at the expense of the victim. The only innocent party in this particular legislation who is going to be impacted upon is the victim who is suffering.

Mr. President, how about the myths that we heard from a lot of people, some in this Chamber, the myths that companies that are only 1-percent responsible for an injury are being held liable for 100 percent of the damage. The reality, Mr. President, is that there has never been a 1-percent defendant in Pennsylvania, even though some Members of the Chamber have repeatedly said over and over that 1 percent of those responsible for an injury are paying 100 percent of the damages. It just, in fact, is not true. Most other States have eliminated joint and several liability. That is another statement that we hear over and over. Well, the reality is, Mr. President, that only five States have completely eliminated it, and other States have significant safeguards about what, in fact, would actually take place, something that this particular bill, Senate Bill No. 1089, in fact does not have.

Mr. President, we hear over and over and over, heard it for years when it comes to a number of things, including joint and several, complete tort reform, dealing with taxes with regard to corporations, that the place to which we should look is the State of Delaware for how well they treat their companies, their corporations, and their businesses doing business in the State of Delaware. Well, Mr. President, Delaware has the same type of joint and several liability that we have right now, prior to the passing of this law. It is firmly in place, Mr. President, and it is unrestricted.

Mr. President, innocent companies are being held liable for damages that they had nothing to do with. The reality is that is a myth. The reality is that only parties whose conduct significantly contributed to the injury can be held liable. And then, Mr. President, the actions of other defendants do not diminish one party's wrongdoing. For example, Mr. President, a co-conspirator in a criminal case is not assigned proportionate responsibility. Now, I know that Members in here are going to say this is a civil case and not a criminal case, but a co-conspirator in a criminal case is not assigned proportionate responsibility. If a bank robber, as an example, shoots someone during a holdup, the getaway driver is just as guilty as the gunman. What we are doing in this particular case is saying to the gunman, to the getaway driver, that you are not responsible for what has taken place. Mr. President, if a surgeon makes a mistake that results in a patient's death, is his action any more or less negligent if someone else is responsible for the injury that put the patient in the hospital? I do not think so, Mr. President. If a surgeon operates, and because of his or her action a person dies, is that any different from anyone else who may be responsible for putting that same person in a hospital and having the same result?

Mr. President, repealing the rule of joint and several liability forces businesses to act responsibly. If you repeal joint and

several liability, are we allowing businesses to act responsibly? Repealing the rule removes the incentive for businesses to make sure that their partners and their subcontractors are responsible and safe. Think about what we are doing tonight. I realize once again that whatever I say here this evening is going to be meaningless, because we thought we had certain things worked out earlier this evening on an amendment that would have been much more appropriate, that would have had the support of the Members of this body, the majority of the Members of this body, if the administration here and Governor Schweiker and his people did not get involved in making phone calls to Members on both sides of the aisle, especially right here, asking them what they need to get their vote. Let us be honest about it. There have been a number of phone calls made since 7 o'clock this evening to Members on this side of the aisle from the Governor's Office, including the Governor of the Commonwealth of Pennsylvania, asking Members, what do you need for you to vote for this particular proposal? That is a heck of a way to run a railroad.

Mr. President, a manufacturer that uses a defective part or a distributor of an unsafe product should not escape responsibility for their negligence. In this particular proposal, Mr. President, there is a good chance that manufacturer possibly will escape meeting the responsibility for their negligence, and let us look at it in final analysis. Our system basically is a system of government that starts with the people. Everything is supposed to emanate from the people who live in this great Commonwealth and this great country of ours. Our system of government is based upon the concept that power flows from the people into government, into business. We, the people, elect our leaders, and we, the people, elect our judges as our peers, Mr. President. Eliminating joint and several liability sends the message that these juries are not to be trusted. By doing what we are doing here, we are telling the juries in the 67 counties of Pennsylvania that their deliberation and their final analysis, how they decide the case should take place, is not to be trusted. Limiting the ability of juries to determine justice violates the doctrine of separation of powers.

Mr. President, in all the years that I have been here in the Senate, I believe this to be the most Draconian piece of legislation that we have ever been asked to vote on. It is the most anticonsumer piece of legislation that we have ever considered. It is oppressive, it is harsh, it is callous, and it is something that we should not be doing tonight to the people of Pennsylvania.

Mr. President, I ask for a negative vote.

The PRESIDENT. The Chair recognizes the gentleman from Cumberland, Senator Mowery.

Senator MOWERY. Mr. President, I rise today in support of Senate Bill No. 1089. We have heard a lot of rhetoric over these past several weeks about the effects of reforming the doctrine of joint and several liability. Let me tell you what it means to me and why I believe we cannot wait any longer to take action.

Passage of Senate Bill No. 1089 is about supporting economic development and preserving our tax base. It is about enhancing Pennsylvania's ability to create and maintain jobs, and it is about providing our constituents with opportunity and security, and it is also about ensuring access to health care services. Not being a lawyer, I truly did not have an understanding of this legal doctrine until the Senate deliberated on the matter and its adverse

impact on a Pennsylvania corporation, Crown Cork & Seal of southeast Pennsylvania. At the end of the year 2001, I learned of the devastating impact this doctrine had on the continued viability of a major Pennsylvania employer. Crown Cork & Seal was facing certain disaster unless they got relief from the onslaught of lawsuits facing them as a result of their 1963 purchase of a company which had a subsidiary that previously manufactured asbestos.

Crown Cork & Seal had never manufactured asbestos. They were simply a deep pocket for the lawsuit. The legislature saw fit to help Crown Cork & Seal because it saw the necessity of maintaining jobs. This issue was also raised during our deliberations on the new medical liability law. So I ask you, why not provide relief to all Pennsylvania employers, not just Crown Cork & Seal, but all of Pennsylvania's business community?

This doctrine of joint and several liability is keeping many healthy companies from seriously considering whether they want to expand or even maintain their businesses in Pennsylvania. If we cannot keep those businesses which are already here, there is absolutely no way we are going to attract new business. If we lose businesses, we lose jobs. If we lose jobs, we lose Pennsylvania's youngest and brightest to other States. Essentially, without reform, Pennsylvania's economic viability is seriously compromised. But this is not the worst of it. Among the hardest hit by the doctrine of joint and several liability is the health care community in Pennsylvania, because hospitals obtain insurance above the mandated limits. In fact, hospitals and physicians may be named in a suit simply because they have insurance coverage. In the current climate, their insurance premiums continue to escalate, while the numbers of insurance underwriters decrease. If hospitals are forced to operate with only the minimum coverage required by law, one large, adverse verdict could force the institution to close. Any closures will certainly have serious implications for communities as they seek to ensure health care for their citizens, and some are already being forced to deal with the shortages of specific services.

Methodist Hospital in Philadelphia cited the rising cost of malpractice insurance for its decision to cease delivering babies, a service it had been providing to South Philadelphians since 1892. As a result, 91 full-time and part-time Methodist employees will lose their jobs. In addition, the Albert Einstein Health Care Network was forced to lay off 127 employees, again the direct result of rising medical malpractice costs. Havertown's Mercy Community Hospital closed its emergency department and all inpatient services earlier this year, and Summit Health in Chambersburg has closed its Healthy Beginnings Maternity Clinic after 15 years of serving 200 Medicaid patients annually. Wellspan and Memorial Hospitals in York County went so far as to take a trip to London, England, to search for affordable access insurance coverage, only to find reinsurance was not available since they were located in Pennsylvania.

In addition, just last week the University of Pennsylvania Health System ended its association with Brandywine Hospital's trauma center in Chester County. The center will be forced to "divert status" as a result of inefficient levels of trauma surgeon staffing. Again, the medical malpractice crisis is cited as a driving cause of Brandywine's inability to maintain appropriate levels of trauma-based staffing. Our hospitals and physicians

need relief today, and our constituents need to be assured they can receive the same quality care at their neighborhood hospital that they have had for so many years in the past.

This is a crucial time in Pennsylvania. As our population continues to age, we need to ensure the existence of both facilities and caregivers. Without some relief, we are certainly facing a crisis.

Reform of joint and several liability will modernize Pennsylvania law, and it is a vital step in providing stability and predictability in an otherwise turbulent environment. I urge my colleagues to remember, employers will look to States which can afford them fair treatment and predictable laws. Mr. President, we need to pass Senate Bill No. 1089. It is high time Pennsylvania creates a strong job market. It not only makes economic sense, but it also is conducive to the continuing good health of Pennsylvania citizens.

I thank you very much for this opportunity, and I thank all those who are going to vote in support of what I believe is long overdue and will make a major step forward for the Commonwealth of Pennsylvania. I would also like to acknowledge my colleague, Senator Piccola, who was a big part of making it possible for me, since I am not an attorney. I had my attorney over here and he did a great job on behalf of this Caucus.

Thank you very much.

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

Senator SCHWARTZ. Mr. President, due to the late, or shall I say the early, hour, I will try to be brief. There certainly has been a lot of conversation, a lot of debate, much of it today certainly behind closed doors.

What I would like to do is just touch on a few things, since the hour is late, and say that if in fact I believed this action tonight, this repeal of joint and several liability, would dramatically reduce rates of insurance for hospitals or physicians or businesses across Pennsylvania, I might be inclined to support it. If I thought that it was actually being fair in the way it would set up the new rules, I might be inclined to be supportive. But, Mr. President, I do not think it really does either. I think it takes some very serious action to reduce the likelihood that Pennsylvanians with real injuries will be unable to be made whole, unable to be compensated for those injuries. And in fact, Mr. President, I am deeply concerned that this will raise rates, insurance rates, for some of the very physicians about whom we are concerned.

We just heard the previous speaker talk about obstetrics and gynecology. Well, if in fact we are looking at a new system by which some people will be held more responsible than others, then certainly the surgeons are going to be more likely to have to carry more insurance to cover themselves and protect themselves, because they may well be found to be far more liable than others. If we are concerned about making sure that physicians are not, that all the parties possible would have to be named, I think we are moving in the wrong direction, because in fact we are saying that if you are only 10 percent responsible or 20 percent responsible and that is all you are going to be held liable for financially, well, then you better make sure you have found absolutely everyone who has a part of the responsibility in order to be able to make whole that person who was injured.

We have heard a lot of stories and I think we can tell a lot of stories about personal injuries, about auto accidents, about product liability where in fact people are seriously harmed and they are due a remedy, and we use the court system to do that. I did have an attorney come before me and tell me about an injury that happened in Philadelphia a number of years ago, and I think he would not mind my saying so, where several young people at an entertainment disco were killed as a result of a pier collapse. Well, there are going to be a lot of people named in that situation, a lot of defendants, and in fact none of them may be found to be 60 percent or more responsible, and some of those companies may no longer exist. Some of those businesses may no longer have any resources, and yet those families and those injured will therefore not be made whole.

And again, we can talk about injuries from tobacco companies, from workers who have been injured from asbestos. I want to say the system that we have in this country allows those who have been injured to go to court and to seek remedies. And most importantly, what that has resulted in is not only those individuals being able to be made whole and remedies to be made for them, but in fact it has made many of our businesses and many of our workplaces safer places for other people.

Now, maybe there is a better system for that. We try to do that on occasion. We set rules for worker safety and we set rules for food that restaurants serve. We just passed legislation to make petting zoos more responsible so that children would not be harmed from E.coli. We take these kinds of actions, and yet sometimes we are not forewarned about injuries that might occur.

Let me just give an example that comes from work I used to do before I came to the Senate, and that was in women's health care. Mr. President, I am not sure that without lawsuits being made against a number of parties, but particularly the manufacturers of DES, or Dalkon Shield, that women would not still be injured and made infertile from DES or Dalkon Shield. Now, again, there are other systems in place that may have encouraged those manufacturers and doctors and hospitals and salespeople and advertisers and all those people responsible, out of their own understanding of the harm they were doing, to stop producing those products, but they did not. It was lawsuits on behalf of women who were injured that in fact helped make sure that women are safer because they no longer make DES and give it to pregnant women or use Dalkon Shields as a contraceptive.

I will end by saying that I understand the action we are taking tonight will not likely result in any kind of significant and maybe no reductions in insurance for businesses. It will not make Pennsylvania more business-friendly. And yet what we have done is increased the likelihood that real people in Pennsylvania, with real injuries, will have less of an opportunity to be made whole, to seek compensation, and it will reduce the likelihood that Pennsylvanians will be able to stand up and help make sure that businesses and industries and individuals will have to be more careful not to do harm in the future, and that is probably the most serious part of what we have done tonight. So when I look at this kind of legislation and I see what we might be doing tonight, taking action that will make our businesses and industries and our entire society less accountable for its actions when it does harm, and it has not in fact really, truly benefitted anyone, I think we are taking the wrong step. It is simply wrong, Mr. President, and

I will vote "no" on this legislation, and I will work with my colleagues to seek other remedies to reduce the high cost of insurance, to make the insurance marketplace in this State more acceptable, but we have to work harder. These are not the actions we need to take. We are not looking in the right direction to make insurance more affordable for our hospitals and our businesses and our physicians, and even our individuals who seek to buy liability insurance. There are other actions we should take. We may well need to do that, but tonight's action does more harm than good.

Thank you, Mr. President.

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

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

YEA-40

Armstrong	Gerlach	Mowery	Stout
Bell	Greenleaf	Murphy	Thompson
Boscola	Helfrick	O'Pake	Tomlinson
Brightbill	Hughes	Orie	Wagner
Conti	Jubelirer	Piccola	Waugh
Corman	Kasunic	Punt	Wenger
Costa	LaValle	Rhoades	White, Donald
Dent	Lemmond	Robbins	White, Mary Jo
Earll	Logan	Scarnati	Williams, Constance
Erickson	Madigan	Stack	Wozniak

NAY-9

Bodack	Kukovich	Musto	Tartaglione
Fumo	Mellow	Schwartz	Williams, Anthony H.
Kitchen			

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.

**UNFINISHED BUSINESS
REPORT FROM COMMITTEE**

Senator RHOADES, from the Committee on Education, reported the following bill:

SB 1465 (Pr. No. 2050) (Rereported)

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, establishing criteria and authority for school districts to include character education in curriculum planning and the Character Education Grant Program.

CONGRATULATORY RESOLUTIONS

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

Congratulations of the Senate were extended to Edward Thomas Cornish by Senator Bell.

Congratulations of the Senate were extended to the Fountain Hill Emergency Rescue Squad by Senator Boscola.

Congratulations of the Senate were extended to Mr. and Mrs. Anthony M. Baal by Senator Brightbill.

Congratulations of the Senate were extended to Johannes M. Brevis by Senator Conti.

Congratulations of the Senate were extended to Edgar A. Runkle, William J. Moerschbacher, Angela Hoover and to the Yeagertown United Methodist Church by Senator Corman.

Congratulations of the Senate were extended to Margaretta Cotton by Senator Costa.

Congratulations of the Senate were extended to Ricardo Orench by Senators Dent and Boscola.

Congratulations of the Senate were extended to Melissa Wright, Margo Lewis-Jaindl, Gabriel Yak and to Christine J. Thomas by Senator Erickson.

Congratulations of the Senate were extended to Elizabeth Buono and to Kiesma Harns by Senator Fumo.

Congratulations of the Senate were extended to Mr. and Mrs. Dawson Hoffman and to Brian David Smith by Senator Gerlach.

Congratulations of the Senate were extended to Pharmaceutical Sourcing Group Americas, Inc., by Senator Greenleaf.

Congratulations of the Senate were extended to the Canaan Institute of the Arts of Philadelphia by Senator Hughes.

Congratulations of the Senate were extended to Orbisonia Lions Club, Kennametal, Inc., of Bedford and to the Huntingdon Fire Police by Senator Jubelirer.

Congratulations of the Senate were extended to Scottdale Lodge No. 777, Benevolent and Protective Order of Elks, by Senators Kasunic and Kukovich.

Congratulations of the Senate were extended to Mr. and Mrs. LeRoy Gearhart, Sister Sienna Finley and to Morgan A. Montieth by Senator Lemmond.

Congratulations of the Senate were extended to Monica Stoicovy by Senator Murphy.

Congratulations of the Senate were extended to the Honorable William Schalles, David Jeffrey Portonova and to all organizations representing the spirit of the Wyoming Valley by Senator Musto.

Congratulations of the Senate were extended to the citizens of Berks County by Senator O'Pake.

Congratulations of the Senate were extended to John Banks, Brian Morelli, Frank Pecman, Charles Rockwell, Robert Horton, Robert Bergstrom, Richard Rishel, Romano DePaoli, James Dorwart, James Lossel, Jean Fischer, Joyce Knab, Alice Smolkovich, Anita Uzonyi, Jocelyn Fischer, Beverly Jordan, Nancy Jacobs, Jeanne Boyd, Rosemary Hogan, Linda Peffer, Gail Morris, Gregory Zyhowski, Mary Capuzza, William Pilgram, David Speer, Paul Surloff, Walter Engle, Geraldine O'Connor, Nancy Stadler, Phyllis Maier, Ida May Steedle, Janice MacPhil, Henry Domyslawski, Robert Edner, Albert Heinricher, Edward Kunc, Donald Gindlesperger, William Etter, Marylou Stefanko, Amy Scalise, Allison C. Murtha, Stephanie Ellen Madia, Dayle Olechnowicz, Joe Bullick, Brett J. Warren, Bradd William Bartos, Mark R. Farris, Penny Lyon, Breanne Pereira, Anne St. Clair, Carly Cammatra, Richard Orr, James Lossel, Donald Bender, Thomas Marr, R. Bruce Schrum, Len Harold,

Brian G. McCarthy, Ruth Duerstein, Michael Bishop, Joan Dieter, Nancy Cooper, Jean Boucek, Carol Ferry, Eileen Batson, Patricia Baker, Brandon Beekin, Alex Brodsky, Kelly Rihn and to the Pittsburgh Disability Employment Project for Freedom by Senator Orie.

Congratulations of the Senate were extended to the Ecumenical Food Pantry, Messiah Lutheran Church, of Harrisburg, by Senator Piccola.

Congratulations of the Senate were extended to Hugh P. Ringer by Senator Robbins.

Congratulations of the Senate were extended to Jill M. Smink, Aikeeha Terry, Geronda Montalvo, David Greene, Jr., Derek Washington, Sherrie Jeter, Najah Ellison, Cred U. Dobson and to James A. Villarreal by Senator Schwartz.

Congratulations of the Senate were extended to Zahid Khan, Kristina Nolan and to Stephanie L. Sorkin by Senator Stack.

Congratulations of the Senate were extended to Scott D. Wells, David Bercaw and to Devon Troop 50, Boy Scouts of America, by Senator Thompson.

Congratulations of the Senate were extended to Edward Wallace by Senator Tomlinson.

CONDOLENCE RESOLUTIONS

The PRESIDENT 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 Richard K. Bouslough by Senator Jubelirer.

Condolences of the Senate were extended to the family of the late Scott Douitt and to the family of the late Robert Eugene Haefner by Senator Orie.

Condolences of the Senate were extended to the family of the late Bernard Alfred Treherne by Senator A. H. Williams.

BILLS ON FIRST CONSIDERATION

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

The motion was agreed to by voice vote.

The bills were as follows:

SB 704, SB 1393, SB 1396, SB 1419, SB 1424, SB 1462, SB 1463, SB 1465 and HB 1670.

And said bills having been considered for the first time,

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

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

June 12, 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, Beverly R. Minor, 1531 Route 136, Washington 15301, Washington County, Forty-sixth Senatorial District, for reappointment as a member of the Milk Marketing Board to serve for a term of six years and until her successor is appointed and qualified.

Mark S. Schweiker
Governor

RECALL COMMUNICATIONS LAID ON THE TABLE

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 laid on the table:

JUDGE, TRAFFIC COURT OF PHILADELPHIA

June 12, 2002

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 April 5, 2002, for the appointment of Doris M. Leisch, Esquire, 3437 West Penn Street, Philadelphia 19129, Philadelphia County, Seventh Senatorial District, as Judge of the Traffic Court of Philadelphia County, to serve until the first Monday of January 2004, vice The Honorable Francis J. Little, resigned.

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

Mark S. Schweiker
Governor

SMALL BUSINESS ADVOCATE

June 12, 2002

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 21, 2002, for the appointment of Norah Griffiths, 2304 Edgewood Road, Harrisburg 17104, Dauphin County, Fifteenth Senatorial District, as Small Business Advocate, to serve until her successor is appointed and qualified, vice Bernard A. Ryan, Jr., Hummelstown, resigned.

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

Mark S. Schweiker
Governor

DISTRICT JUSTICE

June 12, 2002

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 April 5, 2002, for the appointment of Jennifer Hoover, 41 Evergreen Street, Shavertown 18708, Luzerne County, Twentieth Senatorial District, as District Justice, in and for the County of York, Magisterial District 19-1-01, to serve until the first Monday of January 2004, vice William J. Farrell, III, resigned.

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

Mark S. Schweiker
Governor

DISTRICT JUSTICE

June 12, 2002

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 April 5, 2002, for the appointment of Stephanie Moore, 40 Red Barberry Drive, Etters 17319, York County, Thirty-first Senatorial District, as District Justice, in and for the County of York, Magisterial District 19-3-03, to serve until the first Monday of January 2004, vice James D. Hodge, resigned.

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

Mark S. Schweiker
Governor

HOUSE MESSAGES**HOUSE CONCURS IN SENATE BILL**

The Clerk of the House of Representatives returned to the Senate **SB 1093, 1192 and 1249**, with the information the House has passed the same without amendments.

**HOUSE CONCURS IN SENATE AMENDMENTS
TO HOUSE BILLS**

The Clerk of the House of Representatives informed the Senate that the House has concurred in amendments made by the Senate to **HB 1360 and 1363**.

SENATE BILL RETURNED WITH AMENDMENTS

The Clerk of the House of Representatives returned to the Senate **SB 380**, with the information the House has passed the same with amendments in which the concurrence of the Senate is requested.

The PRESIDENT. Pursuant to Senate Rule XIV, section 5, this bill will be referred to the Committee on Rules and Executive Nominations.

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 committee indicated:

June 12, 2002

HB 2490, 2491, 2492 and 2493 -- Committee on Appropriations.

BILLS SIGNED

The PRESIDENT (Lieutenant Governor Robert C. Jubelirer) in the presence of the Senate signed the following bills:

SB 1093, SB 1192, SB 1249, HB 1356, HB 1360, HB 1363, HB 2312 and HB 2527.

ADJOURNMENT

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

Senator BRIGHTBILL. Mr. President, I move that the Senate do now adjourn until Monday, June 17, 2002, at 2 p.m., Eastern Daylight Saving Time.

The motion was agreed to by voice vote.

The Senate adjourned at 11:59 p.m., Eastern Daylight Saving Time.