

COMMONWEALTH OF PENNSYLVANIA  
**Legislative Journal**

WEDNESDAY, JUNE 26, 2002

SESSION OF 2002 186TH OF THE GENERAL ASSEMBLY

No. 48

**SENATE**

WEDNESDAY, June 26, 2002

The Senate met at 2 p.m., Eastern Daylight Saving Time.

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

**PRAYER**

The following prayer was offered by the Secretary of the Senate, Hon. MARK R. CORRIGAN:

Let us pray.

Heavenly Father, we thank You for the faithful care that has brought us safely to the light of a new day. As we convene in this Senate Chamber, we invoke Your blessing and pray that Your spirit would move in our midst in these long hours and days of work, that we may succeed working together to accomplish what we all want, an adequate and fair budget for our Commonwealth. Amen.

**JOURNAL APPROVED**

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of June 25, 2002.

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

**COMMUNICATIONS FROM THE GOVERNOR**

**NOMINATIONS REFERRED TO COMMITTEE**

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

JUDGE, COURT OF COMMON PLEAS,  
MONTGOMERY COUNTY

June 26, 2002

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Steven T. O'Neill, Esquire, 426 Bryn Mawr Avenue, Bala Cynwyd 19004, Montgomery County, Seventeenth

Senatorial District, for appointment as Judge of the Court of Common Pleas of Montgomery County, to serve until the first Monday of January 2004, vice The Honorable Samuel W. Salus, II, resigned.

Mark S. Schweiker  
Governor

JUDGE, COURT OF COMMON PLEAS,  
NORTHAMPTON COUNTY

June 26, 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, Emil A. Giordano, Esquire, 4380 Loraine Lane, Bethlehem 18017, Northampton County, Sixteenth Senatorial District, for appointment as Judge of the Court of Common Pleas of Northampton County, to serve until the first Monday of January 2004, vice The Honorable Robert E. Simpson, Jr., resigned.

Mark S. Schweiker  
Governor

**HOUSE MESSAGES**

**HOUSE CONCURS IN SENATE AMENDMENTS BY  
AMENDING SAID AMENDMENTS TO HOUSE BILL**

The Clerk of the House of Representatives informed the Senate that the House has concurred in amendments made by the Senate by amending said amendments to **HB 599**, in which 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.

**SENATE BILL RETURNED WITH AMENDMENTS**

The Clerk of the House of Representatives returned to the Senate **SB 630**, 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 CONCURS IN SENATE BILL**

The Clerk of the House of Representatives returned to the Senate **SB 592**, with the information the House has passed the same without amendments.

**BILL SIGNED**

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

**SB 592.**

**REPORTS FROM COMMITTEES**

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

**SB 974 (Pr. No. 1192) (Rereported)**

An Act authorizing the indebtedness, with the approval of the electors, of \$50,000,000 for no interest loans to volunteer fire companies, volunteer ambulance services and volunteer rescue squads for the purpose of purchasing emergency response equipment in accordance with subsequent legislation.

**SB 1366 (Pr. No. 2134) (Rereported) (Concurrence)**

An Act amending the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, further providing for settlement and collection of State taxes; further regulating abandoned property; requiring public notice of certain real property purchases by the Commonwealth; providing for a right of certain public officials to examine and review Inspector General reports; and making a repeal.

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

**HB 2100 (Pr. No. 4128) (Amended) (Rereported)**

An Act amending the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, further providing for definitions, for examination and inspection and for extracts, copies or photostats; providing for denial of access to public records, for redaction, for response to requests for access and for final agency determinations; further providing for appeal from denial of right; and providing for court costs and attorney fees, for penalty and for immunity.

**HB 2126 (Pr. No. 4129) (Amended) (Rereported)**

An Act amending the act of June 22, 2001 (P.L.374, No.24), known as the Optional Occupation Tax Elimination Act, further providing for the definitions of "governing body" and "political subdivision," for earned income tax limits and for certain prohibition of occupation tax; and making an editorial correction.

**LEGISLATIVE LEAVES**

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

Senator BRIGHTBILL. Mr. President, I ask for legislative leaves for Senator Helfrick and Senator Holl.

The PRESIDENT. Senator Brightbill requests legislative leaves for Senator Helfrick and Senator Holl. Without objection, those leaves will be granted.

**CALENDAR**

**SENATE RESOLUTION No. 243  
CALLED UP OUT OF ORDER, ADOPTED**

Senator BRIGHTBILL, without objection, called up from page 9 of the Calendar, as a Special Order of Business, **Senate Resolution No. 243**, entitled:

A Resolution declaring the week of July 22 through 28, 2002, as "Slovak Heritage Week" 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.
Earl	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.

**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 for the purpose of a Republican caucus in the first floor caucus room, and we anticipate being in caucus approximately 2 hours.

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

Senator O'PAKE. Mr. President, I ask all Democrats to report immediately to the caucus room.

The PRESIDENT. For purposes of Republican and Democratic caucuses to be held immediately in their respective caucus rooms, without objection, the Senate will stand in recess.

**AFTER RECESS**

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

**CONSIDERATION OF CALENDAR RESUMED****BILLS OUT OF ORDER**

Without objection, the bills on today's Calendar were called out of order by Senator BRIGHTBILL, as Special Orders of Business.

**THIRD CONSIDERATION CALENDAR****BILL AMENDED**

**HB 754 (Pr. No. 4092)** -- 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.

On the question,

Will the Senate agree to the bill on third consideration?

Senator BRIGHTBILL offered the following amendment No. A3986:

Amend Title, page 1, line 18, by inserting after "repealing": obsolete

Amend Sec. 3 (Sec. 106.1), page 4, line 15, by striking out "THE" and inserting: such

Amend Sec. 3 (Sec. 106.1), page 4, line 15, by inserting after "DEPARTMENT": as it deems necessary and appropriate

Amend Sec. 11 (Sec. 115), page 13, line 22, by striking out "Beginning with fiscal year 2001" and inserting: Commencing with the fiscal year beginning July 1, 2002.

Amend Sec. 11 (Sec. 115), page 13, line 23, by striking out "fiscal year" and inserting: the fiscal year beginning July 1,

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.

### SPECIAL ORDER OF BUSINESS GUEST OF SENATOR NOAH W. WENGER PRESENTED TO THE SENATE

The PRESIDENT. The Chair recognizes the gentleman from Lancaster, Senator Wenger.

Senator WENGER. Mr. President, I am pleased to introduce a young lady who is seated in the gallery. Her name is Kathleen Shober, and she is from New Holland, Lancaster County. She is a sophomore at Penn State and is majoring in political science and education. She is doing a summer internship in my district office in Ephrata and is visiting the Senate here today to observe how things are done, especially during budget week. I would appreciate it if the Senate would extend its usual warm welcome to Kathleen Shober, who is visiting us today.

The PRESIDENT. Would the guest of Senator Wenger please rise, and we will be happy to welcome you.

(Applause.)

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

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

Senator O'PAKE. Mr. President, I also have in the gallery a summer intern from my Reading district office, a graduate of Reading Catholic High School and now attends a little college down the road, Mount St. Mary's in Emmitsburg, Mr. Brennan McDevitt. I would appreciate it if the Senate would extend its welcome to Brennan.

The PRESIDENT. Would the guest of Senator O'Pake kindly rise so we may welcome you to the Senate of Pennsylvania as well.

(Applause.)

### GUESTS OF SENATOR CHARLES W. DENT PRESENTED TO THE SENATE

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

Senator DENT. Mr. President, I also would like to introduce my guests, who might have left already, but they are my summer interns, Andrea Stevens, who is a student at Gettysburg College, and also Gideon Cohn, who will be attending the University of Pennsylvania this fall. I ask that we give them a warm welcome.

The PRESIDENT. Would the distinguished guests of Senator Dent kindly rise.

(Applause.)

### THIRD CONSIDERATION CALENDAR RESUMED

#### BILLS AMENDED

**SB 1222 (Pr. No. 2101)** -- The Senate proceeded to consideration of the bill, entitled:

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

On the question,

Will the Senate agree to the bill on third consideration?

Senator BRIGHTBILL offered the following amendment No. A4042:

Amend Sec. 5 (Sec. 503), page 18, line 9, by striking out "agents or members" and inserting: or agents

Amend Sec. 5 (Sec. 503), page 18, line 23, by inserting after "to": immediately

Amend Sec. 5 (Sec. 503), page 22, lines 16 through 19, 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.

**HB 1482 (Pr. No. 4083)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 30 (Fish) of the Pennsylvania Consolidated Statutes, further providing for the disposition of the proceeds from the special Lake Erie fishing permits.

On the question,  
Will the Senate agree to the bill on third consideration?  
Senator BRIGHTBILL, on behalf of Senator HELFRICK,  
offered the following amendment No. A3935:

Amend Sec. 1 (Sec. 2907.2), page 2, line 2, by striking out "on"  
Amend Sec. 1 (Sec. 2907.2), page 2, line 5, by striking out all of  
said line and inserting: shall be used to

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

**BILLS ON CONCURRENCE IN  
HOUSE AMENDMENTS**

**SENATE CONCURS IN HOUSE AMENDMENTS**

**SB 33 (Pr. No. 2133)** -- The Senate proceeded to consider-  
ation of the bill, entitled:

An Act amending the act of December 20, 1996 (P.L.1504,  
No.195), entitled, as reenacted and amended, "An act providing for the  
rights and privileges of taxpayers, for designation of a taxpayers' rights  
advocate and for the powers, duties and responsibilities of the Depart-  
ment of Revenue and the Taxpayers' Rights Advocate," further provid-  
ing for innocent spouse relief.

On the question,  
Will the Senate concur in the amendments made by the House  
to Senate Bill No. 33?

Senator BRIGHTBILL. Mr. President, I move that the Senate  
do concur in the amendments made by the House to Senate Bill  
No. 33.

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

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 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.

**SENATE CONCURS IN HOUSE AMENDMENTS**

**SB 380 (Pr. No. 2060)** -- The Senate proceeded to consider-  
ation of the bill, entitled:

An Act amending the act of November 24, 1998 (P.L.882, No.111),  
known as the Crime Victims Act, further providing for definitions, for  
rights of victims, for responsibilities of State and local law enforcement  
agencies and for powers and duties of bureau; amending provisions  
relating to compensation; and further providing for establishment of  
basic services for victims of crime.

On the question,  
Will the Senate concur in the amendments made by the House  
to Senate Bill No. 380?

Senator BRIGHTBILL. Mr. President, I move that the Senate  
do concur in the amendments made by the House to Senate Bill  
No. 380.

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

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

Senator CONTI. Mr. President, I rise to submit remarks for  
the record on this piece of legislation.

The PRESIDENT. The remarks will be spread upon the re-  
cord.

*(The following remarks were made a part of the record at the  
request of the gentleman from Bucks, Senator CONTI.)*

Mr. President, I would like to encourage my colleagues to concur  
with House amendments to Senate Bill No. 380, which was unani-  
mously approved by the Senate in April, and was recently passed, also  
unanimously, by the House.

Senate Bill No. 380 amends Section 201 of the Crime Victims Act  
to require victims of crime to be notified and given an opportunity to  
provide comment, when the court recommends that a defendant partici-  
pate in a motivational boot camp program. The change would also re-  
quire victims to be notified of the offender's date of release from a boot  
camp.

As my colleagues may be aware, this issue came to light when the  
Bucks County district attorney raised questions about an offender being  
assigned to a boot camp without the victims being notified or provided  
with an opportunity to comment.

Mr. President, given the fact that offenders who successfully com-  
plete a boot camp program have their sentences reduced considerably,  
I think it is only fair that their victims be given the opportunity to be  
heard when this occurs, and that victims should be notified when the  
offender is going to be released.

Additionally, the House amendments to Senate Bill No. 380 make  
this measure even stronger because they make comprehensive changes  
to the Crime Victims' Compensation Program. These changes were  
previously found in Senate Bill No. 807, sponsored by Senator Piccola.

As you know, Pennsylvania law currently provides financial com-  
pensation to victims of crime or uninsured or unreimbursable losses  
such as medical care, counseling services, and funeral expenses.

The House amendments expand the law to include additional types  
of allowable expenses to make it easier for victims to file claims for  
compensation, and to improve and strengthen reimbursement, reporting,  
and record-keeping procedures.

The House Appropriations Committee further amended Senate Bill No. 380 to increase the costs assessed on an adult offender from \$40 to \$60, and on juvenile offenders from \$15 to \$25. The amount of these costs, which is to be deposited in the Crime Victims' Compensation Fund, is raised from \$15 to \$35 in the case of an adult offender, and from \$15 to \$25 in the case of a juvenile offender.

This legislation is based on the recommendations of the Victims' Services Advisory Committee, which has engaged in a comprehensive evaluation of the compensation fund over the past 2 years.

Mr. President, I ask for an affirmative vote on Senate Bill No. 380.

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-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.

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

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

**SB 1109 (Pr. No. 2105)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for double jeopardy, for terroristic threats and for bomb threats; providing for weapons of mass destruction; and further providing for false alarms to agencies of public safety, for false reports to law enforcement authorities, for dealing in proceeds of unlawful activities, for facsimile bombs, for interception of communications and for possessing or dealing in firearms.

On the question,

Will the Senate concur in the amendments made by the House to Senate amendments, as amended, to Senate Bill No. 1109?

Senator BRIGHTBILL. Mr. President, I move that the Senate do concur in the amendments made by the House to Senate amendments, as amended, to Senate Bill No. 1109.

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

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 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 RESUMED**

**BILL REREPORTED FROM COMMITTEE AS AMENDED, AMENDED**

**SB 1372 (Pr. No. 2136)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, providing for wage tax reduction; and making repeals.

On the question,

Will the Senate agree to the bill on third consideration?  
Senator FUMO offered the following amendment No. A4023:

Amend Sec. 1 (Sec. 7001), page 2, lines 19 through 30, by striking out all of said lines

Amend Sec. 1 (Sec. 7002), page 3, line 18, by striking out "or imposed"

Amend Sec. 1 (Sec. 7002), page 3, lines 19 and 20, by striking out "under Chapter 19 of the Philadelphia Code" and inserting: by an ordinance of a city of the first class

Amend Sec. 1 (Sec. 7002), page 4, line 15, by striking out "or imposed"

Amend Sec. 1 (Sec. 7002), page 4, lines 16 and 17, by striking out "under Chapter 19 of the Philadelphia Code" and inserting: by an ordinance of a city of the first class

Amend Sec. 1 (Sec. 7002), page 5, lines 10 and 11, by striking out "or imposed"

Amend Sec. 1 (Sec. 7002), page 5, lines 11 and 12, by striking out "under Chapter 19 of the Philadelphia Code" and inserting: by an ordinance of a city of the first class

Amend Sec. 1 (Sec. 7002), page 6, lines 8 and 9, by striking out "or imposed"

Amend Sec. 1 (Sec. 7002), page 6, lines 9 and 10, by striking out "under chapter 19 of the Philadelphia code" and inserting: by an ordinance of a city of the first class

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 HUGHES offered the following amendment No. A3748:

Amend Sec. 4, page 6, line 5, by striking out "in 60 days." and inserting: upon the occurrence of both of the following:

(1) The reimbursement by the Commonwealth to the counties for all costs associated with judicial expenses pursuant to the orders of the Pennsylvania Supreme Court in County of Allegheny v. Commonwealth, 517 Pa. 65, 534 A.2d 760 and Pennsylvania Association of County Commissioners v. Commonwealth, 545 Pa. 324, 681 A.2d 699.

(2) The use of the funds referred to in paragraph (1) to reduce county taxes.

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

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

Senator HUGHES. Basically what we have, Mr. President, with Senate Bill No. 1372, which is a wage tax reduction bill, although extremely laudable on its face, the idea of lowering taxes for folks who live within the city of Philadelphia and for those individuals who live in the State and work in the city of Philadelphia, the idea of lowering their wage tax is of course a laudable idea. The problem with Senate Bill No. 1372 is the dramatic impact that it would have on the budget of the city of Philadelphia. Initial projections have come in, Mr. President, which say that with the passage of Senate Bill No. 1372 without any changes, that it would cause, in a very short period of time, I believe somewhere close to 4 or 5 years, a hole in the city's budget of almost \$1 billion, which is close to 50 percent of the entire budget of the city of Philadelphia. That is just an unacceptable drop that the city would have to incur. That is an unacceptable reality for the rest of the folks of the Commonwealth of Pennsylvania. That is a situation where city employees, folks who are providing human services and other kinds of services for the city, individuals who work in police and fire and rescue services, would more than likely have to be terminated from their positions, at worst, and at best, they would not have the opportunity to get any significant pay raises or any raises at all in this situation.

So what this amendment does, Mr. President, amendment A3748, is very simply, the substance of Senate Bill No. 1372, the reduction in those wage taxes, would only go into effect once the Commonwealth has implemented the Supreme Court decision in *The County of Allegheny vs. The Commonwealth*, which was basically the decision that required the State of Pennsylvania, the Commonwealth of Pennsylvania, to reimburse local counties for all of their court costs. That would be a vehicle that would allow

revenues to come into not only just Philadelphia County, but for all counties, and also allow a way for the city to offset the tremendous burden that the substance of Senate Bill No. 1372 would have on its budget.

Again, that budget hole is projected to be, in 4 to 5 years, about \$1 billion. And we need a way, we need a vehicle for the State to fully implement the decision of its Supreme Court, and that vehicle, by its implementation, would therefore offset in a dramatic way the costs of Senate Bill No. 1372, and also, I might add, allow for other counties around the Commonwealth to get the necessary funds, recoup the necessary funds they are expending on their local court system.

So with that, Mr. President, I ask for a positive vote on amendment A3748 to Senate Bill No. 1372.

Thank you very much.

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

Senator FUMO. Mr. President, while the amendment is laudable in its purpose, I think it would delay the cut of the wage tax in Philadelphia for a very long period of time and basically put it on some sort of vague condition that the Commonwealth would be picking up this \$100 million a year, which I happen to agree they should, but I am not holding my breath until they do. But we continue to maintain that because of the excellent fiscal management of Mayor Rendell, the city of Philadelphia is in a sea of black ink, surrounded by a sea of red ink, and we can easily afford the current administration, and if they would only adapt the principles put in place by the former mayor, this wage tax cut could easily be handled, so I urge a negative vote on the amendment.

Thank you, Mr. President.

#### 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 Gerlach.

The PRESIDENT. Senator Brightbill requests a legislative leave for Senator Gerlach. Without objection, that leave is granted.

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

Senator O'PAKE. Mr. President, I ask for a temporary Capitol leave for Senator Wagner.

The PRESIDENT. Senator O'Pake requests a temporary Capitol leave for Senator Wagner. Without objection, that leave will be granted.

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

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

YEA-5

Hughes	Kukovich	Schwartz	Williams, Anthony H.
Kitchen			

**NAY-45**

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

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

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

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

**SB 1501 --** Without objection, the bill was passed over in its order temporarily at the request of Senator BRIGHTBILL.

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

**HB 2020 (Pr. No. 4089) --** The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of May 3, 1933 (P.L.242, No.86), referred to as the Cosmetology Law, further providing for the definition of "School of Cosmetology," for practice of cosmetology without license prohibited, requirements to practice, eligibility requirements for examination, for management of cosmetology shops, for requirements of a school of cosmetology, for exceptions to examination requirements, for shared shops, for regulations by the board, for examinations and issuance of licenses, for temporary licenses, for sanitary rules, for fees and for penalties.

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 REREPORTED FROM COMMITTEE  
AS AMENDED OVER IN ORDER**

**HB 2410 --** Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

**BILL OVER IN ORDER**

**HB 170 --** Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

**BILL ON THIRD CONSIDERATION  
AND FINAL PASSAGE**

**HB 497 (Pr. No. 4032) --** The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of May 22, 1951 (P.L.317, No.69), known as The Professional Nursing Law, regulating the practice and licensure of dietetics and nutrition; further providing for penalties; and making an appropriation.

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

SB 559 -- Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

BILL LAID ON THE TABLE

HB 582 (Pr. No. 3061) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for criminal mischief and for institutional vandalism.

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

HB 582 TAKEN FROM THE TABLE

Senator BRIGHTBILL. Mr. President, I move that House Bill No. 582, Printer's No. 3061, be taken from the table and placed on the Calendar.

A voice vote having been taken, the question was determined in the affirmative.

The PRESIDENT. The bill will be placed on the Calendar.

BILL OVER IN ORDER TEMPORARILY

HB 590 -- Without objection, the bill was passed over in its order temporarily at the request of Senator BRIGHTBILL.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 615 (Pr. No. 2151) -- The Senate proceeded to consideration of the bill, entitled:

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

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-40

Armstrong	Gerlach	Madigan	Stout
Bell	Greenleaf	Mellow	Tartaglione
Bodack	Helfrick	Mowery	Thompson
Boscola	Holl	Murphy	Tomlinson

Brightbill	Hughes	Musto	Wagner
Conti	Kasunic	O'Pake	Waugh
Costa	Kitchen	Orie	White, Donald
Dent	Kukovich	Rhoades	Williams, Anthony H.
Erickson	Lemmond	Schwartz	Williams, Constance
Fumo	Logan	Stack	Wozniak

NAY-10

Corman	LaValle	Robbins	Wenger
Earll	Piccola	Scarnati	White, Mary Jo
Jubelirer	Punt		

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 REREPORTED FROM COMMITTEE AS AMENDED ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 1372 (Pr. No. 2159) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, providing for wage tax reduction; and making repeals.

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?

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. The Chair notes the presence on the floor of Senator Wagner, and his temporary Capitol leave is cancelled.

And the question recurring, Shall the bill pass finally?

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

YEA-50

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

Fumo	Madigan	Stack
Gerlach	Mellow	Stout

NAY-0

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

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

THIRD CONSIDERATION CALENDAR RESUMED

BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

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 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.

SB 1393 (Pr. No. 2152) -- The Senate proceeded to consideration of the bill, entitled:

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

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-40

Armstrong	Gerlach	Madigan	Stout
Bell	Greenleaf	Mellow	Tartaglione
Bodack	Helfrick	Mowery	Thompson
Boscola	Holl	Murphy	Tomlinson
Brightbill	Hughes	Musto	Wagner
Conti	Kasunic	O'Pake	Waugh
Costa	Kitchen	Orie	White, Donald
Dent	Kukovich	Rhoades	Williams, Anthony H.
Erickson	Lemmond	Schwartz	Williams, Constance
Fumo	Logan	Stack	Wozniak

NAY-10

Corman	LaValle	Robbins	White, Mary Jo
Earll	Piccola	Scarnati	
Jubelirer	Punt	Wenger	

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 RECOMMITTED

SB 1403 (Pr. No. 2034) -- The Senate proceeded to consideration of the bill entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for the offense of theft of trade secrets.

Upon motion of Senator BRIGHTBILL, and agreed to by voice vote, the bill was recommitted to the Committee on Communications and High Technology.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 1423 (Pr. No. 1971) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of August 5, 1932 (Sp.Sess., P.L.45, No.45), referred to as the Sterling Act, providing for crediting of certain taxes paid by nonresidents.

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

Senator HUGHES offered the following amendment No. A4068:

Amend Sec. 1 (Sec. 1), page 1, lines 17 through 21; page 2, lines 1 and 2, by striking out all of said lines on said pages and inserting:

(d) Notwithstanding any other provision of law to the contrary, nonresidents of a city of the first class who are subject to a tax imposed by a city of the first class pursuant to this act and who are also subject to a tax on earned income or net profits imposed by their jurisdictions of residence under the act of December 31, 1965 (P.L.1257, No.511), known as "The Local Tax Enabling Act," or 53 Pa.C.S. Ch. 87 (relating to other subjects of taxation) shall be granted a credit against personal income tax due to the Commonwealth under section 302 of the act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971," equal to the tax on earned income or net profits paid to their jurisdictions of residence under "The Local Tax Enabling Act" or 53 Pa.C.S. Ch. 87 and shall be liable for the full amount of tax due to their jurisdictions of residence without any credit for tax paid to a city of the first class.

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

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

Senator HUGHES. Mr. President, back again. Again, we are in a situation where we have to look at the fiscal impact of Senate Bill No. 1423 on the city of Philadelphia. The projected impact of Senate Bill No. 1423 is pretty significant, close to closing around the number of \$85 million to \$90 million that the city would lose in its budget if Senate Bill No. 1423 were to go into place. Again, the opportunity to provide local wage earners relief in some respect around their taxes is a laudable idea, an idea that we are glad that Senator Erickson has moved down this path to try to find some relief. We are encouraged with the opportunity to try to work with him on this matter, but at this time, in its current form, we feel that we need some work on this matter.

Consequently, we introduced amendment A4068, which basically allows for a credit on the State income tax equal to what is paid in your local tax if you are an individual who lives outside of the city of Philadelphia, works inside the city of Philadelphia, and pays some type of local tax, and so therefore you would get a credit, a State credit on your personal income tax equivalent to what you pay. The amendment also, because of the comments that I made before, because of the impact of the bill, changes the language of the bill and prevents the basic intent of the bill and tries to find some way to provide relief to individuals who live outside the city, work in the city, recognizing the fiscal impact on their own individual situation, and tries to get them some kind of relief in some fashion.

I ask for a "yes" vote on the amendment, Mr. President.

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

Senator WOZNIAK. Mr. President, although I respect my fine colleague from Philadelphia, I have to rise to oppose this amendment. I realize we are in a conundrum with the crushing wage tax that Philadelphia suburbs have to pay, and there is a major attempt here to try to reduce that. We do know that there is a fiscal impact down the line when you reduce that tax, and how do you deal with the budget? But when you are doing a credit to the State income tax, I think it is a backdoor way to reduce funds to

the Commonwealth of Pennsylvania. To make it real quick, those who pay the wage tax in Philadelphia will be able to mark off a credit on their State income tax. That means that the State, in a sense, will be paying the wage tax to Philadelphia and the Philadelphia budget, and that means every senatorial district, every legislative district, those individuals who pay their personal income tax, a very small portion proportionately across the State will be used to plug that hole. I do not think that is fair to the rest of Pennsylvania, and I would appreciate it if we could give this a negative vote.

Thank you, Mr. President.

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

Senator BRIGHTBILL. Mr. President, I cannot remember ever before when I have heard the gentleman from Cambria give a more clear and cogent reason to vote against an amendment, and I also urge a negative vote.

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

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

YEA-7

Fumo Hughes	Kitchen Schwartz	Stack Tartaglione	Williams, Anthony H.
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NAY-43

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

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

LEGISLATIVE LEAVE

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

Senator FUMO. Mr. President, I ask for a temporary Capitol leave for Senator Bodack.

The PRESIDENT. Senator Fumo requests a temporary Capitol leave for Senator Bodack. Without objection, that leave is granted.

LEAVE OF ABSENCE

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

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

Senator HUGHES offered the following amendment No. A3750:

Amend Sec. 2, page 2, line 3, by striking out "in 60 days." and inserting: upon the occurrence of both of the following:

(1) The reimbursement by the Commonwealth to the counties for all costs associated with judicial expenses pursuant to the orders of the Pennsylvania Supreme Court in County of Allegheny v. Commonwealth, 517 Pa. 65, 534 A.2d 760 and Pennsylvania Association of County Commissioners v. Commonwealth, 545 Pa. 324, 681 A.2d 699.

(2) The use of the funds referred to in paragraph (1) to reduce county taxes.

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

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

Senator HUGHES. Mr. President, again, this amendment is very similar to, if not exactly like, the one we attempted to introduce to Senate Bill No. 1372. I cannot underscore enough the impact of the implementation of Senate Bill No. 1423 on the bottom line for the city of Philadelphia. I cannot underscore enough what the fiscal cost would be for those individuals who receive services through the city and for those individuals who work for the city of Philadelphia, if this measure is introduced, Mr. President, not as significant as was the case with Senate Bill No. 1372, but significant nonetheless. The city's budget would be in a serious predicament and would be faced with issues of providing services for our residents, through either cutting back on employees or, at best, eliminating wage increases, benefits, and all things related therein.

What amendment A3750 does, very simply, is says the substance of Senate Bill No. 1423 would not be implemented until the Commonwealth of Pennsylvania realizes its obligation and implements the Supreme Court decision and requires the Commonwealth to pay for all county court costs for every county in this Commonwealth, not just for the county of Philadelphia, but for every county in this Commonwealth. We have fallen behind in our obligation with that matter, Mr. President. We would like the Commonwealth to do what it is supposed to do, and in this particular situation, this would provide a benefit for all counties, for all court systems across the Commonwealth in all counties, and in this particular situation, Mr. President, would relieve the burden that would be realized from the implementation of Senate Bill No. 1423. So therein, Mr. President, I ask for a positive vote on amendment A3750.

Thank you very much.

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

Senator BRIGHTBILL. Mr. President, I ask for a negative vote. This concept comes out of a court decision that actually came down during the years when Robert P. Casey was Governor. It would have been a huge financial burden on the Commonwealth of Pennsylvania. We have been working with the courts to begin implementation, have implemented the first phase. I do not know what the fiscal note on this particular amendment is,

but my guess is that if it is a billion dollars -- Senator Fumo is nodding, no. \$2 billion?

Senator FUMO. Mr. President, \$150 million.

Senator BRIGHTBILL. Mr. President, how much?

Senator FUMO. Mr. President, \$150 million.

Senator BRIGHTBILL. Mr. President, Senator Fumo says \$150 million. I think there is another zero or two there. I ask for a negative vote.

The PRESIDENT. Senator Fumo, do you wish to be recognized?

Senator FUMO. Mr. President, I am not going to argue with the gentleman about the number because I do not know what fiscal note he wants or what he is talking about. But anyway, I ask for an affirmative vote from my Members on this particular amendment to this bill.

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

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

YEA-20

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

NAY-29

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

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

And the question recurring,  
Will the Senate agree to the bill on third consideration?  
It was agreed to.

On the question,  
Shall the bill pass finally?

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

Senator FUMO. Mr. President, I ask for a negative vote on the bill.

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-32

Armstrong	Erickson	Murphy	Thompson
Bell	Greenleaf	Orie	Tomlinson
Boscola	Helfrick	Piccola	Waugh
Brightbill	Holl	Punt	Wenger
Conti	Jubelirer	Rhoades	White, Donald
Corman	Lemmond	Robbins	White, Mary Jo
Dent	Madigan	Scarnati	Williams, Anthony H.
Earll	Mowery	Schwartz	Williams, Constance

## NAY-17

Bodack	Kitchen	Mellow	Stout
Costa	Kukovich	Musto	Tartaglione
Fumo	LaValle	O'Pake	Wagner
Hughes	Logan	Stack	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.

## RECONSIDERATION OF VOTE

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

Senator FUMO. Mr. President, I move that the vote by which Senate Bill No. 1372 passed finally be reconsidered.

On the question,

Will the Senate agree to the motion?

A voice vote having been taken, the question was determined in the affirmative.

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-45

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

## NAY-4

Hughes	Kitchen	Schwartz	Williams, Anthony H.
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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.

## LEGISLATIVE LEAVE

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

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

The PRESIDENT. Without objection, that leave will be granted.

## THIRD CONSIDERATION CALENDAR RESUMED

## BILL OVER IN ORDER

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

BILL ON THIRD CONSIDERATION  
AND FINAL PASSAGE

**HB 2044 (Pr. No. 4082)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 27 (Environmental Resources) of the Pennsylvania Consolidated Statutes, consolidating the Environmental Laboratory Accreditation Act; and making repeals.

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	Helfrick	Murphy	Thompson
Bell	Holl	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	
Greenleaf	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 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.

## BILLS OVER IN ORDER

**HB 2190 and HB 2223** -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

BILL AMENDED AND OVER  
IN ORDER TEMPORARILY

**SB 1210 (Pr. No. 2100)** -- 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.

On the question,

Will the Senate agree to the bill on third consideration?

Senator CONTI offered the following amendment No. A4072:

Amend Title, page 1, line 2, by inserting after "providing": for renewal of registration, for examination of applicant for driver's license, for expiration and renewal of drivers' licenses,

Amend Title, page 1, line 3, by striking out "and" and inserting: ; prohibiting use of handheld mobile telephones; and further providing

Amend Bill, page 1, lines 7 through 9, by striking out all of said lines and inserting:

Section 1. Section 1309 of Title 75 of the Pennsylvania Consolidated Statutes is amended to read:

§ 1309. Renewal of registration.

At least 60 days prior to the expiration of each registration, the department shall send to the registrant an application for renewal of registration and educational materials relating to mobile phone safety. Upon return of the application, accompanied by self-certification of financial responsibility and the applicable fee or fees, the department shall send to the registrant a renewed registration card. Failure to receive a renewal application shall not relieve a registrant from the responsibility to renew the registration.

Section 2. Section 1508 of Title 75 is amended by adding a subsection to read:

§ 1508. Examination of applicant for driver's license.

\*\*\*

(e) Cell phone and driver distractions awareness.—The driver's manual shall include a section summarizing the risks of driver distractions, including the risks associated with operating a motor vehicle while using a handheld mobile telephone. The section shall also summarize the related penalties for a violation of section 3315 (relating to prohibiting use of handheld mobile telephones).

Section 3. Section 1514(a) of Title 75 is amended to read:

§ 1514. Expiration and renewal of drivers' licenses.

(a) General rule.—Every driver's license shall expire on the day after the licensee's birthdate at intervals of not more than four years as may be determined by the department. Every license shall be renewable on or before its expiration upon application, payment of the required fee, and satisfactory completion of any examination required or authorized by this chapter. The department shall send to the licensee with the renewal application educational materials relating to mobile telephone safety.

\*\*\*

Section 4. Section 1532(a) of Title 75 is amended and the section is amended by adding a subsection to read:

Amend Bill, page 3, by inserting between lines 4 and 5:

Section 5. Title 75 is amended by adding a section to read:

§ 3315. Prohibiting use of handheld mobile telephones.

(a) General rule.—Except as provided in subsection (b), no driver shall operate any moving vehicle on a highway of this Commonwealth, which shall include Federal, State and municipal highways, while using a handheld mobile telephone.

(b) Exception.—The provisions of this section shall not apply to law enforcement officers and operators of emergency vehicles when on duty and acting in their official capacities.

(c) Defense.—It shall be a defense to a prosecution brought for a violation of this section that the driver had reason to fear for his or her safety, was reporting a traffic accident or was making a "911" emergency call.

(d) Penalty.—A person who violates this section commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$250.

(e) Annual report.—The Joint State Government Commission shall compile statistics from the Commonwealth of Pennsylvania Police Crash Reporting Form relating to all types of driver distractions which affect highway and traffic safety and issue an annual report to the General Assembly.

(f) Recommendations.—The Governor or a designee, the Commissioner of the Pennsylvania State Police, the secretary and the chairman and the minority chairman of the Transportation Committee of the Senate and the chairman and the minority chairman of the Transportation Committee of the House of Representatives shall meet annually to review the annual report and make recommendations to the General Assembly regarding highway safety and driver distractions.

(g) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Handheld mobile telephone." A mobile telephone other than a hands-free mobile telephone with which a user engages in a call using at least one hand.

"Hands-free mobile telephone." A mobile telephone that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such mobile telephone, by which a user engages in a call without the use of either hand, whether or not the use of either hand is necessary to activate, deactivate or initiate a function of such telephone.

(h) Expiration.—This section shall expire January 1, 2008.

Amend Sec. 2, page 3, line 5, by striking out "2" and inserting: 6

Amend Sec. 3, page 5, line 8, by striking out "3" and inserting: 7

Amend Sec. 4, page 6, line 1, by striking out all of said line and inserting:

Section 8. This act shall take effect as follows:

(1) The addition of 75 Pa.C.S. § 3315 shall take effect January 1, 2003.

(2) This section shall take effect immediately.

(3) The remainder of this act shall take effect in 60 days.

On the question,

Will the Senate agree to the amendment?

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

Senator CONTI. Mr. President, I appreciate the opportunity to discuss this amendment, and if I may respectfully request the attention of my colleagues on the other side of the aisle, so to speak, I apologize because I did not get this amendment to your Caucus in time for you to caucus on it. It is much more comprehensive than the one you did caucus on, so it is one of those days for me, and I am running a little late in a very difficult time of our budget Session here, so I apologize.

If I can briefly go over the more comprehensive amendment that I would like you all to consider today, remembering that I have had a couple of years of involvement here on this cell phone issue with the tragedy that began in my district with the Pena family on election day in 1999. The Pena family and many of their supporters are to be applauded for the many lives they have saved over these last several years. It would be impossible for us to calculate how many lives they have saved with their public awareness effort, and I am pleased to say that with your prior support, Pennsylvania is clearly a leader among States in the

compilation of the data and eventual statistics on cell phone accidents that occur here in Pennsylvania. I thank you for your support. You remember we had the uniform crash report and began to compile these statistics a year ago, and the first reports came out and have been available for all of us to review.

So today, at this point, I now offer a more comprehensive cell phone safety amendment for your consideration. The important parts of this amendment are that we are requesting PennDOT to create a cell phone safety brochure to include in the license and registration mailings that we receive when we get our licenses and vehicle registrations. So I think that would be a very important effort.

Second, we are going to include a rigorous cell phone safety requirement in the instructions for people getting licenses in Pennsylvania, especially our youthful drivers, the 16- and 16 1/2-year-olds who get their driver's licenses in Pennsylvania, we are going to require a special section on cell phone safety.

Third, if you remember your support of the compilation of the data, this is really being done without legislative backing. It was a resolution that was agreed to, so this amendment will put into law a continuing compilation of this data. And the Joint State Government Commission will continue to issue a yearly report so we can address this data in the future. May I say that the first year's report, which I think showed a .3 or some rather low statistic of cell phone accidents in the State, I urge you to consider and review that first year report carefully, because there were many computer problems with the new uniform crash report that was used. And we all heard from many of our police departments across the Commonwealth, their lack of interest in participating in that program, and they have kind of come along kicking and screaming, shall we say, to participate in this new program. So I am not sure that our first year's statistics are the ones I would like to rely on, so I would like to continue to compile these statistics for another 5 years, at a minimum, and have our excellent Joint State Government Commission continue to issue these reports.

Fourth, we would form a commission with a representative from the Governor's Office, the Secretary of PennDOT, the colonel of the State Police, and the chairmen of the Committee on Transportation, the Republican and Democratic chairmen of the Committee on Transportation in the Senate and the House, to continue to review this on a yearly basis, whatever these statistics prove.

Also continued in this bill is a \$250 summary offense for the use of a handheld cell phone, a handheld cell phone only. This is not depriving anybody the right to use a cell phone in their car. Anybody who has received a cell phone in the last 2 or 3 years is probably receiving the hands-free attachment at no cost, and certainly they are very affordable if someone has had their phone for a longer amount of time. So that is still in there, a \$250 summary offense. I note for the record that many other States around us are starting to adopt this, and New York has a \$1,000 fine. But in the interest of what I think is technology, and I firmly believe, and I have had various discussions with all of you, I have a feeling that in 3 to 5 years from now, we may not need this offense because of technological gains we will have. When the chairman of the Committee on Transportation held a hearing on this issue a year ago, we had some excellent testimony: Do not deprive people the right to use cell phones in cars, do not deprive com-

puters in the cars in the future, everything will have to be predicated upon the technology and the design of these features. So it has been a pleasure to work with the cell phone companies in improving the technology so that we all have hands-free capability available in our cars.

To that end, this amendment would sunset the \$250 fine 5 years from now. I feel so strongly that with technology this will not be needed in the future so I am willing to sunset this summary offense of \$250 just 5 years from now.

So I offer this amendment for your consideration. Let me say in closing that this is a really important issue of road safety. I might ask my colleagues from the suburban and urban areas in particular, this is so important with the congested roadways that we have, that if we can save 5, 10, 20, 100 lives over the next 5 years, until technology takes care of this issue, I think we can say we have accomplished a good job for road safety here in this Commonwealth. So I respectfully ask for your support of this amendment, and I also apologize once again for you not having the opportunity to caucus on this properly and taking more time than I expected to explain this amendment.

Thank you, Mr. President.

#### QUESTION DIVIDED

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

Senator BRIGHTBILL. Mr. President, I move that we divide the amendment. It comes in two portions, beginning with section 1 and section 3, which I believe can be divided from section 4.

If that is in order, Mr. President, I would then have comments. These are two distinct concepts. The first is basically a concept that requires the giving of information, which is an excellent idea to make people aware of the danger.

The second portion prohibits the use of handheld mobile telephones, and some people may want to vote differently on that than the first portion.

The PRESIDENT. Senator Brightbill moves that the question be divided. He is entitled to do that. Senator Brightbill wishes to divide the question from sections 1, 2, and 3 from section 4 on. That is my understanding. What about the sunset provision? Would that be divided as well?

Senator BRIGHTBILL. Mr. President, the sunset provision, as I understand it, only applies to section 5. Is that correct?

The PRESIDENT. I think that is correct.

Senator BRIGHTBILL. Mr. President, so that would stay with the second portion of the amendment.

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

Senator C. WILLIAMS. Mr. President, I originally rose in support of the Senator's amendment, but I request that we keep it whole.

The PRESIDENT. We cannot do that, Senator. Any Member has the right to divide the question, and so the question will be divided, and that is part of our rules.

The record will reflect the portion of amendment No. A4072 under consideration at this time.

## Division I of A4072

Amend Title, page 1, line 2, by inserting after "providing": for renewal of registration, for examination of applicant for driver's license, for expiration and renewal of drivers' licenses,

Amend Bill, page 1, lines 7 through 9, by striking out all of said lines and inserting:

Section 1. Section 1309 of Title 75 of the Pennsylvania Consolidated Statutes is amended to read:

§ 1309. Renewal of registration.

At least 60 days prior to the expiration of each registration, the department shall send to the registrant an application for renewal of registration and educational materials relating to mobile phone safety. Upon return of the application, accompanied by self-certification of financial responsibility and the applicable fee or fees, the department shall send to the registrant a renewed registration card. Failure to receive a renewal application shall not relieve a registrant from the responsibility to renew the registration.

Section 2. Section 1508 of Title 75 is amended by adding a subsection to read:

§ 1508. Examination of applicant for driver's license.

\*\*\*

(e) Cell phone and driver distractions awareness.—The driver's manual shall include a section summarizing the risks of driver distractions, including the risks associated with operating a motor vehicle while using a handheld mobile telephone. The section shall also summarize the related penalties for a violation of section 3315 (relating to prohibiting use of handheld mobile telephones).

Section 3. Section 1514(a) of Title 75 is amended to read:

§ 1514. Expiration and renewal of drivers' licenses.

(a) General rule.—Every driver's license shall expire on the day after the licensee's birthdate at intervals of not more than four years as may be determined by the department. Every license shall be renewable on or before its expiration upon application, payment of the required fee, and satisfactory completion of any examination required or authorized by this chapter. The department shall send to the licensee with the renewal application educational materials relating to mobile telephone safety.

\*\*\*

Section 4. Section 1532(a) of Title 75 is amended and the section is amended by adding a subsection to read:

Amend Sec. 2, page 3, line 5, by striking out "2" and inserting: 6

Amend Sec. 3, page 5, line 8, by striking out "3" and inserting: 7

Amend Sec. 4, page 6, line 1, by striking out all of said line and inserting:

Section 8. This act shall take effect as follows:

(1) The addition of 75 Pa.C.S. § 3315 shall take effect January 1, 2003.

(2) This section shall take effect immediately.

(3) The remainder of this act shall take effect in 60 days.

On the question,

Will the Senate agree to Division I of the amendment?

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

Senator CONTI. Mr. President, is it appropriate for me to comment on the division of the amendment at this time?

The PRESIDENT. The amendment is already divided, Senator Conti. Any Member has a right to divide that. It is already divided. The only thing that would be in order would be to speak for or against the first part of the amendment, which is, as you know, sections 1, 2, and 3, the information part of it. That is the only thing that we have before us at this time.

Senator CONTI. Thank you, Mr. President.

And the question recurring,

Will the Senate agree to Division I of the amendment?

A voice vote having been taken, the question was determined in the affirmative.

The PRESIDENT. The record will reflect the second portion of amendment No. A4072 under consideration at this time.

## Division II of A4072

Amend Title, page 1, line 3, by striking out "and" and inserting: ; prohibiting use of handheld mobile telephones; and further providing Amend Bill, page 3, by inserting between lines 4 and 5:

Section 5. Title 75 is amended by adding a section to read:

§ 3315. Prohibiting use of handheld mobile telephones.

(a) General rule.—Except as provided in subsection (b), no driver shall operate any moving vehicle on a highway of this Commonwealth, which shall include Federal, State and municipal highways, while using a handheld mobile telephone.

(b) Exception.—The provisions of this section shall not apply to law enforcement officers and operators of emergency vehicles when on duty and acting in their official capacities.

(c) Defense.—It shall be a defense to a prosecution brought for a violation of this section that the driver had reason to fear for his or her safety, was reporting a traffic accident or was making a "911" emergency call.

(d) Penalty.—A person who violates this section commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$250.

(e) Annual report.—The Joint State Government Commission shall compile statistics from the Commonwealth of Pennsylvania Police Crash Reporting Form relating to all types of driver distractions which affect highway and traffic safety and issue an annual report to the General Assembly.

(f) Recommendations.—The Governor or a designee, the Commissioner of the Pennsylvania State Police, the secretary and the chairman and the minority chairman of the Transportation Committee of the Senate and the chairman and the minority chairman of the Transportation Committee of the House of Representatives shall meet annually to review the annual report and make recommendations to the General Assembly regarding highway safety and driver distractions.

(g) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Handheld mobile telephone." A mobile telephone other than a hands-free mobile telephone with which a user engages in a call using at least one hand.

"Hands-free mobile telephone." A mobile telephone that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such mobile telephone, by which a user engages in a call without the use of either hand, whether or not the use of either hand is necessary to activate, deactivate or initiate a function of such telephone.

(h) Expiration.—This section shall expire January 1, 2008.

On the question,

Will the Senate agree to Division II of the amendment?

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

Senator C. WILLIAMS. Mr. President, I rise in support of the second part of the amendment. I think it is very important that we restrict communications with cell phones to those which are not handheld. Visions of people driving and shifting and talking on the phone, or driving and talking on the phone and changing the radio is distracting enough in these times when we are driving, and I think it is a very good amendment. I urge my colleagues to vote to accept this amendment.

The PRESIDENT. The Chair recognizes the gentleman from Bradford, Senator Madigan.

Senator MADIGAN. Mr. President, I rise to ask for a negative vote. I believe as the amendment is now, it is pretty much similar, with the exception of the sunset, to the bill that was defeated in the Committee on Transportation by a 12 to 2 vote. The study that was done showed that 3.5 percent of accidents were caused by all distractions, and I think we may be premature in moving ahead. I support the concept of getting more information, and I really do not have an interest in it, because unfortunately, I live in a part of the State where technology has decided not to come. We still use smoke signals to get from one to the other, but I ask for a negative vote.

The PRESIDENT. You can say that on the turnpike, too, Senator.

The Chair recognizes the gentleman from Allegheny, Senator Wagner.

Senator WAGNER. Mr. President, with all cell phones we sometimes need smoke signals, because sometimes they do not work appropriately, and that really is one of the problems in terms of utilizing them and at the same time driving.

I rise in support of both parts of this amendment. This is a highway safety amendment. Make no mistake about it, Senator Conti is right. This amendment will help reduce the loss of life on Pennsylvania highways. It is the utilization of technology which is available today to incorporate safety measures into the operation of a vehicle.

Mr. President, we have seen, going back years, decades, when automobile companies would not implement the use or even put into automobiles safety belts and air bags. And if it were not for the insistence of safety initiatives across this country, automobiles today would not be as safe as they are. The Conti amendment is an enhancement to the operation and the safety of an automobile, because in fact, and we all know this, you can incorporate a cell phone without holding it for a very minor cost. That cost may be less than \$10. So for us to stand here and say that this would not enhance safety in an automobile, we are not facing the facts. So I support this amendment.

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

Senator CONTI. Mr. President, thank you all for your initial support on the beginning portion of this amendment, now that I understand the parliamentary drill that we are going through here. So listen, at the hearing that the chairman of the Committee on Transportation had, there was some wonderful testimony about the three factors when you drive a car: the visual, the mechanical, and the cognitive. This amendment will greatly diminish problems of a mechanical nature, and possibly a visual nature. We can never get to the cognitive issue. We would not allow other people in cars, because when you talk to somebody else, you have a problem with cognitive attention. But from a mechanical standpoint, we all drive an awful lot in our public service, and you know what it is like to juggle that cell phone as you are driving or to try to dial as you are driving. So I know we need reports, I know we need statistics, and I am proud that the Commonwealth of Pennsylvania, with your support, is a leader in the compilation of this data and statistics. But my good friends and colleagues, it is time to act now. Do not go through the tragedy

I went through in my district in late 1999. Let us save some lives while we can. I ask you for an affirmative vote on this important road safety amendment.

Thank you, Mr. President.

And the question recurring,

Will the Senate agree to Division II of the amendment?

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

#### YEA-16

Bell	Greenleaf	Orie	Tomlinson
Brightbill	Holl	Piccola	Wagner
Conti	Mellow	Schwartz	Williams, Anthony H.
Erickson	Musto	Thompson	Williams, Constance

#### NAY-32

Armstrong	Hughes	Madigan	Stack
Bodack	Jubelirer	Mowery	Stout
Boscola	Kasunic	Murphy	Tartaglione
Corman	Kitchen	O'Pake	Waugh
Costa	Kukovich	Punt	Wenger
Dent	LaValle	Rhoades	White, Donald
Earll	Lemmond	Robbins	White, Mary Jo
Fumo	Logan	Scarnati	Wozniak

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

Senator BRIGHTBILL. Mr. President, I request that Senate Bill No. 1210 go over temporarily, as amended.

The PRESIDENT. The bill will go over temporarily, as amended.

#### HB 590 CALLED UP

**HB 590 (Pr. No. 3851)** -- Without objection, the bill, which previously went over in its order temporarily, was called up, from page 4 of the Third Consideration Calendar, by Senator BRIGHTBILL.

#### BILL AMENDED

**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 perfor-

mance 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.

On the question,

Will the Senate agree to the bill on third consideration?

Senator BRIGHTBILL offered the following amendment No. A4075:

Amend Sec. 5 (Sec. 210), page 8, line 21, by inserting after "may": upon publication of notice in the Pennsylvania Bulletin.

Amend Sec. 5 (Sec. 210), page 8, line 21, by striking out "director" and inserting: commission

Amend Sec. 6 (Sec. 501), page 11, lines 29 and 30 by striking out "Notwithstanding any provision of this act or any other law to the contrary" and inserting: To the extent permitted by law

Amend Sec. 8 (Sec. 601), page 15, line 4, by striking out the bracket before "less"

Amend Sec. 8 (Sec. 601), page 15, line 4, by striking out "] fewer"

Amend Sec. 10 (Sec. 603), page 19, line 11, by striking out "has attained" and inserting: will attain

Amend Sec. 10 (Sec. 603), page 19, line 12, by inserting after "service": upon completion of the probationary period

Amend Sec. 13 (Sec. 705), page 21, line 23, by inserting after "service": to a position in the classified service

Amend Sec. 16 (Sec. 803), page 22, lines 26 through 28, by striking out "such as Inspector General," in line 26, all of line 27 and "Police," in line 28

On the question,

Will the Senate agree to the amendment?

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

Senator BRIGHTBILL. Mr. President, this is a technical amendment, but it is a revised version of the technical amendment that was discussed earlier.

And the question recurring,

Will the Senate agree to the amendment?

It was agreed to.

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

**SPECIAL ORDER OF BUSINESS  
SUPPLEMENTAL CALENDAR No. 1**

**BILL ON THIRD CONSIDERATION  
AND FINAL PASSAGE**

**SB 1222 (Pr. No. 2158)** -- The Senate proceeded to consideration of the bill, entitled:

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

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	Helfrick	Murphy	Thompson
Bell	Holl	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	
Greenleaf	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. 3**

**BILL ON THIRD CONSIDERATION  
AND FINAL PASSAGE**

**HB 754 (Pr. No. 4132)** -- 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 obsolete provisions relating to tire recycling investment tax credits.

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	Helfrick	Murphy	Thompson
Bell	Holl	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	La Valle	Robbins	Williams, Anthony H.
Dent	Lemmond	Scarnati	Williams, Constance
Earll	Logan	Schwartz	Wozniak
Erickson	Madigan	Stack	
Fumo	Mellow	Stout	
Greenleaf	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 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.

## LEAVE CHANGE

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

Senator BRIGHTBILL. Mr. President, I ask that Senator Gerlach's leave of absence be changed to a legislative leave.

The PRESIDENT. Senator Brightbill requests a legislative leave for Senator Gerlach. Without objection, that leave is granted.

SPECIAL ORDER OF BUSINESS  
SUPPLEMENTAL CALENDAR No. 4BILLS REREPORTED FROM COMMITTEE  
AS AMENDED ON SECOND CONSIDERATION

**HB 2100 (Pr. No. 4128)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, further providing for definitions, for examination and inspection and for extracts, copies or photostats; providing for denial of access to public records, for redaction, for response to requests for access and for final agency determinations; further providing for appeal from denial of right; and providing for court costs and attorney fees, for penalty and for immunity.

Considered the second time and agreed to,

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

**HB 2126 (Pr. No. 4129)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 22, 2001 (P.L.374, No.24), known as the Optional Occupation Tax Elimination Act, further providing for the definitions of "governing body" and "political subdivision," for earned income tax limits and for certain prohibition of occupation tax; and making an editorial correction.

Considered the second time and agreed to,

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

## LEGISLATIVE LEAVE

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

Senator O'PAKE. Mr. President, I request a temporary Capitol leave for Senator Fumo.

The PRESIDENT. Without objection, Senator Fumo will be added to temporary Capitol leave.

SPECIAL ORDER OF BUSINESS  
SUPPLEMENTAL CALENDAR No. 5

## SENATE NONCONCURS IN HOUSE AMENDMENTS

**SB 1366 (Pr. No. 2134)** -- 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 providing for settlement and collection of State taxes; further regulating abandoned property; requiring public notice of certain real property purchases by the Commonwealth; providing for a right of certain public officials to examine and review Inspector General reports; and making a repeal.

On the question,

Will the Senate concur in the amendments made by the House to Senate Bill No. 1366?

Senator BRIGHTBILL. Mr. President, I move the Senate nonconcur in the amendments made by the House to Senate Bill No. 1366, and that a Committee of Conference on the part of the Senate be appointed.

On the question,

Will the Senate agree to the motion?

A voice vote having been taken, the question was determined in the affirmative.

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

SPECIAL ORDER OF BUSINESS  
SUPPLEMENTAL CALENDAR No. 6BILL ON THIRD CONSIDERATION  
AND FINAL PASSAGE

**HB 1482 (Pr. No. 4133)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 30 (Fish) of the Pennsylvania Consolidated Statutes, further providing for the disposition of the proceeds from the special Lake Erie fishing permits.

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	Wagh
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.

CONSIDERATION OF CALENDAR RESUMED

THIRD CONSIDERATION CALENDAR RESUMED

BILL OVER IN ORDER TEMPORARILY

HB 2322 -- Without objection, the bill was passed over in its order temporarily at the request of Senator BRIGHTBILL.

BILL OVER IN ORDER

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

BILL LAID ON THE TABLE

HB 2445 (Pr. No. 3888) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for cruelty to animals.

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

HB 2445 TAKEN FROM THE TABLE

Senator BRIGHTBILL. Mr. President, I move that House Bill No. 2445, Printer's No. 3888, be taken from the table and placed on the Calendar.

A voice vote having been taken, the question was determined in the affirmative.

The PRESIDENT. The bill will be placed on the Calendar.

SECOND CONSIDERATION CALENDAR

BILL REREPORTED FROM COMMITTEE AS AMENDED REREFERRED

SB 854 (Pr. No. 2154) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, defining "corrections officer"; and further providing for use of force in law enforcement.

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

BILL OVER IN ORDER

SB 315 -- Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

BILL ON SECOND CONSIDERATION

HB 412 (Pr. No. 3294) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, further providing for health recommendations.

Considered the second time and agreed to,

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

BILLS OVER IN ORDER

SB 449, SB 451, SB 885, SB 1042 and SB 1208 -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

BILLS LAID ON THE TABLE

SB 1409 (Pr. No. 1952) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, requiring Internet service providers to maintain confidentiality of certain information; and imposing a penalty.

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

SB 1410 (Pr. No. 1953) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for deceptive or fraudulent business practices.

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

#### BILLS OVER IN ORDER

**SB 1425 and HB 2207** -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

#### SB 1210 CALLED UP

**SB 1210 (Pr. No. 2100)** -- Without objection, the bill, which previously went over in its order temporarily as amended, was called up, from page 5 of the Third Consideration Calendar, by Senator BRIGHTBILL.

#### BILL LAID ON THE TABLE

**SB 1210 (Pr. No. 2100)** -- 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.

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

#### RECONSIDERATION OF VOTE

#### NOMINATION LAID ON THE TABLE

The PRESIDENT. The Chair recognizes the gentleman from Mercer, Senator Robbins.

Senator ROBBINS. Mr. President, I move that the vote by which Katherine E. Holtzinger Conner was confirmed as a member of the Civil Service Commission on June 25, 2002, be reconsidered and that the nomination be laid upon the table.

The PRESIDENT. Senator Robbins moves that the vote by which the nomination of Katherine E. Holtzinger Conner to be a member of the Civil Service Commission was confirmed be reconsidered.

On the question,

Will the Senate agree to the motion?

A voice vote having been taken, the question was determined in the affirmative.

The PRESIDENT. The nomination will lie on the table.

#### THIRD CONSIDERATION CALENDAR RESUMED

#### BILL REREFERRED

**HB 767 (Pr. No. 4067)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of March 28, 1984 (P.L.150, No.28), known as the Automobile Lemon Law, further providing for definitions and for resale of returned motor vehicle.

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

#### BILL OVER IN ORDER

**HB 1215** -- Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

#### HB 1501 CALLED UP

**HB 1501 (Pr. No. 4088)** -- Without objection, the bill, which previously went over in its order temporarily, was called up, from page 2 of the Third Consideration Calendar, by Senator BRIGHTBILL.

#### BILL REREPORTED FROM COMMITTEE AS AMENDED, AMENDED

**HB 1501 (Pr. No. 4088)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Titles 18 (Crimes and Offenses) and 53 (Municipalities) of the Pennsylvania Consolidated Statutes, further providing for sale of tobacco; and providing for placement of tobacco vending machines and for preemption.

On the question,

Will the Senate agree to the bill on third consideration?

#### SCHWARTZ AMENDMENT A3923

Senator SCHWARTZ offered the following amendment No. A3923:

Amend Title, page 1, line 1, by striking out "Titles" and inserting: Title

Amend Title, page 1, line 1, by striking out "and 53 (Municipalities)"

Amend Title, page 1, line 9, by striking out "AND FOR PREEMPTION"

Amend Sec. 3, page 17, line 30; page 18, lines 1 through 23, by striking out all of said lines on said pages

Amend Sec. 4, page 18, line 24, by striking out "4" and inserting:

3

Amend Sec. 5, page 18, line 26, by striking out "5" and inserting:

4

On the question,

Will the Senate agree to the amendment?

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

Senator SCHWARTZ. Mr. President, this could be an extremely important piece of legislation. Actually it is something that we have attempted to do several times in my 12 years in the Senate, which is to find a way to be very clear about what is already current law that we are not changing, which is that it is illegal to sell tobacco products to minors. And so what we are trying to do in a variety of ways in this State is to make sure that we enforce that law. Of course, the Federal regulations have made it an even more serious task than obviously some of the

concerns about health care for young people. Just to remind my colleagues, and I do not think I will spend very much time on this because I think we all agree that we should limit young people's access to tobacco products, but just to remind my colleagues, that if in fact you get to age 21 without having started to smoke, it is extremely unlikely that you will ever smoke, which is why this is so important. Ninety percent of smokers start before they are 19 years old. That is an extraordinary statistic, so this is not really only about a few young people smoking, it is really about future generations smoking, as well as making sure that our young people are healthy. It is really about generations to come being far healthier than the ones who already are well over 21.

So what we have been trying to do is to state a very strong law on the State level to assure compliance of retailers, and many of them, I have to say, Mr. President, many retailers across the State, I have been in stores, convenience stores, where they have trained the clerks well, where there are good signs posted, where they are very clear about asking for identification and making sure that they refuse anyone who does not present valid identification. That is not what we are talking about. The concern here is really not so much about those retailers who are trying very hard to comply with the law and make sure that they do not in any way help contribute to young people getting tobacco products. So what we are looking at are ways in which we can both educate and enforce the law to make sure that neither young people seek tobacco products, nor retailers actually sell them. So that means citations and fines and eventually withholding a license from a retailer. And that is serious, and it is also serious for young people.

What we have also seen in the State are some local communities taking a strong hand in this, well before the State has, partly because we have not acted as much as we should have. We have seen local communities take strong action, and where we have, it has made an enormous difference. And I have visited and talked to a number of those people in Pittsburgh, in Allentown, in Philadelphia. I have actually accompanied young people on compliance checks, and we have had hearings where young people themselves have been horrified at adults actually selling them tobacco products when they should not. That is extremely important.

So while we do want to have a strong State law, and I will speak to some of the other problems in the bill with my other amendments, one of the things, because this bill is not yet good enough, and it simply is not, we have to make sure that our local communities, should they choose to take additional steps, particularly to help with compliance and education, that they should be able to do so. I do not think that we have really presented a very strong and good law that they would be inclined to do very much with that, but nonetheless, there may be things, and I will be happy to give you a list. I have a dozen different ways that a local community might choose to implement this with the local authority. I will not go into all that except to say it is important for us to allow local communities to take steps to protect the health of their young people now and into the future.

So I ask my colleagues to support this amendment, which simply removes the language that would preempt any local community from taking action to pass their own ordinance, such as Allegheny County has, such as Pittsburgh has, such as Philadel-

phia has, several in Montgomery County, that they would in the future be able to do that. So I hope that my colleagues support this amendment that simply removes the language that preempts all local ordinances in the future.

Thank you, Mr. President.

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

Senator MOWERY. Mr. President, Senator Schwartz has presented I think most all of our feelings, that we need to do more to try to recognize the importance of keeping cigarettes out of the hands of minors in Pennsylvania. The sale of cigarettes to minors threatens funding, however, that Pennsylvania receives from the Federal government to provide county drug and alcohol preventive programs. Failure to reduce the rate of sales to minors could result in Pennsylvania losing \$23 million in Federal drug and alcohol funding, and House Bill No. 1501 seeks to limit access of minors to cigarettes by strengthening the penalties on retailers who sell to minors, by making it an offense for minors to purchase tobacco products or falsely represent themselves to be the age of 18, banning cigarette vending machines in locations accessible to anyone under the age of 18, and providing the Department of Health with new enforcement authority. This legislation includes tough but necessary penalties on retailers which are designed to stop the sale of cigarettes to minors.

The PRESIDENT. Senator, would you yield, please. Senator Schwartz is indicating that the only debate is on the preemption amendment at this point, Senator, and I ask you to confine yourself to the amendment, if you would, please.

Senator MOWERY. Thank you very much, Mr. President. I was trying to kind of give an overview so that the Members would have an idea of what House Bill No. 1501 is really all about. I appreciate your thoughts.

The preemption language prohibits local governments from passing regulations on areas that are specifically addressed in the bill. By including preemption, we are establishing one set of licensing standards and one set of penalties for failure to meet these standards. Preemption is very important because we believe that as the business reacts to the preemption provision, the only way they could even begin to look at it is to be able to provide probably one of the finest training programs for their employees, and the employees are really the ones who make that final decision as to whether or not they are going to go by the rules that are established in this legislation or make a decision to break the law. And when they do, it becomes very difficult for them in regard to the fines that are established in this bill. Failure to include preemption language would require retailers to deal with as many as 2,600 different sets of rules regarding how they can sell tobacco products.

This bill is a strong bill, it is a bill that we have waited a long time to be able to look at from a State level, and therefore I ask for a negative vote on the amendment to eliminate preemption language from this bill.

Thank you, Mr. President.

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

Senator SCHWARTZ. Mr. President, let me point out to the Members here as well that one of the areas where I am concerned about preemption is that this is a Criminal Code that we are pass-

ing, and if a local ordinance wanted to create a civil ordinance and some civil penalties and civil enforcement, it would be precluded from doing so, and I think that is particularly unfortunate since we do know, and I will speak to this again later on a different amendment, that it is really often the Health Department or the people who are responsible for licenses in a local community and not the police department that really have the time and the high priority of making sure that retailers comply. So that is one of the huge gaps in this legislation if we do not eliminate the preemption language.

Thank you, Mr. President.

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

Senator MOWERY. Mr. President, the preemption language really prohibits local governments from passing regulations on the areas that we have specifically addressed in this bill, and the amended preemption language narrows the focus of preemption. For example, by limiting the preemption to areas addressed in the bill, we have, for example, in local government, we have not restricted them, maybe they would like to pass an ordinance that prohibits advertising for cigarette sales or for placing signs in areas throughout the community to try to discourage smoking by our young people.

Again, for that reason, I ask for a negative vote on the amendment.

LEGISLATIVE LEAVE

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

Senator WAGNER. Mr. President, I ask for a temporary Capitol leave for Senator Musto.

The PRESIDENT. Senator Wagner requests a temporary Capitol leave for Senator Musto. Without objection, that leave will be granted.

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

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

Senator WAGNER. Mr. President, I rise to support the amendment. I am from Allegheny County, as most of you know, and the problem with this legislation is that it preempts a better law in Allegheny County, a better law that reduces the potential for children to begin to smoke and ultimately to contract cancer, to become addicted to nicotine. There is some basis, I believe, some strong basis to this amendment, and it relates mainly, Mr. President, to local government versus State government. The question is, does local government know what is best for local residents when it relates to some issues and some instances? And the answer to that question, Mr. President, I believe is local government does at times when it comes to the health and the safety of the people living within that community. For that reason, Mr. President, I support the amendment. The bill does many good things also, but we can make this bill stronger with certain amendments.

Thank you.

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

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

YEA-19

Bell	Kitchen	Orie	Tartaglione
Bodack	Kukovich	Rhoades	Wagner
Fumo	Mellow	Schwartz	Williams, Anthony H.
Greenleaf	Musto	Stack	Williams, Constance
Hughes	O'Pake	Stout	

NAY-31

Armstrong	Erickson	Logan	Thompson
Boscola	Gerlach	Madigan	Tomlinson
Brightbill	Helfrick	Mowery	Waugh
Conti	Holl	Murphy	Wenger
Corman	Jubelirer	Piccola	White, Donald
Costa	Kasunic	Punt	White, Mary Jo
Dent	LaValle	Robbins	Wozniak
Earll	Lemmond	Scarnati	

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

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

SCHWARTZ AMENDMENT A4061

Senator SCHWARTZ offered the following amendment No. A4061:

Amend Sec. 3 (Sec. 301), page 18, line 22, by striking out "JANUARY" and inserting: July

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

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

Senator SCHWARTZ. Mr. President, since the previous amendment failed by not so much, but did fail, I am offering an amendment that would just create the preemption to begin instead of last January, which would actually mean that some local ordinances that are already in existence, including Allegheny County's, would no longer be in effect, and make the effective date of the preemption July 1, 2002. So it would be effective next week, but it would allow all local ordinances that currently exist to stay in effect.

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

Senator MOWERY. Mr. President, we really looked into that because that was one that we felt we might be able to accept. Our concerns are that we have not seen any of the regulations actually being written yet, and we have no idea how it would apply if there are local ordinances now that are more, in some areas, let us say, stronger than the ones that are in this bill, even though this is probably an extremely strong bill as it is currently written.

And so we tried with the attorneys to figure out how that would be interpreted, and we really could not come up with an answer to that particular part of the issue, so I ask for a negative vote on the amendment.

LEGISLATIVE LEAVE

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

Senator BRIGHTBILL. Mr. President, I ask for a temporary Capitol leave for Senator Madigan.

The PRESIDENT. Senator Brightbill requests a temporary Capitol leave for Senator Madigan. Without objection, that leave will be granted.

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

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

YEA-20

Bell	Hughes	Musto	Stack
Bodack	Kitchen	O'Pake	Tartaglione
Costa	Kukovich	Orie	Wagner
Fumo	Logan	Rhoades	Williams, Anthony H.
Greenleaf	Mellow	Schwartz	Williams, Constance

NAY-30

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

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

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

SCHWARTZ AMENDMENT A4062

Senator SCHWARTZ offered the following amendment No. A4062:

Amend Sec. 1 (Sec. 6305), page 8, line 23, by striking out "or"

Amend Sec. 1 (Sec. 6305), page 8, lines 24 and 25, by striking out "FOR THE PURPOSE OF CONDUCTING RETAILER EDUCATION AND ASSESSING COMPLIANCE WITH FEDERAL LAW" and inserting: or any organization under contract with such agencies

Amend Sec. 1 (Sec. 6305), page 9, lines 20 through 30, by striking out all of lines 20 through 29 and "(6)" in line 30 and inserting: (5)

Amend Sec. 1 (Sec. 6305), page 11, line 11, by striking out "OR" and inserting a comma

Amend Sec. 1 (Sec. 6305), page 11, line 12, by inserting after "ACT": or any organization under contract with such agencies

Amend Sec. 1 (Sec. 6305), page 11, line 14, by inserting after "Procedure"; and may also issue citations for violations of this section

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

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

Senator SCHWARTZ. Mr. President, to get into some of the details of the bill, basically what this amendment does is clarifies in the bill the permission for local health departments and sub-contractors to the Health Department to have the authority to do compliance checks and issue citations and eliminates some of the language that creates limitations on these compliance checks. And the reason this is extremely important, again, Mr. President, I have actually visited with organizations that have been conducting these compliance checks, and it is extremely important for them to be able to give the actual citation. The way the bill is drafted right now is that, again, because it is a Criminal Code bill, the only thing that can happen is that if a Health Department official goes into a retailer and sees that they are violating the law, they have to then call the police to come in and observe what they observed to issue a citation. It is practically not possible.

Right now the way it is written in the bill, these compliance checks done by the Department of Health are simply for, quote, the education of the retailer, and it leaves the enforcement to law enforcement, to the police department. Now, maybe in some communities this will be the top priority for law enforcement. It may be that in some communities they might hire additional police officers to do this. But, Mr. President, it is really unlikely that will happen, in which case you would have to be lucky enough potentially to have a law enforcement officer in a retail shop and choose to give that citation to them. Of course, they would have to be well educated on this new law to do that. It is not practical. What happens now is that those who are given the authority to enforce many of the health ordinances in our Commonwealth are also given the authority to give the citations. That is true in restaurants, it is true in a number of places where the Department of Health or the Department of Agriculture go in and they actually have the authority to give the citation, and then the fines would be applied. Without that authority, this bill is so weak it would have very little enforcement. And really, what we are trying to do here is enforce the law, and again, any retailer who is already complying with the law has no reason to be concerned. It is really, Mr. President, to help make sure that every retailer across the Commonwealth, particularly in areas where there is a lot of noncompliance or poor information potentially, we can make extra efforts in that regard, and that may well be where we might be able to use some of our tobacco dollars that are dedicated for this purpose, and we did dedicate 12 percent of the tobacco settlement dollars for this purpose. We are now taking away their real authority to do this, just so they will be able to go in and provide some education. That is really very different, and it takes away authority that some of our local health departments already have and have been using. So we are going in the opposite direction.

We are trying to make sure that we can comply with Federal law so that we will not lose \$23 million next year, because we are barely meeting the benchmarks for curbing young people's smoking. We are not going to get there, Mr. President, unless we make this change. So it is potentially a small change in the bill, it makes some changes in the language, as I said, about the compliance checks, it gives some more authority to the Health Department. It does not take authority away from law enforcement, but it will give us a tool that in fact has been shown to be effective, and we should keep it in law in Pennsylvania.

Thank you.

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

Senator MOWERY. Mr. President, really, I have some concern about the statement that requires the police to come in to give the citation, because the bill gives the authority to local officials, including the local health department, and so forth, to offer the citations and to go in at any time and oversee the things that we are concerned about and that Senator Schwartz is concerned about. We certainly are not interested in passing legislation here tonight that has no enforcement powers, and in my opinion, we are providing enforcement powers. It may be after we have the bill in operation for a period of time that we will find that we need to do more, but at the present time, I really believe that the bill has been agreed to by so many different groups. And this was not an easy one to handle, as Senator Schwartz also is aware, because she is on the committee. We have an opportunity here to do something. We have raised the bar very high from no bar at all for our expectations as to what this bill will do, and I would just like to see the bill passed as it is so that we can have an opportunity this summer to get on for the next several months and really see just how good the bill is. So for that reason, I ask for a negative vote on the amendment.

LEGISLATIVE LEAVE

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

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

The PRESIDENT. Senator Wagner requests a temporary Capitol leave for Senator O'Pake. Without objection, that leave will be granted.

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

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

YEA-19

Bell	Hughes	O'Pake	Tartaglione
Bodack	Kitchen	Orie	Wagner
Dent	Kukovich	Rhoades	Williams, Anthony H.
Fumo	Mellow	Schwartz	Williams, Constance
Greenleaf	Musto	Stack	

NAY-31

Armstrong	Gerlach	Madigan	Thompson
Boscola	Helfrick	Mowery	Tomlinson
Brightbill	Holl	Murphy	Waugh
Conti	Jubelirer	Piccola	Wenger
Corman	Kasunic	Punt	White, Donald
Costa	LaValle	Robbins	White, Mary Jo
Earll	Lemmond	Scarnati	Wozniak
Erickson	Logan	Stout	

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

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

SCHWARTZ AMENDMENT A4060

Senator SCHWARTZ offered the following amendment No. A4060:

Amend Sec. 1 (Sec. 6305), page 4, line 8, by inserting after "HEALTH": or  
Amend Sec. 1 (Sec. 6305), page 4, lines 9 and 10, by striking out all of line 9, "(iv)" in line 10 and inserting: (iii)

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

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

Senator SCHWARTZ. Mr. President, there are fairly stiff fines for minors who attempt to buy cigarettes, and what this amendment does is deletes the \$200 fine for minors while retaining the two other penalties, suspension of a driver's license, which I would contend would be far more threatening to a teenager, and also completing a tobacco cessation and prevention program. There are also some community service options here, but it really just deletes the fine.

Thank you, Mr. President.

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

Senator MOWERY. Mr. President, I ask for a negative vote on this. The \$200 fine is just one of four, and there may be a situation where that would be very appropriate, depending upon the severity of what the minor had done. And so I think that leaving it in is certainly not hurting the bill at all. I am sure that the local officials who would be enacting this legislation and punishing the minors who go in to purchase cigarettes, I think it is pretty nice to just have it the way it is, and also, if we can, we can move the bill along, and I ask for a negative vote.

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

Senator MURPHY. Mr. President, I know that there have been some moves afoot to send the circumstances by which we deal with underage youth trying to purchase cigarettes back to the way things were when there was no fine at all. Overall, this bill does increase the fine substantially in some other areas other than those being discussed with this amendment.

As Senator Mowery pointed out, there are many options here as the bill exists. There can be community service, there may be a fine, there may be a loss of driving privileges, and it is important that local magistrates have some options for adolescents. One thing is very important. Anybody who has ever asked their kid to clean their room or pick up their clothes or do anything knows that one of the things that crosses kids' minds is what you are going to do about it? And having spent so much of my professional career working with teenagers, it is very common to hear them quote the law, and knowing that when it comes to cigarettes, there is nothing anybody is going to be able to do about it. I think it is important to maintain a menu, as it were, of options that someone may have to impress upon children the importance of this. If we really believe that having strong reactions to children who smoke, to clerks who sell, to stores that sell cigarettes as well, if we really believe that we are interested in the best interests of youth in not getting them started in cigarette smoking, it seems to me we ought to maintain several options, some quite substantial, for youth who purchase cigarettes. That sends a strong signal to them in terms that they can understand, that starting cigarette smoking at a young age is not a good idea. Teenagers, by the way they view the world, do not think in terms of when they are going to be 50 or 60 or 70 years old, or they think of themselves as invulnerable and not getting cancer or any one of a number of ailments from cigarettes. This helps show them that there are some things that a district justice or someone may place upon them now, at this time, in some ways to help them understand the seriousness of this, so I ask for a negative vote on the amendment.

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

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

YEA-9

Bell	Hughes	Kukovich	Tartaglione
Conti	Kitchen	Schwartz	Williams, Anthony H.
Greenleaf			

NAY-41

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

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

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

SCHWARTZ AMENDMENT A4054

Senator SCHWARTZ offered the following amendment No. A4054:

Amend Title, page 1, line 1, by striking out "Titles" and inserting: Title

Amend Title, page 1, line 1, by striking out "and 53 (Municipalities)"

Amend Title, page 1, line 7, by inserting a period after "TO-BACCO"

Amend Title, page 1, lines 7 through 9, by striking out "; AND" in line 7 and all of lines 8 and 9

Amend Sec. 1 (Sec. 6305), page 1, lines 15 through 17; page 2, lines 1 through 7, by striking out all of said lines on said pages and inserting:

(a) Offense defined.—A person is guilty of a summary offense if he:

(1) sells tobacco, in any form, to any minor under the age of 18 years;

(2) by purchase, gift or other means, furnishes tobacco, in any form, to a minor under the age of 18 years; [or]

(3) knowingly and falsely represents himself to be 18 years of age or older to another for the purpose of procuring or having furnished to him tobacco in any form[.]; or

Amend Sec. 1 (Sec. 6305), page 2, line 10, by striking out the semi colon and inserting a period

Amend Sec. 1 (Sec. 6305), page 2, lines 11 through 30; pages 3 through 12, lines 1 through 30; page 13, lines 1 through 28, by striking out all of said lines on said pages and inserting

(b) Penalty.—A person who violates this section shall, upon conviction, be sentenced to pay a fine of not less than \$25 for a first offense and not less than \$100 for a subsequent offense.

(c) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Tobacco product." A cigarette, cigar, pipe tobacco or other smoking tobacco product or smokeless tobacco in any form, manufactured for the purpose of consumption by a purchaser and any cigarette paper or product used for smoking tobacco.

"Tobacco vending machine." A mechanical or electrical device from which one or more tobacco products are dispensed for a consideration.

Amend Bill, page 17, lines 29 and 30; page 18, lines 1 through 26, by striking out all of said lines on said pages

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

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

Senator SCHWARTZ. Mr. President, as you can tell from the series of other amendments that I offered that were defeated, and actually I have several others, but I can sense the impatience of my colleagues, even though I find this an extremely important piece of legislation, and also the direction in which my amendments are going in terms of trying to strengthen this bill, so I rise to offer an amendment that really takes out most of the language of this bill, because I really believe that while with one hand we strengthen the bill, with the other hand we take away the real ability to be effective in this law, and it means that we sound like we are doing the right thing, and I will give an example, we are going to hold retailers accountable, but the compliance checks are actually for educational purposes only, and then we give them suggestions and create an affirmative defense, and I am not a lawyer, but as I understand it, it is a rather strong way of letting them know that they can go in and have the action completely

reversed very quickly and not even have to pay the fines. We have also created short timeframes so that you would have to have a number of different fines implemented in a short period of time before you would ever take a license away and, Mr. President, this simply creates a mixed message for retailers, and that simply is unacceptable.

So while I would like to see us work it out, and I do appreciate the prime sponsor of this bill really working to try to accommodate the retailers, I believe again that any retailer that is complying with the law has nothing to worry about. There is no reason to not be stronger about the compliance and the enforcement aspects of this law, that we have actually preempted a good law potentially in Allegheny County, or other laws that might take effect to address specific communities because we have not taken care of those serious problems and the mixed messages of this legislation.

My amendment removes all of the language of this legislation except for one part. It does not introduce anything new, but there is just one part it holds on to, and that is that it sets a standard for prohibiting vending machines anywhere where minors may have access to those vending machines and applies the fines solely to that purpose. So it creates a very simple tool, something we know works. I believe in doing what works, Mr. President. We know what works is making sure that vending machines are not accessible to minors. We know the compliance checks which we took out and the way they were effective works, but let us hang on to one of the pieces we know really works, and that is banning vending machines. And hopefully, Mr. President, along with the efforts we have under the tobacco settlement, some of the efforts with the State Health Department under the Synar regulations with the potential of a change in the cigarette tax, we may see a reduction in youth smoking in Pennsylvania.

So I ask my colleagues, as impatient as they might be to have dinner, I did not choose the timing, Mr. President, that we actually set aside essentially most of the substance of this bill, hold on to the one piece that we all agree to, and if we need to, come back and look at some additional language at a future date.

Thank you, Mr. President.

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

Senator MOWERY. Mr. President, the bill already bans vending machines for anyplace that allows those under the age of 18 to enter. This is absolutely right. We believe that vending machines have been a source of a lot of minors obtaining cigarettes, particularly if they are not located in a very public area of a retail store. And so a very important piece of legislation was to ban them from anywhere where those under the age of 18 could have access to a vending machine. So once again, I ask for a negative vote on this particular amendment.

Thank you, Mr. President.

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

Senator KUKOVICH. Will the maker of the amendment stand for interrogation?

The PRESIDENT. She is standing right now, Senator, so I guess she will.

Senator SCHWARTZ. Mr. President, I do still have to grant permission, but yes.

Senator KUKOVICH. Mr. President, to clarify the amendment, I believe, in essence, the other provisions of the bill would be eliminated, the vending machine language to which both the gentlewoman and Senator Mowery agree would remain, and the only penalty provision that would be in it would be for the vending machine violation, is that correct?

Senator SCHWARTZ. Yes, Mr. President, that is correct.

Senator KUKOVICH. Mr. President, I think if the bill would pass as it currently is, we are going to have a bill that no one is going to like entirely. I think there are a number of retailers that are still concerned about some rather onerous provisions in this bill.

Secondly, I think that the American Lung Association and public health advocates are very unhappy with the weakening of this bill. I think the real reason, the only reason for this bill, is to try to ensure that the Federal funding to which both Senator Mowery and Senator Schwartz have alluded remains. I am convinced that what we could do that by accepting this amendment, since it would be targeted only to the vending machines, an issue with which everyone agrees, which the studies show do prevent youth smoking, coupled with the fact that within a few days we will probably pass some sort of cigarette tax which the studies show even more strongly has the biggest impact on reducing juvenile smoking. If we do that, along with better enforcement by the Health Department, the Federal Synar money will be there. I am not sure why we have to go through this and pass this kind of bill such as House Bill No. 1501, which is not going to make anyone happy. It is not going to necessarily ensure we get those funds.

I would suggest that at this point in time, rather than creating this whole new mechanism, we accept this amendment, do something positive again with which we all agree regarding the vending machines, and allow this bill to go forward that way. I think it will make the retailers happy, I think it will make the American Lung Association and public health people happy, and I do not think we are going to jeopardize the loss of any Federal money. I ask for a "yes" vote on the amendment.

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

Senator MOWERY. Mr. President, I would just like to add that if we do that particular amendment, my legal advisors have said that it would eliminate all the other fines in the bill. So there is just no way that I can say anything but ask for a negative vote.

Thank you, Mr. President.

#### LEGISLATIVE LEAVE

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

Senator WAGNER. Mr. President, I request a temporary Capitol leave for Senator Stout.

The PRESIDENT. Senator Wagner requests a temporary Capitol leave for Senator Stout. Without objection, that leave will be granted.

And the question recurring,

Will the Senate agree to the amendment?

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

YEA-12

Bell	Kitchen	Orie	Tartaglione
Earll	Kukovich	Schwartz	Williams, Anthony H.
Hughes	LaValle	Stack	Williams, Constance

NAY-38

Armstrong	Gerlach	Mowery	Thompson
Bodack	Greenleaf	Murphy	Tomlinson
Boscola	Helfrick	Musto	Wagner
Brightbill	Holl	O'Pake	Waugh
Conti	Jubelirer	Piccola	Wenger
Corman	Kasunic	Punt	White, Donald
Costa	Lemmond	Rhoades	White, Mary Jo
Dent	Logan	Robbins	Wozniak
Erickson	Madigan	Scarnati	
Fumo	Mellow	Stout	

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

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

COSTA AMENDMENT A3934

Senator COSTA offered the following amendment No. A3934:

Amend Title, page 1, line 7, by inserting after "preemption.": criminal trespass and for

Amend Bill, page 1, lines 12 and 13, by striking out all of said lines and inserting:

Section 1. Section 3503 of Title 18 of the Pennsylvania Consolidated Statutes is amended by adding a subsection to read:  
§ 3503. Criminal trespass.

\*\*\*

(b.3) School trespasser.—

(1) A person commits an offense if he:

(i) fails to obey notices posted in a manner prescribed by law or reasonably likely to come to the person's attention at each entrance of school grounds that visitors are prohibited without authorization from a designated school, center or program official;

(ii) fails or refuses to obey instruction to leave school grounds as communicated by a school, center or program official, employee or agent or a law enforcement officer; or

(iii) makes an unauthorized entry onto school grounds with the intent to commit a crime.

(2) (i) An offense under paragraph (1)(i) constitutes a summary offense.

(ii) An offense under paragraph (1)(ii) constitutes a misdemeanor of the first degree.

(iii) An offense under paragraph (1)(iii) constitutes a felony of the second degree.

(3) As used in this subsection, the term "school grounds" means any building of or grounds of any elementary or secondary publicly funded educational institution, any elementary or secondary private school licensed by the Department of Education, any elementary or secondary parochial school, any certified day-care center or any licensed preschool program.

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Section 2. Section 6305 of Title 18 is amended to read:

3 Amend Sec. 2, page 17, line 29, by striking out "2" and inserting:

4 Amend Sec. 3, page 17, line 30, by striking out "3" and inserting:

5 Amend Sec. 4, page 18, line 24, by striking out "4" and inserting:

6 Amend Sec. 5, page 18, line 26, by striking out "5" and inserting:

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

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

Senator COSTA. Mr. President, I will be very brief. The amendment I propose here today for my colleagues to consider would essentially establish a new crime entitled school trespass. Essentially, the way the elements of this particular crime would be established is if a person fails to obey a notice that is posted in a conspicuous manner that they are likely to come in contact with regard to their entrance on school grounds, that particular visitor, without the authority of being in that school, would essentially commit the crime of school trespass and be subject to a summary offense for the failure of the notice.

The second provision that relates to that particular bill, Mr. President, would be that once that person ignores the signs that are posted on the facility, either the building or the school grounds or the center, they continue to stay in the school and refuse to leave the school, at that point in time they commit the same crime of school trespass but of a different degree in terms of the grading that would rise to a level of a misdemeanor of the first degree, which is subject up to a 5-year penalty.

And further, Mr. President, the final part of that particular piece of legislation refers to unauthorized entry onto the school grounds with the very specific intent to commit a crime in the school building that would rise to the level of a felony of the second degree. Back in 1998, we did a similar piece of legislation which was entitled agriculture trespass, and this is basically very similar to that nature. It is a distinction from the general crimes of trespass, criminal trespass, simple trespass, and defiant trespass. The reason for the legislation is that it was brought to our attention by a local police chief in the Churchill Borough and our district attorney in Allegheny County, who essentially were unable to prosecute an individual on the former grades of the trespass law because of the lack of ability to designate a very specific intent, the lack to meet that particular element. This particular piece of legislation does not require that that element be there, but rather it says by virtue of entering the school grounds, knowing that you are not permitted to be there, you meet that requirement. I ask my colleagues to adopt this amendment.

Thank you, Mr. President.

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

Senator MOWERY. Mr. President, I think there are a lot of good points to that particular amendment, but I question the germaneness of the amendment to this particular bill, so I ask for a negative vote.

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

Senator COSTA. Mr. President, if I could respond to the germaneness. Mr. President, obviously, the bill that was proposed, House Bill No. 1501, is a Title 18 bill, as I understand it, as well as the amendment that I am offering today is to Title 18.

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

Senator BRIGHTBILL. Mr. President, on amendment A3934, which provides a subsection of criminal trespass, we believe that the offense of trespassing onto a school would already be a criminal offense. There are already criminal penalties for it, and we do not believe that this is necessary. We suggest to the gentleman that if he feels there is some weakness in that law, then the gentleman should pursue this by offering a bill which would be taken up by the Committee on Judiciary.

One of the issues that happens to face this General Assembly at this time is a technical issue which deals with what are called general and specific crimes, and one of the ironies of this, because the gentleman mentioned the district attorney's office, is that the District Attorneys Association is pursuing language that tries to deal with a problem that arises when we pass a specific crime that basically encompasses the same or similar elements to a general crime. We think that this amendment potentially causes more harm than good, and I ask for a negative vote.

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

Senator COSTA. Mr. President, with respect to the gentleman's comments as it relates to the legislation or the amendment already encompassed in the current statute of criminal trespass, as I indicated earlier, it is the opinion of the district attorney in our county, District Attorney Stephen Zappala's office, that this in fact was not covered. The situation that resulted in the introduction of this amendment and also House Bill No. 1873, by the way, Mr. President, Printer's No. 2739, this amendment is in legislative form, it is here in the Senate. It is my understanding it is not in the Committee on Judiciary but rather in the Committee on Education, and I welcome the opportunity for that measure to move forward out of that committee.

But despite that, Mr. President, this issue arose when we had a situation in my district at a local grade school where an individual proceeded to make his way into the grade school and was asked to leave, and he did leave. Mr. President, the individual went down to the next school within the same municipality, about a mile-and-a-half away, and entered that school again, and at that particular point in time he was asked to leave and refused to leave. At that point in time, upon the refusal of leaving, he was provided with a summary offense.

Essentially, what this legislation would do in that same circumstance would raise the level of this offense from a summary offense for a simple trespass to a misdemeanor of the first degree, where an individual who has no business being in a schoolhouse where our kids are in school and refuses to leave that schoolhouse, that this elevates the offense from a simple summary offense, which is subject to 90 days in jail or a \$300 fine, up to a misdemeanor of the first degree. I believe that is appropriate, it is something that this General Assembly and this Chamber should consider, and I ask for an affirmative vote.

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

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

YEA-24

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

NAY-26

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

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

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

A.H. WILLIAMS AMENDMENT A3823

Senator A.H. WILLIAMS offered the following amendment No. A3823:

Amend Title, page 1, line 7, by inserting after "TOBACCO;": defining "bidis" or "beedies"; prohibiting the sale of bidis;  
Amend Bill, page 17, by inserting between lines 29 and 30:  
Section 3. Title 18 is amended by adding a section to read:

§ 7515. Sale of bidis.

(a) General rule.—The sale of bidis is prohibited.

(b) Penalty.—A cigarette dealer or wholesaler or retailer who holds a license who sells bidis commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not more than \$500.

(c) Definition.—As used in this section, the term "bidis" or "beedies" means a product containing tobacco that is wrapped in temburni leaf (*diospyros melanoxylon*) or tendu leaf (*diospyros exculpra*), or any other product that is offered to, or purchased by, consumers as bidis or beedies.

Amend Sec. 3, page 17, line 30, by striking out "3" and inserting:

4 Amend Sec. 4, page 18, line 24, by striking out "4" and inserting:

5 Amend Sec. 5, page 18, line 26, by striking out "5" and inserting:

6

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

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator A.H. Williams.

Senator A.H. WILLIAMS. Mr. President, I listened intently to the discussion tonight with regard to what the object of this

piece of legislation is, and if the intent is to reduce or eliminate teen smoking, then this amendment fits perfectly to the process that we have begun tonight. If there is such a thing as a gateway drug, then this is a gateway cigarette. It comes in vanilla, mango, cherry, et cetera. There are not products on the market that relate to such types of cigarettes, because those who have mature, addicted lungs to nicotine do not need that type of attraction. And frankly, when I introduced the amendment, most of us said, what is a bidi? Is it a cap one wears on his head? Is it a type of cologne? And when we discovered it was a type of cigarette, we went further. We purchased these products from all over the Pennsylvania Commonwealth, so it is not just a Philadelphia phenomena, it is a Pennsylvania, a national phenomena. These are cigarettes that adults do not smoke, because they are not intended for adults. They have been produced, manufactured, marketed, distributed for one population, and that is the teenager. They are sold in mom and pop stores all across the Commonwealth of Pennsylvania. They are highly toxic, extremely addictive, and frankly, on more occasions than not, more powerful than a common cigarette, which is before most of us, who may consume them. This is not a product to be compromised. This is not a product that one can tax out of existence because, unfortunately, if we were to compromise and use taxes as a form of generating more revenue to do what we want to do, educate teenagers, we would be in fact collecting revenue from that population that we hope to remove from the smoking rolls in the future.

My plea is a very simple one, Mr. President. Tonight, if we plan to make a statement, let us make a defining statement. Let those teenagers realize that adults do know what is going on within that population, that we do believe what we are saying tonight is that we do not want to simply reduce teenage smoking, we want to eliminate it. And let us eliminate first the gateway cigarette, the bidis. I ask for your unanimous support tonight for this amendment.

Thank you, Mr. President.

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

Senator MOWERY. Mr. President, this is an agreed-to amendment, and I ask for a "yes" vote.

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

It was agreed to.

The PRESIDENT. House Bill No. 1501 will go over in its order as amended.

## RECONSIDERATION OF HB 2044

### BILL AMENDED

**HB 2044 (Pr. No. 4082)** -- The PRESIDENT. The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Mr. President, I move that the vote by which House Bill No. 2044 passed the Senate be reconsidered.

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

A voice vote having been taken, the question was determined in the affirmative.

And the question recurring,  
Shall the bill pass finally?

## RECONSIDERATION OF VOTE

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

Senator BRIGHTBILL. Mr. President, I move to reconsider the vote by which the bill was agreed to on third consideration.

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

A voice vote having been taken, the question was determined in the affirmative.

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

Senator BRIGHTBILL offered the following amendment No. A3978:

Amend Title, page 2, lines 5 through 9, by striking out all of said lines and inserting:

Amending Title 27 (Environmental Resources) of the Pennsylvania Consolidated Statutes, consolidating the Environmental Laboratory Accreditation Act; and making repeals.

Amend Bill, page 12, lines 26 through 30; page 13, lines 1 through 30; page 14, lines 1 through 16, by striking out all of said lines on said pages and inserting:

Section 1. Part IV heading of Title 27 of the Pennsylvania Consolidated Statutes is amended and the part is amended by adding a chapter to read:

### PART IV ENVIRONMENTAL PROTECTION [(Reserved)] CHAPTER 41

#### ENVIRONMENTAL LABORATORY ACCREDITATION

Sec.

4101. Scope of chapter.

4102. Definitions.

4103. Establishment of program.

4104. Powers and duties.

4105. Powers and duties of Environmental Quality Board.

4106. Requirements of certificate of accreditation.

4107. Interim requirements.

4108. Advisory committee.

4109. Unlawful conduct.

4110. Penalties.

4111. Records.

4112. Whistleblower protection.

4113. Continuation of existing rules and regulations.

§ 4101. Scope of chapter.

This chapter deals with environmental laboratory accreditation.

§ 4102. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Accreditation." A determination by the Department of Environmental Protection that an environmental laboratory is capable of performing one or more classes of testing or analysis of environmental samples in accordance with this chapter.

"Certificate of accreditation." A document issued by the Department of Environmental Protection certifying that an environmental laboratory has met standards for accreditation.

"Department." The Department of Environmental Protection of the Commonwealth.

"Environmental Hearing Board." The board established under the act of July 13, 1988 (P.L.530, No.94), known as the Environmental Hearing Board Act.

"Environmental laboratory." A facility engaged in the testing or analysis of environmental samples.

"Environmental Quality Board." The board established under section 1920-A of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

"Environmental sample." A solid, liquid, gas or other specimen taken for the purpose of testing or analysis as required by an environmental statute.

"Environmental statute." A statute administered by the Department of Environmental Protection relating to the protection of the environment or of public health, safety and welfare.

"Laboratory supervisor." A technical supervisor of an environmental laboratory who supervises laboratory procedures and reporting of analytical data.

"NELAC." The National Environmental Laboratory Accreditation Conference.

"NELAP." The National Environmental Laboratory Accreditation Program.

"Secretary." The Secretary of Environmental Protection of the Commonwealth.

#### § 4103. Establishment of program.

(a) Establishment.—The department shall establish an accreditation program for environmental laboratories.

(b) Accreditation.—An environmental laboratory must be accredited under this chapter and be in compliance with all the provisions of this chapter in order to generate data or perform analyses to be used to comply with an environmental statute.

(c) Testing and analysis.—All testing and analysis requirements of an environmental statute shall be performed by an environmental laboratory accredited under this chapter. Testing and analysis shall be performed in accordance with the requirements of this chapter, the environmental statutes and any conditions imposed by the department.

#### § 4104. Powers and duties.

The department shall have the following powers and duties:

(1) Establish, administer and enforce an environmental laboratory accreditation program which shall include accreditation standards necessary for a State certification program. The program shall also include a NELAP accreditation program for those laboratories seeking this certification. The program may also include any other specific broad-based Federal or State accreditation program for certification.

(2) Issue, renew, deny, revoke, suspend or modify certificates of accreditation to environmental laboratories in accordance with regulations adopted by the Environmental Quality Board.

(3) Impose terms or conditions on accreditation as necessary to implement and enforce this chapter.

(4) Conduct inspections and tests or samplings, including the examination and copying of records and data pertinent to a matter under investigation. Duly authorized agents and employees of the department may at reasonable times enter and examine property, facilities, operations and activities subject to regulation under this chapter.

(5) Issue orders and initiate proceedings as necessary to implement and enforce this chapter.

(6) Require a fee for the processing of an application for a certificate of accreditation, including the issuance, renewal, modification or other action relating to the certificate, in an amount sufficient to pay the department's cost of implementing and administering the accreditation program.

(7) Provide technical assistance and advice to persons and environmental laboratories subject to this chapter.

(8) Contract with third parties to inspect and monitor environmental laboratories.

(9) Cooperate with appropriate Federal, State, interstate and local government units and private organizations to implement this chapter.

(10) Allow the use of experimental procedures on a case-by-case basis to satisfy the testing or analysis requirements established under an environmental statute.

(11) Seek approval as an accrediting authority from NELAP.

#### § 4105. Powers and duties of Environmental Quality Board.

(a) General rule.—The Environmental Quality Board shall adopt

regulations as necessary to implement this chapter, to include the establishment of:

(1) Testing or analysis to be conducted by an environmental laboratory.

(2) Allowable fees for environmental laboratories.

(3) Requirements for education, training and experience of laboratory supervisors.

(4) Criteria and procedures to be used by the department to accredit environmental laboratories, which may include proficiency test samples and onsite audits.

(b) Accreditation.—An environmental laboratory shall be accredited pursuant to this chapter and in compliance with the provisions of this chapter in order to generate the data and perform analysis to be used to comply with an environmental statute.

(c) General certificate program.—The Environmental Quality Board may adopt regulations that establish a general certificate of accreditation program or certificates of accreditation by rule.

(d) Unique needs.—To the extent possible, the Environmental Quality Board shall establish requirements and procedures that address the unique needs of small businesses, municipalities, municipal authorities and in-house laboratories.

#### § 4106. Requirements of certificate of accreditation.

(a) Forms.—Applications, certificates and other documents shall be in a form prescribed by the department.

(b) General requirements.—An environmental laboratory shall have the staff, management structure, equipment, quality assurance and quality control procedures and recordkeeping procedures necessary to ensure that the environmental laboratory generates valid and accurate test results in accordance with all conditions of accreditation and this chapter.

(c) Laboratory supervisor.—Testing, analysis and reporting of data by an accredited laboratory shall be under the direct supervision of a laboratory supervisor. The laboratory supervisor shall certify that each test or analysis is accurate and valid and that the test or analysis was performed in accordance with all conditions of accreditation. The department may disqualify a laboratory supervisor who is responsible for the submission of inaccurate test or analysis results.

(d) Access to records and data.—An accredited laboratory shall provide the department with access to inspect records and data maintained under this chapter and to conduct tests and sampling related to inspections.

#### § 4107. Interim requirements.

(a) Registration.—All environmental laboratories shall register with the department by December 31, 2002, on a registration form prepared by the department. An environmental laboratory which begins testing or analysis of environmental samples after this date shall register with the department before beginning operations.

(b) Time for application.—All environmental laboratories shall apply for accreditation within six months after the Environmental Quality Board establishes an accreditation requirement by regulation for a type of laboratory. The submission of an application shall provide interim authorization to continue operations until the department takes final action on the application.

(c) NELAP accreditation.—An environmental laboratory may apply to the department for NELAP accreditation after the department is approved as an accrediting authority by NELAP. The department may grant NELAP accreditation to a laboratory that meets the requirements of this chapter and the most current version of the NELAC standards that are hereby incorporated by reference.

(d) Temporary fees.—Until regulations are promulgated under this chapter, the following fees shall be charged:

(1) Five thousand dollars for the processing of an application for NELAP accreditation.

(2) Fifty dollars for the processing of an application for registration.

#### § 4108. Advisory committee.

The secretary shall appoint a Laboratory Accreditation Advisory Committee to provide technical assistance under this chapter. The committee shall consist of 13 members, including the following:

(1) One representative of a municipal authority.

(2) One representative from a commercial environmental laboratory.

(3) One representative from an industrial environmental laboratory.

(4) One representative from an academic laboratory.

(5) One representative from a small environmental laboratory.

(6) One environmental engineer.

(7) One member of an association of community water supply systems.

(8) One member of an association of wastewater systems.

(9) One member with technical expertise in the testing and analysis of environmental samples.

(10) Four members of the general public.

#### § 4109. Unlawful conduct.

(a) General rule.—It shall be unlawful for a person to violate or to cause or assist in the violation of this chapter, to fail to comply with an order or condition of accreditation within the time specified by the department or to hinder, obstruct, prevent or interfere with the department in the performance of its duties under this chapter.

(b) Refusal of accreditation.—The department may refuse to issue a certificate of accreditation to an environmental laboratory which has demonstrated a lack of intention or ability to comply with this chapter or engaged in unlawful conduct or which has an employee, officer, contractor, agent or other person set forth in regulation who has engaged in unlawful activity under this chapter unless the applicant demonstrates to the satisfaction of the department that the unlawful conduct is being or has been corrected.

(c) Denial of access.—It shall be unlawful for an accredited laboratory or other person subject to regulation under this chapter to deny the department access to make inspections and conduct tests or sampling, including the examination and copying of books, papers, records and data pertinent to any matter under investigation pursuant to this chapter. Failure to provide the department with access shall result in the immediate suspension of any accreditation of the laboratory. Upon notice from the department, the laboratory shall immediately cease testing or analysis of environmental samples. The department may revoke an accreditation for failure to provide the department with access to make inspections and conduct tests or sampling, including the examination and copying of books, papers, records and data pertinent to any matter under investigation pursuant to this chapter.

(d) Notice.—The environmental laboratory shall notify each of its customers in writing within 72 hours of receipt of the department's notice if the department suspends or revokes in whole or in part a certificate of accreditation. The notice shall be on a form and in a manner approved by the department.

#### § 4110. Penalties.

(a) Criminal penalties.—

(1) A person who knowingly, willfully or recklessly misrepresents that a test or an environmental sample is accurate or was performed in accordance with procedures authorized pursuant to this chapter commits a misdemeanor of the third degree and, upon conviction, shall be subject to a fine of not less than \$1,250 nor more than \$12,500 or to imprisonment for a period of not more than one year, or both, for each separate offense.

(2) A person who knowingly, willfully or recklessly performs or reports an inaccurate test or analysis of an environmental sample commits a misdemeanor of the third degree and shall, upon conviction, be subject to a fine of not less than \$1,250 nor more than \$12,500 or to imprisonment for a period of not more than one year, or both, for each separate offense.

(3) A person who knowingly, willfully or recklessly misrepresents that an environmental laboratory holds a certificate of accreditation under this chapter commits a misdemeanor of the third degree and shall, upon conviction, be subject to a fine of not less than \$1,250 nor more than \$12,500 or to imprisonment for a period of not more than one year, or both, for each separate offense.

(b) Administrative penalties.—

(1) In addition to any other remedy available at law or equity, the department may assess an administrative penalty for a violation of this chapter. The penalty may be assessed whether or not the violation was willful or negligent. When determining the amount of the penalty, the department shall consider the willfulness of the violation, the damage or injury or threat of damage or injury to public health or the environment, the costs to the department for

investigation and enforcement, the economic benefit of the violation to the person and other related factors. The department shall inform the person of the amount of the penalty. The administrative penalty shall not exceed \$5,000 per day per violation.

(2) Every day a violation continues shall be a separate violation.

(3) The amount of the penalty assessed after a hearing before the Environmental Hearing Board or after waiver of the right to appeal the assessment shall be payable to the Commonwealth and collectable in any manner provided at law for collection of debts. If any person liable to pay any such penalty neglects or refuses to pay the penalty after demand, the amount of the penalty, together with interest and cost that may accrue, shall constitute a judgment in favor of the department upon the property of such person from the date it has been entered and docketed of record by the prothonotary of the county in which the property is situated. The department may at any time transmit to the prothonotaries of any county in which the person holds property certified copies of all such judgments, and it shall be the duty of each prothonotary to enter and docket the judgment of record in his or her office and to index the judgment as judgments are indexed, without requiring the payment of costs by the department.

(c) Concurrent penalties.—Penalties and other remedies under this chapter shall be concurrent and shall not prevent the department from exercising any other available remedy at law or equity.

(d) Rebuttable presumption.—Failure of an environmental laboratory or laboratory supervisor to maintain adequate records or proficiency test samples as required creates a rebuttable presumption that the test or analysis was not conducted as required.

(e) Falsifying results.—It shall be unlawful to falsify the results of testing or analysis of environmental samples or to violate the provisions of 18 Pa.C.S. § 4903 (relating to false swearing) or 4904 (relating to unsworn falsification to authorities) in the context of the submission of the results of testing and analysis of environmental samples under an environmental statute.

#### § 4111. Records.

Records required under this chapter shall be maintained for five years unless otherwise specified in regulation.

#### § 4112. Whistleblower protection.

An employee of an environmental laboratory covered by this chapter shall be deemed to be an employee under the act of December 12, 1986 (P.L.1559, No.169), known as the Whistleblower Law, in regard to good faith reports of potential violations of this chapter. Environmental laboratories covered by this chapter shall be deemed to be an employer under the Whistleblower Law in regard to good faith reports of potential violations of this chapter.

#### § 4113. Continuation of existing rules and regulations.

All existing rules and regulations promulgated pursuant to any environmental statute remain in full force and effect until superseded and repealed by the rules and regulations promulgated pursuant to this chapter.

Section 2. The act of April 2, 2002 (P.L.225, No.25), known as the Environmental Laboratory Accreditation Act, is repealed.

Section 3. The addition of 27 Pa.C.S. Ch. 41 is a continuation of the act of April 2, 2002 (P.L.225, No.25), known as the Environmental Laboratory Accreditation Act. The following apply:

(1) All actions taken under the Environmental Laboratory Accreditation Act are valid under 27 Pa.C.S. Ch. 41.

(2) Orders and determinations, which were made under the Environmental Laboratory Accreditation Act and which are in effect on the effective date of section 2 of this act shall remain valid until vacated or modified under 27 Pa.C.S. Ch.41.

(3) Regulations which were promulgated under the Environmental Laboratory Accreditation Act and which are in effect on the effective date of section 2 of this act shall remain valid until amended under 27 Pa.C.S. Ch. 41.

(4) Except as set forth in paragraph (5), any difference in language between 27 Pa.C.S. Ch. 41 and the Environmental Laboratory Accreditation Act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of the Environmental Laboratory

Accreditation Act.

(5) Paragraph (4) does not apply to the following provisions::

(i) : (ii)

Section 4. This act shall take effect immediately.

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.

**HB 2322 CALLED UP**

**HB 2322 (Pr. No. 4093)** -- Without objection, the bill, which previously went over in its order temporarily, was called up, from page 7 of the Third Consideration Calendar, by Senator BRIGHTBILL.

**BILL OVER IN ORDER**

**HB 2322** -- Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

**SPECIAL ORDER OF BUSINESS  
SUPPLEMENTAL CALENDAR No. 7**

**BILL ON THIRD CONSIDERATION  
AND FINAL PASSAGE**

**HB 590 (Pr. No. 4134)** -- 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 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.
Earl	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.

**UNFINISHED BUSINESS  
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 Bushkill Park of Forks Township and to the Nazareth Rotary Club by Senator Boscola.

Congratulations of the Senate were extended to William David Sands, Sr., and to Gerald Balchis by Senator Conti.

Congratulations of the Senate were extended to Ernest Kaiser by Senator Dent.

Congratulations of the Senate were extended to Mr. and Mrs. Myron Howanec by Senator Helfrick.

Congratulations of the Senate were extended to Kennametal, Inc., of Bedford, by Senator Jubelirer.

Congratulations of the Senate were extended to Dr. Kenneth Quickel and to Florence M. Rice by Senator Mowery.

Congratulations of the Senate were extended to the Moon Area Boys' Varsity Baseball Team by Senator Murphy.

Congratulations of the Senate were extended to Mr. and Mrs. Harry J. Brunner, Mr. and Mrs. Ralph Sloan, Leslie Pinkerton and to Elizabeth Graf by Senator Orie.

Congratulations of the Senate were extended to South Franklin Township Volunteer Fire Department by Senator Stout.

Congratulations of the Senate were extended to Mr. and Mrs. Tom Lee by Senator D. White.

Congratulations of the Senate were extended to Mr. and Mrs. Anthony Cherico by Senator M.J. White.

Congratulations of the Senate were extended to Sidney Ginsburg by Senator C. Williams.

**SENATE RESOLUTION ADOPTED**

Senators MELLOW, WAGNER, O'PAKE, FUMO, MUSTO, STOUT, KASUNIC, BODACK, BOSCOLA, COSTA, HUGHES, KITCHEN, KUKOVICH, LAVALLE, LOGAN,

SCHWARTZ, STACK, TARTAGLIONE, A. WILLIAMS, C. WILLIAMS, WOZNIAK, GERLACH, BELL, DENT, ROBINS, PICCOLA, RHOADES, THOMPSON, HELFRICK, GREENLEAF, ARMSTRONG, WAUGH, MURPHY, TOMLINSON, ERICKSON, SCARNATI, EARLL, BRIGHTBILL, LEMMOND, JUBELIRER, PUNT, HOLL, ORIE, MOWERY, WENGER, MADIGAN, CONTI, M. WHITE, CORMAN and D. WHITE, by unanimous consent, offered **Senate Resolution No. 262**, entitled:

A Resolution encouraging citizens of this Commonwealth to light candles on September 11, 2002, at the time of the first attack on September 11, 2001.

On the question,  
Will the Senate adopt the resolution?

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

Senator WAGNER. Mr. President, the resolution in front of us is a resolution that may not seem timely, but it is because at the end of this week we will not reconvene until sometime in mid-September. And as all of us know, a very important day in American history, September 11, 2002, will occur prior to this Senate formally reconvening in these Chambers. The purpose of the resolution is to identify that day in American history and to ask Pennsylvanians to devote very special attention to that day, and in the process, to light a candle for freedom.

Mr. President, as many people in this Chamber and in this building know, today, Wednesday, we had in the rear of the Capitol a caravan that is crossing America. That caravan had a portion of the World Trade Center, a piece of the steel of the World Trade Center that was part of that caravan. In addition, there was a fire truck, a demolished fire truck from the community of Queens in New York City. For anyone who witnessed that caravan today, it was extremely emotional.

This resolution reminds us of a very important day that will be coming forth on September 11, 2002, and we are going to be asking each and every Pennsylvanian to light a candle for freedom on the morning of that day.

Thank you very much.

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

A voice vote having been taken, the question was determined in the affirmative.

## HOUSE MESSAGES

### SENATE BILL RETURNED WITH AMENDMENTS

The Clerk of the House of Representatives returned to the Senate **SB 589**, 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 CONCURS IN SENATE AMENDMENTS TO HOUSE AMENDMENTS TO SENATE BILLS

The Clerk of the House of Representatives informed the Senate that the House has concurred in amendments made by the Senate to House amendments to **SB 212, 820 and 955**.

### HOUSE CONCURS IN SENATE BILLS

The Clerk of the House of Representatives returned to the Senate **SB 1417 and 1429**, 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 751 and 2530**.

### BILLS SIGNED

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

**SB 33, SB 212, SB 380, SB 820, SB 955, SB 1109, SB 1417, SB 1429, HB 751 and HB 2530.**

### ANNOUNCEMENTS BY THE SECRETARY

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

#### SENATE OF PENNSYLVANIA

#### COMMITTEE MEETINGS

#### WEDNESDAY, JUNE 26, 2002

1:30 P.M.	APPROPRIATIONS (to consider House Bills No. 2100 and 2126)	Room 461 Main Capitol
1:45 P.M.	RULES AND EXECUTIVE NOMINATIONS (to consider Senate Bills No. 974 and 1366; and certain executive nominations)	Rules Cmte. Conf. Rm.

#### THURSDAY, JUNE 27, 2002

11:00 A.M.	COMMUNICATIONS AND HIGH TECHNOLOGY (to consider Senate Bill No. 1403)	Room 461 Main Capitol
1:30 P.M.	APPROPRIATIONS (to consider Senate Bill No. 1486; and House Bills No. 767, 900, 927, 928, 1952 and 1995)	Room 461 Main Capitol
1:45 P.M.	RULES AND EXECUTIVE NOMINATIONS (to consider Senate Bills No. 589, 630 and 1045; House Bill No. 599; and certain executive nominations)	Rules Cmte. Conf. Rm.

**The PRESIDING OFFICER (Senator Noah W. Wenger) in the Chair.**

The PRESIDING OFFICER. The Senate will come to order.

**SPECIAL ORDER OF BUSINESS  
SUPPLEMENTAL CALENDAR No. 9**

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

**HB 1501 (Pr. No. 4136)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Titles 18 (Crimes and Offenses) and 53 (Municipalities) of the Pennsylvania Consolidated Statutes, further providing for sale of tobacco; defining "bidis" or "beedies"; prohibiting the sale of bidis; and providing for placement of tobacco vending machines and for preemption.

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-45**

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

**NAY-5**

Bell	Kukovich	Williams, Constance
Bodack	Schwartz	

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.

**SPECIAL ORDER OF BUSINESS  
SUPPLEMENTAL CALENDAR No. 8**

**BILL ON THIRD CONSIDERATION  
AND FINAL PASSAGE**

**HB 2044 (Pr. No. 4135)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 27 (Environmental Resources) of the Pennsylvania Consolidated Statutes, consolidating the Environmental Laboratory Accreditation Act; and making repeals.

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.

**RECONSIDERATION OF HB 1501**

The PRESIDING OFFICER. The Chair recognizes the gentleman from Allegheny, Senator Wagner.

Senator WAGNER. Mr. President, I move that we reconsider the vote by which House Bill No. 1501 passed finally.

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

A voice vote having been taken, the question was determined in the affirmative.

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-44**

Armstrong	Greenleaf	Mowery	Stout
Boscola	Helfrick	Murphy	Tartaglione
Brightbill	Holl	Musto	Thompson
Conti	Jubelirer	O'Pake	Tomlinson

Corman	Kasunic	Orie	Wagner
Costa	Kitchen	Piccola	Waugh
Dent	LaValle	Punt	Wenger
Earll	Lemmond	Rhoades	White, Donald
Erickson	Logan	Robbins	White, Mary Jo
Fumo	Madigan	Scarnati	Williams, Anthony H.
Gerlach	Mellow	Stack	Wozniak

NAY-6

Bell	Hughes	Schwartz
Bodack	Kukovich	Williams, Constance

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.

**ADJOURNMENT**

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

Senator BRIGHTBILL. Mr. President, I move that the Senate do now adjourn until Thursday, June 27, 2002, at 2 p.m., Eastern Daylight Saving Time.

The motion was agreed to by voice vote.

The Senate adjourned at 10:19 p.m., Eastern Daylight Saving Time.