

COMMONWEALTH OF PENNSYLVANIA
Legislative Journal

WEDNESDAY, APRIL 6, 2005

SESSION OF 2005 189TH OF THE GENERAL ASSEMBLY

No. 18

SENATE

WEDNESDAY, April 6, 2005

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

The PRESIDENT (Lieutenant Governor Catherine Baker Knoll) in the Chair.

PRAYER

The Chaplain, Reverend JESSE EUGENE MILLER, of Living Hope Community Church, Dublin, offered the following prayer:

Let us pray.

God of our fathers and God of this land, You are the eternal one, the ancient of days. It is to You we pray. We bow our hearts before You. We give You thanks for Your blessings, for the peace that You have given us throughout these many years as a country, and for the peace You give us in our hearts and in our lives.

We think about the world at this time, we think about those who mourn the loss of the Pope, we pray that You be near to them. We think of other events in our country as well that are near and dear to our own hearts. We pray that You would give us peace and be with those specific events.

I pray specifically for the men and women who serve in this Chamber, in this room, who represent the people of our State, that You would give them great wisdom. Give them charity and mercy for those whom they represent. Give them a great sense of unity in this room as they come to issues. May they have clarity of thought, and may they have foresight on the decisions that they will address and make decisions on to see the impact of them in the years to come.

I pray also for their families, who also make a sacrifice, and for their children, their spouses, their loved ones, that You would bless them because of the role that the people in this room have.

Lord, we pray for Your blessing to be upon us. Make Your face shine upon us and give us peace. We pray in the name of our Savior. Amen.

The PRESIDENT. The Chair thanks Reverend Miller, who is the guest today of Senator Conti.

PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was recited by those assembled.)

JOURNAL APPROVED

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of April 5, 2005.

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

NOMINATION REFERRED TO COMMITTEE

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

JUDGE, COURT OF COMMON PLEAS,
WASHINGTON COUNTY

April 5, 2005

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, Joseph P. Moschetta, Esquire, 5 Redstone Lane, Washington 15301, Washington County, Forty-sixth Senatorial District, for appointment as Judge of the Court of Common Pleas of Washington County, to serve until the first Monday of January 2006, vice The Honorable David L. Gilmore, deceased.

EDWARD G. RENDELL
Governor

**RECALL COMMUNICATION
REFERRED TO COMMITTEE**

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

JUDGE, COURT OF COMMON PLEAS,
WASHINGTON COUNTY

April 5, 2005

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated December 29, 2004, for the appointment of Adrian R. King, Jr., Esquire, 8833 Norwood Avenue, Philadelphia 19118, Philadelphia County, Fourth Senatorial District, as Judge of the Court of Common Pleas of Washington County, to serve until the first Monday of January 2006, vice The Honorable David L. Gilmore, deceased.

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

EDWARD G. RENDELL
Governor

HOUSE MESSAGES

HOUSE CONCURS IN SENATE CONCURRENT RESOLUTION

The Clerk of the House of Representatives informed the Senate that the House has concurred in the resolution from the Senate, entitled:

Weekly recess.

HOUSE BILLS FOR CONCURRENCE

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

April 5, 2005

HB 87 -- Committee on Local Government.

HB 612 -- Committee on Environmental Resources and Energy.

HB 629 -- Committee on Agriculture and Rural Affairs.

HB 854 -- Committee on State Government.

BILLS INTRODUCED AND REFERRED

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

April 6, 2005

Senators LEMMOND, RHOADES, PICCOLA, MADIGAN, STACK, D. WHITE, ROBBINS, TOMLINSON, KASUNIC, LAVALLE, COSTA, WONDERLING, PUNT, RAFFERTY, ORIE, WOZNIAK, LOGAN, FUMO, SCARNATI, ARMSTRONG, CONTI, MUSTO, FERLO, O'PAKE, THOMPSON, WENGER, KITCHEN, PILEGGI, BOSCOLA, GREENLEAF, STOUT, TARTAGLIONE and WAUGH presented to the Chair **SB 565**, entitled:

An Act amending the act of August 9, 1955 (P.L.323, No.130), known as The County Code, further providing for qualifications, eligibility and compensation for district attorneys; making an appropriation; and making repeals.

Which was committed to the Committee on LOCAL GOVERNMENT, April 6, 2005.

Senators M. WHITE, MUSTO, EARLL, COSTA, LEMMOND, ERICKSON, KITCHEN, ORIE, RAFFERTY, O'PAKE, WAUGH, PICCOLA, PILEGGI, D. WHITE, WONDERLING and ROBBINS presented to the Chair **SB 594**, entitled:

An Act providing for the creation of a trust for the benefit of certain owners of interests in oil and gas; authorizing trustee to enter into leases of interests in oil and gas under terms and conditions authorized by the court of common pleas; providing for the administration of the trust and for payment of moneys to the trustee; and imposing penalties for nonpayment.

Which was committed to the Committee on ENVIRONMENTAL RESOURCES AND ENERGY, April 6, 2005.

Senators CONTI, D. WHITE, ROBBINS, RHOADES, MUSTO, COSTA, WENGER, ORIE, PILEGGI, LAVALLE, GREENLEAF, ARMSTRONG, ERICKSON, M. WHITE, WONDERLING, PIPPY, GORDNER, WOZNIAK, KASUNIC, KITCHEN, TARTAGLIONE, O'PAKE, STACK, BOSCOLA and FERLO presented to the Chair **SB 598**, entitled:

An Act establishing the Armed Forces Loan Forgiveness Program.

Which was committed to the Committee on EDUCATION, April 6, 2005.

Senator D. WHITE presented to the Chair **SB 599**, entitled:

An Act designating State Route 56 in Seward, Westmoreland County, as the Ricky Hafer Highway; and designating State Route 711 in Seward, Westmoreland County, as Aaron Rusin Boulevard.

Which was committed to the Committee on TRANSPORTATION, April 6, 2005.

Senator D. WHITE presented to the Chair **SB 600**, entitled:

An Act authorizing the release of Project 70 restrictions imposed on certain land owned by Indiana County, being conveyed by the county in return for the imposition of Project 70 restrictions on certain land being conveyed to the county by the Department of Transportation.

Which was committed to the Committee on STATE GOVERNMENT, April 6, 2005.

Senators ORIE, PILEGGI, LOGAN, GORDNER, EARLL, D. WHITE, KITCHEN, THOMPSON, GREENLEAF, TARTAGLIONE, RHOADES, LAVALLE, KASUNIC, RAFFERTY, STACK, C. WILLIAMS, PIPPY, WOZNIAK and FERLO presented to the Chair **SB 606**, entitled:

An Act amending Titles 24 (Education) and 71 (State Government) of the Pennsylvania Consolidated Statutes, adding and amending certain definitions; prohibiting creation of local government police employee retirement systems; providing for mandatory membership of local government police employees; revising general municipal pension system State aid; and providing for supplemental local government police benefit accumulation plans and for local government contributions and guarantees.

Which was committed to the Committee on FINANCE, April 6, 2005.

RESOLUTIONS INTRODUCED AND REFERRED

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

April 5, 2005

Senators GORDNER, ARMSTRONG, BOSCOLA, CONTI, CORMAN, COSTA, EARLL, ERICKSON, GREENLEAF, KITCHEN, LOGAN, LAVALLE, MADIGAN, LEMMOND, O'PAKE, ORIE, PICCOLA, PILEGGI, PIPPY, PUNT, RAFFERTY, RHOADES, ROBBINS, SCARNATI, STOUT, THOMPSON, VANCE, WAUGH, WENGER, D. WHITE, WONDERLING, TOMLINSON and KASUNIC presented to the Chair **SR 56**, entitled:

A Resolution recognizing May 5, 2005, as the "National Day of Prayer" in Pennsylvania.

Which was committed to the Committee on RULES AND EXECUTIVE NOMINATIONS, April 5, 2005.

Senators ORIE, BOSCOLA, COSTA, KITCHEN, WONDERLING, RHOADES, TARTAGLIONE, O'PAKE, CONTI, WOZNIAK and RAFFERTY presented to the Chair **SR 57**, entitled:

A Concurrent Resolution directing the Joint State Government Commission to study the issue of workplace pay disparity, to reexamine existing Federal and State laws relating to that issue and to make recommendations to the General Assembly.

Which was committed to the Committee on LABOR AND INDUSTRY, April 5, 2005.

Senators ORIE, BOSCOLA, COSTA, KITCHEN, RHOADES, STACK, M. WHITE, C. WILLIAMS, FERLO, LOGAN, TARTAGLIONE, O'PAKE, CONTI, WOZNIAK and RAFFERTY presented to the Chair **SR 58**, entitled:

A Concurrent Resolution memorializing Congress to study the issue of workplace pay disparity and the need to reexamine existing Federal laws relating to that issue.

Which was committed to the Committee on LABOR AND INDUSTRY, April 5, 2005.

Senators ORIE, KITCHEN, MELLOW, ERICKSON, TARTAGLIONE, M. WHITE, PIPPY, GREENLEAF, LOGAN, O'PAKE, RAFFERTY, RHOADES, STACK and C. WILLIAMS presented to the Chair **SR 59**, entitled:

A Resolution memorializing the Congress of the United States to enact legislation reauthorizing the Federal program of block grants to states for Temporary Assistance for Needy Families (TANF) and improving access to quality child care so long as the final bill includes no less than \$6 billion in new child care resources for low-income working families and families attempting to transition from welfare to work.

Which was committed to the Committee on AGING AND YOUTH, April 5, 2005.

Senators WAUGH, WENGER, PUNT, MADIGAN, BOSCOLA, D. WHITE, FERLO, FUMO, ROBBINS,

SCARNATI, WONDERLING, ERICKSON, COSTA, STACK, CONTI, PIPPY, CORMAN, KITCHEN, THOMPSON, MUSTO, GORDNER, GREENLEAF, LAVALLE, ORIE, TARTAGLIONE, MELLOW, EARLL, LOGAN, RAFFERTY, ARMSTRONG, RHOADES, PILEGGI, WOZNIAK and O'PAKE presented to the Chair **SR 60**, entitled:

A Resolution designating April 12, 2005, as "Pennsylvania Farm Bureau Day" and congratulating Pennsylvania Farm Bureau members for their contribution to this Commonwealth and to this Commonwealth's agricultural industry.

Which was committed to the Committee on RULES AND EXECUTIVE NOMINATIONS, April 5, 2005.

April 6, 2005

Senators BOSCOLA, BRIGHTBILL, KASUNIC, COSTA, ERICKSON, FERLO, GORDNER, KITCHEN, LAVALLE, LEMMOND, MELLOW, O'PAKE, PILEGGI, RAFFERTY, RHOADES, STOUT, TARTAGLIONE, STACK and LOGAN presented to the Chair **SR 68**, entitled:

A Resolution directing the Joint State Government Commission to study the economic impact of offshore outsourcing on Pennsylvania's service sector, particularly as it pertains to the area of information technology jobs.

Which was committed to the Committee on LABOR AND INDUSTRY, April 6, 2005.

LEGISLATIVE LEAVES

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

Senator BRIGHTBILL. Madam President, I ask for a temporary Capitol leave for Senator Don White.

The PRESIDENT. Senator Brightbill requests a temporary Capitol leave for Senator Don White. Without objection, the leave will be granted.

The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Madam President, I request a legislative leave for Senator Stout.

The PRESIDENT. Senator Mellow requests a legislative leave for Senator Stout. Without objection, the leave will be granted.

LEAVES OF ABSENCE

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

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

CALENDAR**THIRD CONSIDERATION CALENDAR****BILL OVER IN ORDER**

SB 69 -- Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

**SENATE RESOLUTION No. 27
CALLED UP OUT OF ORDER, ADOPTED**

Senator BRIGHTBILL, without objection, called up from page 3 of the Calendar, as a Special Order of Business, **Senate Resolution No. 27**, entitled:

A Resolution congratulating the Pennsylvania State Police on the occasion of the 100th anniversary of its founding.

On the question,
Will the Senate adopt the resolution?

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

Senator ROBBINS. Madam President, I rise to speak on behalf of Senate Resolution No. 27 congratulating the Pennsylvania State Police on its 100th anniversary. Like so much of the history of Pennsylvania, the Pennsylvania State Police became the nation's first uniformed police organization of its kind with the enactment of legislation on May 2, 1905. The State Police was born out of the coal strikes, when it became clear that the Commonwealth needed trained public officers to keep peace and order, not security forces hired by private companies. Their early years focused on criminal identification, fire investigations, and to deal with the growing popularity of the horseless carriage, the Highway Patrol. Later would come aviation divisions, criminal laboratory divisions, drug interdiction, and the Bureau of Liquor Control Enforcement. More recently, the State Police have been given the responsibility of forming the front line of the Commonwealth's homeland security.

Pennsylvania State Troopers have answered the call of duty day in and day out. Many smaller communities without police departments look to the State Police to perform primary patrol duties. The State Police became the largest accredited police agency in the world in 1993, and today has a statewide complement of more than 5,700 enlisted and civilian employees serving in a variety of roles.

Since 1929, all State Police have been required to memorize the "Call of Honor," which reads in part: "I am a Pennsylvania State Trooper, a soldier of the law. To me is entrusted the honor of the force. I must serve honestly, faithfully, and if need be, lay down my life as others have done before me, rather than swerve from the path of duty."

Madam President, it is our duty in the legislature to support our State Troopers and to recognize their vast contributions, the ones I mentioned today, and the many that occur every day with little or no notice.

I want to thank my colleagues for supporting Senate Resolution No. 27 and our State Police.

Thank you, Madam President.

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

Senator LOGAN. Madam President, I also rise today to join my colleagues in congratulating the Pennsylvania State Police on the 100th anniversary of its founding. This is a proud occasion for our Commonwealth, our residents, and obviously the State Police. Madam President, my family also takes great pride in

marking these 100 years because my wife's grandfather, Colonel Frank McCartney, was appointed as the State Police Commissioner in 1959.

This occasion gives us an opportunity to look back over the years and reflect on the ways the State Police organization has changed within the times. Glancing at the history, it is evident that the troops and departments of the Pennsylvania State Police have undergone numerous organizational changes that Senator Robbins so eloquently noted for us.

Like most organizations that have been around for a century, the Pennsylvania State Police, which originally permitted only single males, utilizes the talents and skills of women and African-Americans and no longer excludes married men.

Madam President, on behalf of Pennsylvania's 12 million citizens, I would like to thank the Troopers of the Pennsylvania State Police for risking their lives to ensure the safety and security of everyone who lives in, visits, and travels through this great Commonwealth. Madam President, I offer my thanks and congratulations to the proud and honorable organization, the Pennsylvania State Police.

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

Senator RAFFERTY. Madam President, I join with my colleagues in recognizing the State Police celebration of their 100th anniversary. Our society of laws recognizes that there are individuals within our society who want to exceed the boundaries of the law. We in Pennsylvania have the first line of defense, the Pennsylvania State Police. Throughout their years of existence, they changed with the times. They have gone from mainly a highway patrol unit, still focusing on highway patrol duties, but now handling homeland security, Megan's Law issues, handling and dismantling meth labs, and handling vice squads within our urban centers. They have grown, meeting the demands of the Commonwealth of Pennsylvania, and while they have continued to grow as an organization, they have been committed to seek justice, to make sure that through their office, their work guarantees the health, safety, and welfare of the 12 million residents of the Commonwealth of Pennsylvania. They strive to ensure each and every one of us a peaceful life by day in and day out putting on the uniform of a Pennsylvania State Trooper and putting their lives on the line to make sure that we are safeguarded by the laws that we enact within this Commonwealth of Pennsylvania.

We owe a debt of gratitude to the Pennsylvania State Police throughout their 100 years of existence, to the men and women who serve the Pennsylvania State Police today, to the 4,200 Troopers under the command of Colonel Miller.

**GUESTS OF SENATOR JOHN C. RAFFERTY
AND SENATOR ROBERT E. ROBBINS
PRESENTED TO THE SENATE**

Madam President, we have seated with us today three members of the administrative team of the Pennsylvania State Police. We have with us Lieutenant Colonel Ralph Periandi, Deputy Commissioner for Operations of the State Police, and Captain William McHale, with whom many of us are familiar, who is the Director of Legislative Affairs for the Pennsylvania

State Police, and also with them today is Captain McHale's immediate predecessor in the office of Legislative Affairs, who today serves as the 18th Commissioner of the Pennsylvania State Police, Colonel Jeffrey Miller. Colonel Miller enlisted in the Pennsylvania State Police in 1984 and is a capsule of the American success story. He worked himself up through the ranks of the Pennsylvania State Police, was promoted from 1988 through successive years, and then eventually was appointed commissioner by the Governor in 2003. He has done a remarkable job in bringing the Pennsylvania State Police into the 21st century and ensuring that the force maintains its reputation of being the premier law enforcement agency within this country.

Madam President, it gives me a great deal of pleasure to present to my colleagues in the Senate Colonel Jeffrey Miller, Commissioner of the Pennsylvania State Police.

(Applause.)

Colonel MILLER. Thank you. Madam President, President pro tempore Jubelirer, Majority Leader Brightbill, Minority Leader Mellow, and Members of the Pennsylvania Senate, it is indeed an honor and a privilege to stand before this honorable body and represent thousands of past and present Pennsylvania State Police personnel as you acknowledge the Pennsylvania State Police on this historic milestone of 100 years of faithful service to the citizens of the Commonwealth of Pennsylvania.

Time is the true measure of the contribution and worth of any institution. The Pennsylvania State Police was created as an executive department of government through the vision and wisdom of our forefathers. Legislation signed into law by Governor Samuel Pennypacker on May 2, 1905, established the Pennsylvania State Police as the first uniformed police organization of its kind in the country. Since that time, we have overcome many challenges as guardians of justice. Strong, dedicated, and focused individuals with a noble purpose and worthy goals have always formed the foundation for the success of our organization. One hundred years of tradition has been forged through the blood, sweat, and tears of the thousands of dedicated men and women of our past and present, including 90 brave men who sacrificed their very lives rather than swerve from the path of duty.

The Pennsylvania State Police was created in response to the violence and unrest that developed as Pennsylvanians found themselves in an era of rapid social change. One hundred years later, the core purpose of the Pennsylvania State Police remains to seek justice, preserve peace, and improve the quality of life for all. We have grown into a dynamic law enforcement agency with a myriad of responsibilities never thought possible or necessary prior to 1905, but the one true constant is that we remain faithful to the spirit of truth and pledge allegiance to our core purpose and the citizens of this great Commonwealth.

Today the men and women of the Pennsylvania State Police proudly and selflessly place themselves in harm's way in the performance of duty. We continue to build a bridge to our future, a future filled with opportunities and challenges, and, just as in 1905, a future filled with ever-changing circumstances. It matters not that the road is hard. We will always carry justice and righteousness as our sword and shield. I have no doubt that 100 years from now as the torch of conviction is passed from one generation of our Pennsylvania State Police family to the next,

history will record a job well done. As those who came before us blazed the trail to the present, it is now our mandate and solemn responsibility to pave the way to an even brighter future.

Thank you very much.

(Applause.)

The PRESIDENT. Thank you, Commissioner Miller. We are proud and honored that you spent the time with us today and addressed us. Thank you and congratulations on your 100th anniversary.

And the question recurring,

Will the Senate agree to the resolution?

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

YEA-45

Armstrong	Hughes	Pippy	Vance
Boscola	Jubelirer	Punt	Waugh
Brightbill	Kasunic	Rafferty	Wenger
Conti	Kitchen	Regola	White, Donald
Corman	LaValle	Rhoades	White, Mary Jo
Costa	Logan	Robbins	Williams, Anthony H.
Earll	Madigan	Scarnati	Williams, Constance
Erickson	Mellow	Stack	Wonderling
Ferlo	O'Pake	Stout	Wozniak
Fumo	Orie	Tartaglione	
Gordner	Piccola	Thompson	
Greenleaf	Pileggi	Tomlinson	

NAY-0

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

SPECIAL ORDER OF BUSINESS GUESTS OF SENATOR JEFFREY E. PICCOLA PRESENTED TO THE SENATE

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

Senator PICCOLA. Madam President, I am very pleased and proud to introduce and welcome to the Senate of Pennsylvania today Justice Maria Teresa Romer, a retired member of the Supreme Court of Poland. Justice Romer is also president of Iustitia, which is the Polish Judges Association, and she is a council member of the Rule of Law Institute Foundation in Poland. Accompanying her is Justice Katarzyna, a current member of the Supreme Court of Poland, and vice president of Iustitia, the Polish Judges Association. Accompanying both of them is Delaine R. Swenson, professor of law at the Catholic University of Lublin, and chair of American and comparative law at that institution.

Knowing Polish history and the struggle of the Polish people for freedom, and particularly exemplified and encouraged by their native son, the late Pope John Paul II, we are very, very proud, particularly at this time today, to welcome these guests to Pennsylvania and to the Senate of Pennsylvania.

The PRESIDENT. Will our guests from Poland please rise so we can give you a warm round of applause.

(Applause.)

The PRESIDENT. Welcome to our beautiful Capitol here in Harrisburg. Thank you.

**GUEST OF SENATOR JOE CONTI
PRESENTED TO THE SENATE**

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

Senator CONTI. Madam President, it is my pleasure to introduce our pastor, Jesse Eugene Miller, from the Living Hope Community Church in Dublin, the heart of central Bucks County. I ask you to lead the Senate in our usual warm welcome for the pastor.

The PRESIDENT. Pastor, will you please rise so we can give you a warm welcome. Thank you for the beautiful prayer.

(Applause.)

CONSIDERATION OF CALENDAR RESUMED

THIRD CONSIDERATION CALENDAR RESUMED

BILL AMENDED

SB 86 (Pr. No. 79) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for disposition of complaints received.

On the question,

Will the Senate agree to the bill on third consideration?

Senator GREENLEAF offered the following amendment No. A0247:

Amend Sec. 1 (Sec. 6334), page 1, line 15, by inserting after "assigned": as a general protective services report

Amend Sec. 1 (Sec. 6334), page 2, line 8, by striking out all of said line and inserting: general protective services assessment under section 6375 (relating to county agency requirements for general protective services).

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.

BILL OVER IN ORDER

SB 124 -- Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

**BILL ON THIRD CONSIDERATION, OVER IN
ORDER TEMPORARILY ON FINAL PASSAGE**

SB 229 (Pr. No. 407) -- The Senate proceeded to consideration of the bill, entitled:

An Act imposing a moratorium on the closure or reduction of State mental health and mental retardation facilities and to require the

Legislative Budget and Finance Committee to study the issue of closure of State mental health and mental retardation facilities and issue report.

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

On the question,

Shall the bill pass finally?

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

Senator HUGHES. Madam President, is now the appropriate time for comments on this matter?

The PRESIDENT. The gentleman is in order, yes.

The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Madam President, could we stand at ease?

The PRESIDENT. Without objection, the Senate will stand at ease.

(The Senate was at ease.)

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

Senator BRIGHTBILL. Madam President, I request that we go over Senate Bill No. 229 temporarily.

The PRESIDENT. Without objection, Senate Bill No. 229 will go over temporarily.

BILLS OVER IN ORDER

SB 248 and SB 256 -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

SECOND CONSIDERATION CALENDAR

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

SB 158 (Pr. No. 649) -- The Senate proceeded to consideration of the bill, entitled:

An Act adding a certain portion of the Bayfront Parkway in the City of Erie, Erie County, to the State Highway System, and transferring to the City of Erie a certain State road.

On the question,

Will the Senate agree to the bill on second consideration?

Senator EARLL offered the following amendment No. A0258:

Amend Sec. 1, page 1, line 8, by inserting after "Upon": approval by resolution of the city council of the transfer of State Route 4018 to the City of Erie as provided in paragraph (2) and

On the question,

Will the Senate agree to the amendment?

It was agreed to.

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

BILLS OVER IN ORDER

SB 70, SB 74, SB 143, SB 196, SB 251 and SB 291 -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

BILL ON SECOND CONSIDERATION

SB 300 (Pr. No. 312) -- The Senate proceeded to consideration of the bill, entitled:

An Act authorizing the establishment and maintenance of health savings accounts; exempting contributions from taxation; and imposing restrictions on health savings accounts.

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

RECESS

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

Senator BRIGHTBILL. Madam President, I ask for a recess of the Senate for the purpose of a Republican caucus, which will begin immediately in the Rules room to discuss Senate Bill No. 229. We will be back on the floor, I am hopeful, in 30 minutes to finish the Calendar.

The PRESIDENT. Senator Brightbill requests a half-hour recess to discuss Senate Bill No. 229.

The Chair recognizes the gentleman from Philadelphia, Senator Hughes.

Senator HUGHES. Madam President, I ask all Democratic Senators to report to our caucus room immediately for a brief caucus.

The PRESIDENT. Senator Hughes requests that all Democratic Senators please meet in the Democratic caucus room for the next half hour.

Without objection, the Senate stands in recess.

AFTER RECESS

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

CONSIDERATION OF CALENDAR RESUMED

THIRD CONSIDERATION CALENDAR RESUMED

SB 229 CALLED UP

SB 229 (Pr. No. 407) -- Without objection, the bill, which previously went over in its order temporarily, was called up, from page 1 of the Third Consideration Calendar, by Senator BRIGHTBILL.

BILL ON FINAL PASSAGE

SB 229 (Pr. No. 407) -- The Senate proceeded to consideration of the bill, entitled:

An Act imposing a moratorium on the closure or reduction of State mental health and mental retardation facilities and to require the Legislative Budget and Finance Committee to study the issue of closure of State mental health and mental retardation facilities and issue report.

On the question,
Shall the bill pass finally?

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

Senator HUGHES. Madam President, this is Senate Bill No. 229, which has as its requirement the idea and the concept of a moratorium on closing State hospitals for the purpose of doing a study by, I believe, the Legislative Budget and Finance Committee. It has at its very essence and its very root some extremely emotional issues that reach deeply into the hearts and the minds and the souls of a lot of folks who have either been suffering because of illness or have had to service and take care of families because of illness or have had as their jobs the responsibility of taking care of individuals who are ill, who suffer from mental illness. There is probably not a more difficult kind of job in the health care industry than to provide services for folks who clearly need help in the most dramatic way. However, and I will try to run through these points succinctly, the idea of institutionalization of folks who are suffering in this fashion is an idea that in many ways whose time has come, not in all cases, but in many ways whose time has come to an end. States around the country are moving toward deinstitutionalization, and in fact are moving toward creating communities of care to service folks who are living and suffering in difficult situations. We know that in a high quality community-based care environment, you can increase the quality of care that is provided, you can reduce the costs, and in fact that is known from the highest levels of research and analysis in the country. President Bush's new Freedom Commission on Mental Health, and I quote, "creates a system of health that provides a life in the community for everyone," and also calls for "swiftly eliminating unnecessary and inappropriate institutionalizations that severely limits integrating adults with serious mental illness into their community." The idea of deinstitutionalization is here, is present, and is important because we can, if and when done correctly, increase the quality of care provided to folks who are suffering, increase the support services for family members, and still provide employment for folks who have formerly worked in the institutional setting.

We are best served in this State by probably having the best Secretary of Public Welfare to service this particular issue. Every Senator, Representative, and administrator I have talked to in the context of this issue has said that they feel extremely comfortable with Estelle Richman, our Secretary of Public Health and Welfare, in her ability to administer this program, to administer deinstitutionalization. Her experience, her compassion, her personal commitment, her willingness to know and require her staff to provide her with daily updates on

everyone who is being moved out of the institution into the community, so that they can provide the highest quality of care, is something that I have experienced, seen her in action in the past, and know unequivocally that she will hold to that commitment and hold her staff to the very same level of commitment.

She has also written and said publicly in the public hearings that we have held with the Committee on Public Health and Welfare, convened by our chairman, Senator Corman, that the department will make sure that every current employee who works in the Harrisburg State Hospital will have a job, and that they will not proceed quickly, but the department will take its time to make sure that the highest quality of care is available to everyone who is being moved out, those who are deemed necessary to move out of the institution. She has said that publicly, she has said that in writing to a number of individuals. Our leader, Senator Mellow, and I met again with Secretary Richman earlier this morning to continue to discuss these issues, and she has continued to say that and make those kinds of commitments. She will not proceed quickly, the department will not proceed quickly. It will have the best and the brightest involved in this process, and will work with local communities to create a system of care, and until that system of care is created, folks will not be moved. And I know that, I have seen it in action before, and I believe that will be the case in the continuation of care.

These are very difficult situations, Madam President, and I know you know that, and I know this body knows that, and I know this body understands that. These are very difficult situations. It is very emotional, and it pulls at the heart and emotions of everyone who is involved in that, but I know, and we all know, and all the research indicates that when a high quality system of care is provided in a community, that is a better service and a better kind of care than the institutional setting. We also have, probably acknowledged around the country, the best in the business in terms of making that transition with Secretary Estelle Richman.

So, I encourage a negative vote on Senate Bill No. 229, and ask that the Members consider what we really ultimately want to achieve for folks who are suffering in these very difficult circumstances.

Thank you very much, Madam President.

The PRESIDENT. Thank you, Senator Hughes, for your comments, and thank you for including Secretary Richman's statements.

The Chair recognizes the gentleman from Dauphin, Senator Piccola.

Senator PICCOLA. Madam President, my good friend and colleague from Philadelphia, in his remarks, and I am going to paraphrase slightly, said that in the case of deinstitutionalization, the community can improve the care for the clients of our mental health system. Nobody disputes that. That is not what this bill is designed to prevent. The question that is raised by this legislation is whether or not that improved care will in fact come into being in this particular case. Now, Madam President, this particular case is as follows: In early January of this year, 2005, the department announced, rather precipitously, the closure by December 31, 2005, of the Harrisburg State Hospital and the

Altoona Mental Retardation Center. They then began a process by which those facilities would be closed by the end of this year, and many, many, many, many questions have arisen about the time line and the ability of the communities involved. The Harrisburg facility, in particular, served seven counties in central Pennsylvania, and many of those counties are going to have to pick up those community services and none of those counties have the infrastructure in place at the present time to do that. Many questions arose as to whether or not those clients of the mental health system, presently patients at the Harrisburg State Hospital, will in fact be adequately taken care of in the community, and nobody can answer those questions even as of today, even though that December 31 deadline still is the operative date. I am not going to go into all the questions. We could be here all afternoon talking about the questions. There have been hearings, there have been meetings, there have been public and private statements.

This bill, Madam President, simply says that when a facility is designated to be closed, a State hospital or a mental retardation center is designated to be closed, it will not be closed until the Legislative Budget and Finance Committee can conduct a study to determine, and here is the important wording, Madam President, can determine that the patients in those facilities will in fact be adequately cared for in the community. That is our main concern, Madam President. Myself and the other sponsors of this legislation have the greatest concern for the current patients of the Harrisburg State Hospital and the current residents of the Altoona Mental Retardation Center. We want to make sure that the communities involved, and we are talking multiple counties here, are prepared to take them and provide them with the kinds of mental health services that they will have to have in order to successfully recover from the mental illness that afflicts them. Sometimes this is a permanent kind of structure that has to be in place. It is not a simple matter to provide these things. It is not an inexpensive matter to provide these things. All we are suggesting in this bill is that the Legislative Budget and Finance Committee, an outstanding joint committee of the House and Senate that has operated for many years, conduct a study in a very short timeframe to determine what kinds of resources are out there now, what kinds of resources need to be provided, and what kind of commitment is out there to make sure the clients in the mental health system are going to be adequately cared for.

We are not just talking about the individuals who are coming out of the hospital. We are also talking about people who are out in the community right now. There are waiting lists, waiting lists for services in our MH/MR facilities in our various counties. What impact will the closure of these facilities have on those waiting lists? That is part of the kind of information we need to get. To just say that we are going to let the department precipitously announce a closure and put an artificial deadline on that closure is a dangerous thing. It is dangerous because we oftentimes will not be able to meet the commitment that needs to be made, because time needs to be taken, resources need to be developed and committed, but also because it creates all kinds of uncertainty and fear among employees of these facilities, among the families of the patients of these facilities, among the patients themselves.

Nobody here is suggesting that we are going to stop the process of deinstitutionalization. Everybody agrees with the theory behind Senator Hughes's remarks. Nobody disagrees with that theory. What we are talking about here is the practice, the actuality of shutting down a facility, and making sure the community can accept those new clients and treat them adequately. If we do not do that, Madam President, if we do not provide the resources, if we do not provide the facilities, we are putting an additional burden on the taxpayers of our counties and we are also putting a burden on the families, our criminal justice system, and a whole variety of other support systems that are out there, because if the mentally ill are not properly cared for in the community and given the proper services, they will oftentimes be diverted into other systems that cost the Commonwealth and the local governments money. This has to be done right. This bill will make sure that the process is done right and in a timely fashion, but in a fashion that gives enough time for the closure to be done effectively, efficiently, and properly for all of those involved. I urge that Senate Bill No. 229 be adopted.

Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentlewoman from Dauphin, Senator Vance.

Senator VANCE. Madam President, I will make this very brief. First of all, I strongly support patients being allowed to come out into the community. Our proposed legislation does not prevent this. It actually protects those patients coming out in the community by making sure that the following things are in place: adequate community housing, competent 24-hour care to make sure that they are properly cared for, and most important, several long-term acute care facilities. Otherwise, the emergency rooms in our hospitals would be absolutely inundated, and that is not their function.

I also want to make it very clear that this is in no way a referendum on Secretary Richman. I think she is quite capable. That was never the point. The point is that to send patients out into the community without adequate facilities is cruel and unfair to them. One brief little thing about history. Each State hospital was asked to do a 5-year plan on how they would downsize that facility. Ironically, Harrisburg State Hospital's plan was one of the best. It proposed to bring 30 people out into the community every year for 5 years. We strongly supported this plan and felt that was the best thing for the patients, the community, their family. MH/MR agreed with that, and the patients and their families all agreed. Unfortunately, suddenly, it was decided that within 11 months we would shut down the hospital. I think we should note that the statewide psychiatric association opposes the precipitous closing, not that it should not be closed, but it should not be closed until the proper facilities are in the community.

We presently have more than 200 people on a waiting list in the community, and it appears that those coming out of the State hospital would jump over those people on the community waiting list, many of whom have been there for some time. Again, this legislation does not propose to stop people from coming out of the State hospital, only that the facilities to care for them properly in the community are in place, and I urge a "yes" vote on Senate Bill No. 229.

Thank you.

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-26

Armstrong	Jubelirer	Rafferty	Vance
Brightbill	Madigan	Regola	Waugh
Conti	Orie	Rhoades	Wenger
Corman	Piccola	Robbins	White, Mary Jo
Earll	Pileggi	Scarnati	Wonderling
Gordner	Pippy	Thompson	
Greenleaf	Punt	Tomlinson	

NAY-19

Boscola	Hughes	Mellow	White, Donald
Costa	Kasunic	O'Pake	Williams, Anthony H.
Erickson	Kitchen	Stack	Williams, Constance
Ferlo	LaValle	Stout	Wozniak
Fumo	Logan	Tartaglione	

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 CANCELLED

The PRESIDENT. Senator Don White has returned, and his temporary Capitol leave is cancelled.

UNFINISHED BUSINESS SENATE RESOLUTION ADOPTED

Senators ORIE, PICCOLA, VANCE, BOSCOLA, PIPPY, STOUT, COSTA, KITCHEN, LEMMOND, ERICKSON, TOMLINSON, RHOADES, M.J. WHITE, STACK, D. WHITE, WONDERLING, FERLO, O'PAKE, BRIGHTBILL, CORMAN, TARTAGLIONE, THOMPSON, ARMSTRONG, CONTI, WOZNIAK and RAFFERTY, by unanimous consent, offered Senate Resolution No. 69, entitled:

A Resolution designating April 6, 2005, as "Tartan Day" in Pennsylvania.

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

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 Mr. and Mrs. James Wild by Senator Armstrong.

Congratulations of the Senate were extended to Tyler Vuxta by Senator Brightbill.

Congratulations of the Senate were extended to Mr. and Mrs. Clarence Reisinger and to Nathan Daniel Ammerman by Senator Corman.

Congratulations of the Senate were extended to Rabbi Stanley J. Savage and to the University of Pittsburgh School of Health and Rehabilitation Sciences by Senator Costa.

Congratulations of the Senate were extended to the Easttown Library and Information Center of Berwyn by Senator Erickson.

Congratulations of the Senate were extended to the Henry Highland Garnet Society of Pittsburgh by Senator Ferlo.

Congratulations of the Senate were extended to Joan Yaverbaum Leopold by Senator Fumo.

Congratulations of the Senate were extended to Mr. and Mrs. Charles Milbrand and to Mr. and Mrs. Arnold Eves by Senator Gordner.

Congratulations of the Senate were extended to Matthew Merenda by Senator Greenleaf.

Congratulations of the Senate were extended to Mr. and Mrs. Emory Fisher, Mr. and Mrs. Monroe Shankle, Howard Talbott and to Beverly Patten by Senator Jubelirer.

Congratulations of the Senate were extended to Michael Krzanowski, Ashtin Primus, Steven Bell and to Thomas D. Dolde by Senator Kasunic.

Congratulations of the Senate were extended to the Ellwood City Area Public Library by Senator LaValle.

Congratulations of the Senate were extended to Mr. and Mrs. Robert Massaker, Andrew John Van Loon, Adam Schuett, Corey Patrick Pellington and to the Bishop O'Reilly High School Boys' Basketball Team of Kingston by Senator Lemmond.

Congratulations of the Senate were extended to Coleen Frances Clare Kibler by Senators Lemmond and Boscola.

Congratulations of the Senate were extended to Matthew Clarence Miller by Senator Madigan.

Congratulations of the Senate were extended to David L. Tressler, Sr., Basil Telep, James Brunozzi, Joseph J. Severini, Justin M. Taylor, Robert Durkin, Steven Boyce, Brad Virbitsky, Sharon McCrone, Jamie Malachowski and to Kristen Semanision by Senator Mellow.

Congratulations of the Senate were extended to the Fine Arts Fiesta of Wilkes-Barre by Senators Musto and Lemmond.

Congratulations of the Senate were extended to the Chester Bidy Basketball Association 12-Year-Old All Star Team by Senator Pileggi.

Congratulations of the Senate were extended to Jacque Baguet by Senator Pippy.

Congratulations of the Senate were extended to the Methacton High School Varsity Cheerleading Squad of Norristown by Senator Rafferty.

Congratulations of the Senate were extended to Mr. and Mrs. Joseph Richard Haley by Senator Regola.

Congratulations of the Senate were extended to G. W. Booth, Bradford Travel, Northwest Savings Bank of Bradford and to O-I Brockway of Brockport by Senator Scarnati.

Congratulations of the Senate were extended to Tyree C. Blocker, Dr. Charles R. Weber and to Robert Andrew Raynes by Senator Thompson.

Congratulations of the Senate were extended to Jayne Abrams by Senator Vance.

Congratulations of the Senate were extended to Dr. Raymond Ruberg, Katie May and to the Jefferson Community Lions Club of Codorus by Senator Waugh.

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

Congratulations of the Senate were extended to Agape Improvement Development Corporation of Norristown and to the Terri Lynne Lokoff Child Care Foundation of King of Prussia by Senator C. Williams.

Congratulations of the Senate were extended to the Indian Valley Middle School of Harleysville by Senator Wonderling.

Congratulations of the Senate were extended to Conemaugh Valley High School Varsity Cheerleading Squad, Richland Junior High School Cheerleading Squad, Bishop McCort High School Varsity Cheerleading Squad and to the Greater Johnstown Middle School Cheerleading Squad by Senator Wozniak.

RECESS

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

Senator PICCOLA. Madam President, I move that the Senate do now recess until Monday, April 11, 2005, at 2 p.m., Eastern Daylight Saving Time.

The motion was agreed to by voice vote.

The Senate recessed at 1:09 p.m., Eastern Daylight Saving Time.