

COMMONWEALTH OF PENNSYLVANIA
Legislative Journal

SATURDAY, DECEMBER 20, 2003

SESSION OF 2003 187TH OF THE GENERAL ASSEMBLY

No. 86

SENATE

SATURDAY, December 20, 2003

The Senate met at 6:30 a.m., Eastern Standard Time.

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

PRAYER AND PLEDGE DISPENSED WITH

The PRESIDENT. Without objection, we will dispense with the prayer and the Pledge of Allegiance for today's Session.

JOURNAL APPROVED

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of December 19, 2003.

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.

LEGISLATIVE LEAVES

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

Senator BRIGHTBILL. Madam President, I request a temporary Capitol leave for Senator Punt.

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

The Chair recognizes the gentleman from Philadelphia, Senator Fumo.

Senator FUMO. Madam President, I request legislative leaves for Senator Stout and Senator Tartaglione.

The PRESIDENT. Senator Fumo requests legislative leaves for Senator Stout and Senator Tartaglione. Without objection, the leaves will be granted.

LEAVE OF ABSENCE

Senator PIPPY remains on military leave pursuant to Senate Rule XXI(3).

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

**BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE**

HB 485 (Pr. No. 2706) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for municipal corporation portion of fines, for immunity of State parole officers and for immunity of county probation officers.

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

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.

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

**SENATE CONCURS IN HOUSE AMENDMENTS
AS AMENDED**

SB 80 (Pr. No. 1341) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of March 10, 1949 (PL.30, No.14), known as the Public School Code of 1949, adding definitions; further providing for background checks of prospective employees and conviction of employees of certain offenses, for fiscal year, for tax levy and limitations, and for per capita taxes; authorizing school districts to reopen their 2003-2004 budgets; imposing limitations on certain unreserved fund balances; repealing provisions relating to professional teacher assessment; further providing for residence and right to free school privileges, for cost of tuition and maintenance of certain exceptional children in approved institutions and for actual cost of tuition and maintenance of certain exceptional children in the four chartered schools for education of the deaf and the blind; providing for firefighter and emergency service training; amending provisions relating to the education support services program; providing for the educational assistance program and the Head Start Supplemental Assistance Program; defining "history of financial distress"; further providing for education empowerment list, for implementation of school district improvement plan by board of school directors, for education empowerment districts, for school improvement grants, for mandate waiver program and for definitions; providing for State System of Higher Education campus police powers and duties; imposing certain limitations on provisions relating to education empowerment; amending provisions relating to educational improvement tax credit; further providing for small district assistance and for temporary special aid to school districts suffering loss of tax revenue due to reduction in assessed valuation of taxable property; providing for basic education funding for 2002-2003 school year and for reimbursement of additional expenses related to basic education; further providing for payments to intermediate units, for special education payments to school districts, for extraordinary special education program expenses and for Commonwealth reimbursements for charter schools and cyber charter schools; providing for Pennsylvania accountability grants and Keystone educational accountability; further providing for powers and duties of the State Board of Education; providing for teacher recruitment assistance; and making a related repeal.

On the question,

Will the Senate concur in the amendments made by the House, as further amended by the Senate, to Senate Bill No. 80?

Senator BRIGHTBILL. Madam President, I move that the Senate do concur in the amendments made by the House, as further amended by the Senate, to Senate Bill No. 80.

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-44

Armstrong	Jubelirer	O'Pake	Tartaglione
Boscola	Kasunic	Piccola	Thompson
Brightbill	Kitchen	Pileggi	Tomlinson
Conti	Kukovich	Punt	Wagner
Costa	LaValle	Rafferty	Waugh
Erickson	Lemmond	Rhoades	Wenger
Ferlo	Logan	Robbins	White, Mary Jo
Fumo	Madigan	Scarnati	Williams, Anthony H.

Gordner	Mellow	Schwartz	Williams, Constance
Greenleaf	Mowery	Stack	Wonderling
Hughes	Musto	Stout	Wozniak

NAY-5

Corman	Earll	White, Donald
Dent	Orie	

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.

ANNOUNCEMENT BY MAJORITY LEADER

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

Senator BRIGHTBILL. Madam President, for the information of the Members, we are about 15 minutes away from having final bills ready so we can wrap things up.

PETITIONS AND REMONSTRANCES

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

Senator FUMO. Madam President, at this point in time, for the benefit of PCN viewers, I say if you are up this late watching us, you need a life. We have set a new record today at a quarter to 7:00, and if you are up this early, good luck in your day's work.

We have been at this for 24 hours now, so those critics who say that we do not work, we do.

Madam President, this has been long and arduous, but in the end an enjoyable process to come to this evening to complete our budget, finally. We were the last State in America, but we did get it done and we are bringing all that to fruition tonight. I think as an institution, bipartisan institution, this Senate did very well this year in standing up for the principles that we all believe in.

Tonight I would like to thank a lot of the staff people who have helped, and if I miss someone's name, I sincerely apologize.

First, I would like to thank Tom Starke from the Republican Committee on Appropriations, the executive director, for his historic discovery, and what will always be remembered is that Tom actually looked at one of those sheets that we had and read it and found \$700 million when the rest of us did not see it. We thank him for that. I want to thank Donna Malpezzi, Steve MacNett, Drew Crompton, Dave Broderic, Erik Arneson, Greg Jordan, and George Riddle from the Republican staff who worked so well with our staff.

On our side, I want to thank Paul Dlugolecki, our executive director, C.J. Hafner, Tony Lepore, Sandy Leopold, Randy Albright, John Raymond, Liz Craig, Chris Craig, Gladys Brown, and Mark McKillop. I think that this was a great experience for our staff. I e-mailed someone that this was really a horrible budget process, and then I said maybe it was not, it has just been 8 years since we have had one, and maybe I forgot what it was like. But we all learned to negotiate budgets. We appreciate the courtesies that were extended, and we appreciate the cooperation. I think the staffs did very well working together rather than in an adversarial role.

So, I would like to thank everyone tonight. I want to thank Chip Brightbill for his efforts and Bob Mellow and my colleague, Senator Thompson. Thank you, everyone. Fortunately, it turned out pretty damn good.

Thank you.

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

Senator BRIGHTBILL. Madam President, I learned a long time ago that you do not go second after Senator Fumo. He usually says everything there is to say. So, I simply echo his comments. The people that he mentioned and some others really did a terrific job. There are a lot of very, very good, dedicated people who work here, and while Senator Fumo mentioned that we have been at this for 24 hours, this institution and its employees have been at this pretty much since Sunday night with very, very minimal amounts of sleep on the part of the staff. There are people in the Legislative Reference Bureau, the print shop, and so forth and so on, grinding this work out, because this does not just happen. This really was very much a process where people put aside their partisan differences and decided that we had to get it done. That does not mean there were not differences, and it does not mean that we did not have to come to some compromises, but at the end of the day, we knew that we could not take this to the jury, we could not wait for some third party to step in, we had to get the job done.

I would just like to comment that while we are well into the fiscal year as we adopt this, because of the way the process developed with the budget that we did adopt back in March, there was a lot more worry and crying afoot out there in the public than really was necessary. Every school district will get not only more money than they anticipated when they did their budget, but they will also get interest on their money. At the same time, we have backed into a process when we do this year's budget, we have the best numbers available as to what this fiscal year will look like, as well as what the next fiscal year will look like. Of course, as we work through this week to try to come up with a set of numbers that will serve the Commonwealth of Pennsylvania, by providing the services that really are necessary and at the same time keeping the taxes as low as possible, we look not only at this year but at next year, too, and I am happy to be able to report that when the Governor makes his Budget Address, which I think will be in about 10 minutes, he will have the money and we will have the money to run this Commonwealth, and we will not have to come back to the people again.

Madam President, this process works, and I am indeed proud to work here and work with these folks. This Caucus as well as the Democratic Caucus, each and every Member was called upon at one time or another during this process to get something done, and they and their staffs went ahead and accomplished it. It was very much a team effort. No one person runs this show, and it is something that we all participated in. So with that, Madam President, I simply say thank you to the people of the Commonwealth of Pennsylvania for the opportunity to do this.

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

Senator FUMO. Madam President, there is one person I did forget. He is a staffer, and he reminds us of that ever since we were at the mansion, and he is John Estey, the Governor's chief

of staff; and we also want to thank him for his efforts. He has never run back and forth to this Chamber so many times. He used to be a very successful lawyer in Philadelphia. I think we asked him about 2:30 a.m. what he was doing up here, and I said he likes hanging out with the big guys eating pretzels at 2 o'clock in the morning. We thank him and his staff for their efforts and remind him again that he is a staffer.

Thank you.

SPECIAL ORDER OF BUSINESS SUPPLEMENTAL CALENDAR No. 2

SENATE CONCURS IN HOUSE AMENDMENTS AS AMENDED

HB 200 (Pr. No. 3160) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, further providing, in sales and use tax, for definitions, for exclusions, for credits, for licenses and for transfers to Public Transportation Assistance Fund; further providing, in personal income tax, for definitions, for imposition, for special tax provisions for poverty, for returns and liability and for returns and records; further providing, in corporate net income tax, for definitions and for interests in unincorporated entities; providing, in corporate net income tax, for additional withholding requirements; further providing, in capital stock franchise tax, for definitions and reports, for imposition and for expiration; further providing, in utilities gross receipts tax, for imposition; further providing, in public utility realty tax, for surcharges; providing, in public utility realty tax, for additional tax; further providing, in cigarette tax, for incidence and rate of tax, for floor tax, for stamp to evidence the tax and for commissions on sales; establishing, in relation to cigarette tax, the Health Care Provider Retention Account; further providing, in research and development tax credit, for carryover, for limitations and for reports; further providing, in malt beverage tax, for limited tax credits; further providing, in inheritance tax, for definitions, for exempt transfers, for estate tax and for estate tax returns; further providing for the Public Transportation Assistance Fund and providing for its administration; further providing for estimated tax and for underpayment of estimated tax; providing for authority to attach wages; and repealing provisions relating to the Public Transportation Assistance Fund.

On the question,

Will the Senate concur in the amendments made by the House, as further amended by the Senate, to House Bill No. 200?

Senator BRIGHTBILL. Madam President, I move that the Senate do concur in the amendments made by the House, as further amended by the Senate, to House Bill No. 200.

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-30

Armstrong	Kasunic	O'Pake	Wagner
Brightbill	Kitchen	Piccola	Wenger
Conti	Kukovich	Pileggi	White, Mary Jo
Erickson	LaValle	Robbins	Williams, Anthony H.
Ferlo	Lemmond	Schwartz	Williams, Constance

Fumo	Mellow	Stout	Wozniak
Hughes	Mowery	Thompson	
Jubelirer	Musto	Tomlinson	

NAY-19

Boscola	Gordner	Punt	Tartaglione
Corman	Greenleaf	Rafferty	Waugh
Costa	Logan	Rhoades	White, Donald
Dent	Madigan	Scarnati	Wonderling
Earll	Orie	Stack	

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.

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

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

HB 1589 (Pr. No. 3161) -- The Senate proceeded to consideration of the bill, entitled:

A Supplement to the act of March 20, 2003 (P.L. , No.1A), entitled "An act to provide from the General Fund for the expenses of the Executive, Legislative and Judicial Departments of the Commonwealth, the public debt and for the public schools for the fiscal year July 1, 2003, to June 30, 2004, for certain institutions and organizations, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2003; to provide appropriations from the State Lottery Fund, the Energy Conservation and Assistance Fund, the Hazardous Material Response Fund, The State Stores Fund, the Milk Marketing Fund, the Home Investment Trust Fund, the Emergency Medical Services Operating Fund, the Tuition Payment Fund, the Banking Department Fund, the Firearm Records Check Fund, the Ben Franklin Technology Development Authority Fund and the Tobacco Settlement Fund to the Executive Department; to provide appropriations from the Judicial Computer System Augmentation Account to the Judicial Department for the fiscal year July 1, 2003, to June 30, 2004; to provide appropriations from the Motor License Fund for the fiscal year July 1, 2003, to June 30, 2004, for the proper operation of the several departments of the Commonwealth and the Pennsylvania State Police authorized to spend Motor License Fund Moneys; to provide for the appropriation of Federal funds to the Executive Department of the Commonwealth and for the establishment of restricted receipt accounts for the fiscal year July 1, 2003, to June 30, 2004, and for the payment of bills remaining unpaid at the close of the fiscal year ending June 30, 2003; to provide for the additional appropriation of Federal and State funds from the General Fund, for the Executive Department of the Commonwealth for the fiscal year July 1, 2002, to June 30, 2003, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2002 and making a repeal," increasing, decreasing and providing additional General Fund appropriations for the expenses of the Executive, Legislative and Judicial Departments of the Commonwealth, the public debt and for the public schools for the fiscal year July 1, 2003, to June 30, 2004, for certain institutions and organizations, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2003; imposing limitations on certain Motor License Fund expenditures; to provide appropriations from the State Lottery Fund, the Ben Franklin Technology Development Authority Fund and the Health Care Provider Retention Account to the Executive Department; providing for the additional appropriation of State funds from the General Fund for the Legislative Department of the Commonwealth for the fiscal year July 1, 2002, to June 30, 2003; increasing, decreasing and providing additional appropriations of Federal funds to the Executive Department of the Commonwealth for the fiscal

year July 1, 2003, to June 30, 2004, and for the payment of bills remaining unpaid at the close of the fiscal year ending June 30, 2003; imposing limitations on certain Motor License Fund expenditures; and making repeals related to the power of the Supreme Court to make certain transfers.

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-42

Armstrong	Jubelirer	O'Pake	Tomlinson
Boscola	Kasunic	Piccola	Wagner
Brightbill	Kitchen	Pileggi	Waugh
Conti	Kukovich	Rafferty	Wenger
Costa	LaValle	Rhoades	White, Mary Jo
Erickson	Lemmond	Robbins	Williams, Anthony H.
Ferlo	Logan	Schwartz	Williams, Constance
Fumo	Madigan	Stack	Wonderling
Gordner	Mellow	Stout	Wozniak
Greenleaf	Mowery	Tartaglione	
Hughes	Musto	Thompson	

NAY-7

Corman	Earll	Punt	White, Donald
Dent	Orie	Scarnati	

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
DISCHARGE PETITIONS**

The PRESIDENT laid before the Senate the following communications, which were read by the Clerk as follows:

December 20, 2003

A PETITION

To place before the Senate the nomination of Mark Foley as a member of the State Harness Racing Commission.

TO: The Presiding Officer of the Senate:

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

Robert C. Jubelirer
David J. Brightbill
Jeffrey E. Piccola
Noah W. Wenger
Robert D. Robbins

December 20, 2003

A PETITION

To place before the Senate the nomination of Susan I. Schulman,
Esquire, as Judge, Court of Common Pleas, Philadelphia County.

TO: The Presiding Officer of the Senate:

WE, The undersigned members of the Senate, pursuant to section 8 (b) of Article IV of the Constitution of Pennsylvania, do hereby request that you place the nomination of Susan I. Schulman, Esquire, Philadelphia, Pennsylvania, as Judge, Court of Common Pleas, Philadelphia County, before the entire Senate body for a vote, the nomination not having been voted upon within 15 legislative days:

Robert C. Jubelirer
David J. Brightbill
Jeffrey E. Piccola
Noah W. Wenger
Robert D. Robbins

December 20, 2003

A PETITION

To place before the Senate the nomination of Patricia Townsend as a
member of the Delaware County Board of Assistance.

TO: The Presiding Officer of the Senate:

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

Robert C. Jubelirer
David J. Brightbill
Jeffrey E. Piccola
Noah W. Wenger
Robert D. Robbins

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

ADJOURNMENT

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

Senator BRIGHTBILL. Madam President, I move that the Senate do now adjourn until January 6, 2004, at 11:45 a.m., Eastern Standard Time, unless sooner recalled by the President pro tempore.

The motion was agreed to by voice vote.

The Senate adjourned at 7:42 a.m., Eastern Standard Time.