

COMMONWEALTH OF PENNSYLVANIA  
**Legislative Journal**

MONDAY, JULY 4, 2005

SESSION OF 2005 189TH OF THE GENERAL ASSEMBLY

No. 47

**SENATE**

MONDAY, July 4, 2005

The Senate met at 8:45 p.m., Eastern Daylight Saving Time.

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

**PRAYER**

The Chaplain, Reverend CARL VINING, of House of Judah Ministries, Montgomery, offered the following prayer:

Dear kind Heavenly Father, I come before You for the seventh day on behalf of this fine Senate of Pennsylvania. Lord, I have heard the words from various ones and reasons that men say is the holdup of our budget being passed. Father, I know that You can move upon their hearts and decisions can be made quickly, so I humbly ask Thee one more time, that Thou would move upon the hearts of our Governor and all the elected officials, and that the things that are at hand would be done in a timely manner, even though we have gone beyond the time that we would have liked to have had it done. I ask that You would move with a peaceable agreement, one that would prosper all, and one that would be good for this Commonwealth.

Father, there are lives at stake and there are things that are dependant upon finances to come from this budget, things that You approve of, and Your will approves of. So I say, Lord Jesus, make a way this day that the budget shall be passed and shall not be hindered anymore by any spirit of division. Let Your wisdom and understanding come to every heart, that decisions shall be made. In Jesus' name I pray. Amen.

The PRESIDENT. The Chair thanks Reverend Vining, who is the guest today of Senator Madigan.

**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 July 3, 2005.

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

**HOUSE MESSAGES**

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

The Clerk of the House of Representatives informed the Senate that the House has concurred in amendments made by the Senate to **HB 136, 266, 267, 279, 1589 and 1745.**

**HOUSE CONCURS IN SENATE BILLS**

The Clerk of the House of Representatives returned to the Senate **SB 126, 141, 565, 608, 609, 610, 611, 612, 613 614 and 677** with the information the House has passed the same without amendments.

**HOUSE BILL FOR CONCURRENCE**

The Clerk of the House of Representatives presented to the Senate the following bill for concurrence, which was referred to the committee indicated:

July 3, 2005

**HB 1690** -- Committee on Game and Fisheries.

**LEGISLATIVE LEAVE**

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

Senator PICCOLA. Madam President, I request a legislative leave for Senator Punt.

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

**CALENDAR**

**THIRD CONSIDERATION CALENDAR**

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

**HB 1650 (Pr. No. 2489)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 30 (Fish) of the Pennsylvania Consolidated Statutes, further providing for resident, nonresident and tourist fishing licenses.

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

#### PREFERRED APPROPRIATION BILLS OVER IN ORDER TEMPORARILY

**HB 816, HB 817, HB 818, HB 819, HB 820, 821 and HB 822** -- Without objection, the bills were passed over in their order temporarily at the request of Senator PICCOLA.

#### LEGISLATIVE LEAVE

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

Senator O'PAKE. Madam President, I request a legislative leave for the remainder of today's Session for Senator Fumo.

The PRESIDENT. Without objection, a legislative leave will be granted for Senator Fumo.

#### CONSIDERATION OF CALENDAR RESUMED

#### THIRD CONSIDERATION CALENDAR RESUMED

#### BILL AMENDED

**HB 489 (Pr. No. 2431)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further defining "emergency vehicle"; further providing for application for certificate of title, for transfer of ownership of vehicle and for application for certificate of title by agent; providing for certain

veterans plates; further providing for suspension of registration of unapproved carriers and for surrender of registration plates and cards upon suspension of revocation; providing for suspension of registration plates upon sixth unpaid parking violation in cities of the first class and for motor vehicle liability insurance for motorcycle marshals; and further providing for reinstatement of operating privilege or vehicle registration, for automated red light enforcement systems in first class cities, for operation of vehicle without official certificate of inspection, for conditions of permits and security for damages, for permit for movement of containerized cargo, for impoundment of certain vehicles and combinations for nonpayment of fines, for immobilization, towing and storage of vehicle for driving without operating privilege or registration, for disposition of impounded vehicles, combinations and loads and for prohibitions on ATV operation by persons under age 16.

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

#### WOZNIAK AMENDMENT A2641

Senator WOZNIAK offered the following amendment No. A2641:

Amend Title, page 1, line 22, by striking out "AND" where it appears the second time and inserting a comma

Amend Title, page 2, line 1, by removing the period after "16" and inserting: and for refunds of tax imposed upon liquid fuels or certain other fuels.

Amend Bill, page 22, by inserting between lines 16 and 17:

Section 10.1. Section 9017(d) of Title 75 is amended and the section is amended by adding a subsection to read:

§ 9017. Refunds.

\*\*\*

[(d) Off-highway recreational vehicles.--

(1) When the tax imposed by this chapter has been paid on fuel used in off-highway recreational vehicles within this Commonwealth, an amount equal to the revenue generated by the tax, but not derived therefrom, may be appropriated through the General Fund to the Department of Conservation and Natural Resources. It is the intent of this chapter that all proceeds from the tax paid on fuel used in off-highway recreational vehicles within this Commonwealth be paid without diminution of the Motor License Fund.

(2) The Department of Conservation and Natural Resources shall biennially calculate the amount of liquid fuel consumed by off-highway recreational vehicles and furnish information relating to its calculations and data as may be required by the Appropriations Committee of the Senate and the Appropriations Committee of the House of Representatives.

(3) The General Assembly shall review the fuel consumption calculations of the Department of Conservation and Natural Resources to determine the amount of liquid fuels tax paid on liquid fuels consumed in the propulsion of off-highway recreational vehicles in this Commonwealth and may annually appropriate to the Department of Conservation and Natural Resources the amount so determined.

(4) Money appropriated under paragraph (3) shall be used for the benefit of motorized and nonmotorized recreational trails by the Department of Conservation and Natural Resources as provided in the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240, 105 Stat. 1914).]

(d.1) Motorized recreational vehicles.--

(1) When the tax imposed by this chapter has been paid and the fuel on which the tax has been imposed has been consumed in the operation of motorized recreational vehicles on designated roads and bridges of this Commonwealth, including roads and bridges bordering on this Commonwealth, annually up to a maximum of \$1,000,000 of the full amount of such taxes shall be refunded to the restricted account established in section 7706 (relating to restricted account) upon petition to the Board of Finance and Revenue.

(2) In accordance with prescribed procedures, the Department of Conservation and Natural Resources shall biennially calculate the amount of liquid fuels consumed by motorized recreational vehicles and furnish such information, relating to its calculations and data to the Board of Finance and Revenue. The board shall review the petition and motorized recreational vehicle fuel consumption calculations of the Department of Conservation and Natural Resources to determine the full amount of taxes paid and shall certify to the State Treasurer to refund annually up to a maximum of \$1,000,000 of the full amount of such taxes to the restricted account established in section 7706.

(3) This money shall be used by the Department of Conservation and Natural Resources for the improvement of public roadways, highways and bridges of this Commonwealth, including roads and bridges bordering on this Commonwealth that are also used by motorized recreational vehicles required to be registered under this title. For the purpose of this section, improvement includes, but is not limited to, grooming for snowmobile use and safety.

(4) For the purposes of this subsection, motorized recreational vehicles are snowmobiles, all-terrain vehicles, motorcycles and four-wheel drive vehicles.

\* \* \*

Amend Sec. 13, page 23, by inserting between lines 3 and 4:

(5) The amendment or addition of 75 Pa.C.S. § 9017(d) and (d.1) shall take effect July 1, 2005, or immediately, whichever occurs later.

Amend Sec. 13, page 23, line 4, by striking out "(5)" and inserting:

(6)

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?

RECONSIDERATION OF VOTE ON A2641

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

Senator PICCOLA. Madam President, I move to reconsider the vote by which amendment A2641 was agreed to.

The PRESIDENT. Senator Piccola moves to reconsider the vote by which amendment A2641 was agreed to.

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 amendment A2641?

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

Senator PICCOLA. Madam President, I would like to interrogate the gentleman from Cambria, Senator Wozniak, the maker of the amendment.

The PRESIDENT. Will the maker of the amendment stand for interrogation?

Senator WOZNIAK. Madam President, I will.

Senator PICCOLA. Madam President, could the gentleman kindly explain what the content of this amendment is so that the Members would be aware of its content?

Senator WOZNIAK. Madam President, what we attempted to do, a number of years ago there was a commitment made to ATVs. They have registrations, fees that go to the ATV fund, and also to extrapolate how much liquid fuel money ATVs use. We are taking the estimated dollar amount, and it is being placed into roads, bridges, and other surfaces that are used for ATVs and also for road-worthy vehicles. We worked very closely with the administration to find the appropriate language to make sure it is constitutional, and this will go a long way towards trying to give a solid financial footing for development of ATVs, snowmobiles, and other all-terrain vehicles.

Senator PICCOLA. Thank you, Madam President.

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

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

YEA-48

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

NAY-2

Madigan                  Wonderling

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

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

HUGHES AMENDMENT A2594

Senator HUGHES offered the following amendment No. A2594:

Amend Title, page 1, lines 8 through 11, by striking out "AND FOR SURRENDER OF REGISTRATION PLATES AND CARDS" in line 8, all of lines 9 and 10 and "CITIES OF THE FIRST CLASS AND FOR" in line 11 and inserting: ; providing for

Amend Title, page 1, lines 12 and 13, by striking out "FOR" in line 12 and all of line 13

Amend Sec. 4, page 6, lines 26 and 27, by striking out all of said lines and inserting:

Section 4. Section 1375(a) of Title 75 is amended to read:

Amend Bill, page 7, lines 13 through 30; page 8, lines 1 through

30; page 9, lines 1 through 17, by striking out all of said lines on said pages and inserting:

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

Amend Sec. 6, page 9, line 23, by striking out "1960,"

Amend Sec. 6 (Sec. 1960), page 9, lines 25 through 30; page 10, lines 1 and 2, by striking out all of said lines on said pages

Amend Bill, page 22, lines 17 through 30; page 23, lines 1 through 5, by striking out all of said lines on said pages and inserting:

Section 11. This act shall take effect as follows:

(1) The addition of 75 Pa.C.S. § 1791.2 shall take effect immediately.

(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 Philadelphia, Senator Hughes.

Senator HUGHES. Madam President, for the information of the Members, this amendment removes the language authorizing the Philadelphia Parking Authority to suspend a vehicle registration upon accumulation of six parking tickets in the city of the first class. We believe that given the state of affairs at the Philadelphia Parking Authority, the lack of total automation, and the lack of a coherent process to keep track of who has tickets, who does not have tickets, that the idea of suspending vehicle registration upon accumulation of parking tickets is not appropriate at this time.

I ask for passage of this amendment, Madam President.

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

Senator MADIGAN. Madam President, I request a negative vote on A2594. As outlined by the sponsor, it removes from the bill a provision requiring suspension of a person's vehicle registration upon the accumulation of six or more unsatisfied parking violations in the city of the first class. A person who has accumulated six or more unsatisfied parking violations would have received at least a dozen notices from the Philadelphia Parking Authority and several opportunities for appeal. They would also have received a notice from the Department of Transportation that on a date certain their registration would be suspended unless the tickets are paid or a payment plan has been established, or is being followed, or the tickets are invalidated through appeal.

The city has more than \$10 million in outstanding parking fines that they have been unable to collect through other means. I request a negative vote on this amendment.

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

Senator HUGHES. Madam President, if I may, I do not want to belabor the point nor belabor the length of the evening, since we already anticipate we are going to be here for some time. I would say that it really seems to be unfair to be in a situation where the city of Philadelphia and the drivers in the city of Philadelphia are impacted in a way that is not necessarily the case in just about any other jurisdiction across the Commonwealth. I am not sure exactly why Philadelphia drivers have to face this reality.

Secondly, we are talking about, if you will, we are talking about parking tickets, and we know that in some cases illegal parking is beyond the pale, especially if you are parking at a fire hydrant or something like that which can really get in the way of other services, other more important services that have to be provided in a particular area, but we are talking about parking tickets. We are not talking about moving violations where folks' lives and safety are in danger, we are talking about parking tickets, and the idea of removing someone's registration and therefore denying them the opportunity to drive, to move here and there, to get to their place of business, to address maybe emergency issues with their family that they may not be in a situation to do without their vehicle, seems to be excessive at best. Denying an opportunity to drive because of a parking ticket in a system that has shown not to be efficient, not up to date, not current with violations or with payment of violations, so that when you already make redress on previous tickets that is not necessarily up to date and made accountable within the system, we are talking about a situation where there is some question about the operation of parking officers and whether they have certain quotas that must be met.

Recent reports have found out, not just across the State but across the country, that folks are encouraged to write more tickets than are appropriate, in addition to the fact that the technology used by the meters is not working appropriately. Meters that have been put out on the street have to be taken off the street and recalibrated, reworked, and redone so that they could be made to work appropriately. With all of that in mind, Madam President, again, the idea of removing someone's registration, thereby denying them the opportunity to drive because of parking tickets in a system that does not work appropriately, seems to be beyond the pale, and I encourage a "yes" vote on this amendment.

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

|         |         |        |                      |
|---------|---------|--------|----------------------|
| Boscola | Hughes  | Mellow | Tartaglione          |
| Costa   | Kasunic | Musto  | Washington           |
| Ferlo   | Kitchen | O'Pake | Williams, Anthony H. |
| Fontana | LaValle | Stack  | Williams, Constance  |
| Fumo    | Logan   | Stout  | Wozniak              |

NAY-30

|            |           |           |                |
|------------|-----------|-----------|----------------|
| Armstrong  | Greenleaf | Punt      | Vance          |
| Brightbill | Jubelirer | Rafferty  | Waugh          |
| Browne     | Lemmond   | Regala    | Wenger         |
| Conti      | Madigan   | Rhoades   | White, Donald  |
| Corman     | Orie      | Robbins   | White, Mary Jo |
| Earll      | Piccola   | Scarnati  | Wonderling     |
| Erickson   | Pileggi   | Thompson  |                |
| Gordner    | Pippy     | Tomlinson |                |

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, as amended?

#### HUGHES AMENDMENT A2608

Senator HUGHES offered the following amendment No. A2608:

Amend Sec. 9, page 14, line 23, by striking out "(C)," Amend Sec. 9, page 14, lines 23 and 24, by striking out "6309.1(D) and (F)(2)" and inserting: 6309.1(f)(2)  
Amend Sec. 9 (Sec. 6309), page 15, lines 24 through 30; page 16, lines 1 through 10, by striking out all of said lines on said pages  
Amend Sec. 9 (Sec. 6309.1), page 17, lines 5 through 22, by striking out all of said lines  
Amend Sec. 9 (Sec. 6309.2), page 19, line 8, by striking out the brackets before and after "BY THE MOST EXPEDITIOUS MEANS AND"  
Amend Sec. 9 (Sec. 6309.2), page 19, line 9, by striking out the bracket before "SERVICE"  
Amend Sec. 9 (Sec. 6309.2), page 19, line 9, by striking out "] MAILING"  
Amend Sec. 9 (Sec. 6309.2), page 19, line 11, by striking out "AND THE LIENHOLDER"  
Amend Sec. 9 (Sec. 6309.2), page 19, line 11, by striking out the bracket before "AND"  
Amend Sec. 9 (Sec. 6309.2), page 19, line 15, by striking out "] USING REASONABLY AVAILABLE STATE DATABASE"

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

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

Senator HUGHES. Madam President, current law requires, on the impoundment of a vehicle, that the person must receive notice by first-class mail with proof of service, which I think we commonly know and refer to as return receipt requested. The way the bill is drafted now, it takes that language out of current law and just says that notice must be provided by first-class mail, and does not acknowledge the fact that there must be a return receipt on the recipient's end, the individual about to have their vehicle impounded.

This amendment would allow current law to stand, would remove the restricted law that is currently in the bill right now.

In other words, if you are about to have your vehicle impounded, you need to be notified in a certifiable fashion, through first-class mail, with return receipt provided, which is current law right now. The bill changes that law just for people who live in the city of Philadelphia. I imagine for folks who live outside of the city and then work in the city or come to the city to enjoy the fireworks or the Live 8 or the orchestra or the Mann Center or the library, or come to the schools or come to a baseball game or a football game or do anything that they love to do inside the city, if they accumulate more than six parking tickets, their vehicle will be impounded without the fact of them knowing, just on the proof that the State has sent them notice, not the fact that they actually received it, which is current law, Madam President.

So all of our friends who live in the suburbs and the counties, some of whom I represent in Montgomery County and Bucks County and Chester County and Delaware County, and all our

friends and fellow Pennsylvanians who love to come to the city of Philadelphia, if they have six parking tickets, they may have their car impounded without any real notice that they can respond to, which by the way, Madam President, allows them, if they get a notice, to respond to it and to fix the problem. No, they just get their vehicle taken away from them. This is the only county in the Commonwealth of Pennsylvania that will have to be confronted with this reality, and I would suggest there has been no local complaint, at least represented by those of us in the Senate or my colleagues in the House who have had to hear about this problem, in any way, shape, or form.

So, Madam President, that is what this amendment does. As my good friend, Senator Ferlo, said, allow freedom to ring in the city of Philadelphia, and please vote "yes" on this amendment.

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

Senator MADIGAN. Madam President, I rise to oppose this amendment. It returns the legislation to the requirement that certified mail notification to a person whose vehicle has been impounded be used. Certified mail is counterproductive because it allows the process to continue without end as long as a person never signs for notices of certified mail. In talking with the Philadelphia Parking Authority, they use a U.S. Postal Service proof of mailing for every notice that is sent to those who have parking violations. The addresses that are used for the notices are the ones that appear on a person's registration, and therefore should be accurate as a method of finding the person's location. I would encourage a negative vote on this amendment.

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

Senator HUGHES. Madam President, I only suggest, as we wind up the discussion, here is a situation where a law is being crafted just for the residents of the city of Philadelphia, and in fact, as I indicated, not those folks who live outside the city but who work in the city or who come and enjoy the fruits and wonderful things inside the city of Philadelphia. To send notice that your vehicle has been impounded or is about to be impounded, without giving you the opportunity to respond to that notice, without giving you the opportunity to try to address the problem of the six parking tickets, and not give the opportunity to address this situation, this might be a different situation if we were talking about a violation like DUI, or other moving violations, but we are talking about parking tickets. As someone whom we admire regularly, Allen Iverson, said, we are talking about practice, we are talking about practice. We are talking about parking tickets, Madam President, in a system that is faulty at best, faulty at best. The idea of removing someone's vehicle without giving him the opportunity to significantly respond is unfair, and especially unfair when it is only carved out for the residents of the city of Philadelphia.

Thank you, Madam President.

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-21

|           |         |             |                      |
|-----------|---------|-------------|----------------------|
| Boscola   | Hughes  | Musto       | Williams, Anthony H. |
| Costa     | Kasunic | O'Pake      | Williams, Constance  |
| Ferlo     | Kitchen | Stack       | Wozniak              |
| Fontana   | LaValle | Stout       |                      |
| Fumo      | Logan   | Tartaglione |                      |
| Greenleaf | Mellow  | Washington  |                      |

NAY-29

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

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

HUGHES AMENDMENT A2646

Senator HUGHES offered the following amendment No. A2646:

Amend Sec. 5 (Sec. 1379), page 8, line 14, by striking out "THE" where it appears the second time and inserting: No sooner than 30 days after mailing the notice provided under subsection (b.1), the

Amend Sec. 5 (Sec. 1379), page 8, by inserting between lines 24 and 25:

(b.1) Notice by the parking authority.—Prior to notifying the department under subsection (b), the parking authority shall provide the owner or registrant written notice by certified mail, return receipt requested, of its intent to seek suspension of the vehicle registration pursuant to this section.

On the question,  
Will the Senate agree to the amendment?  
It was agreed to.

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

BILL OVER IN ORDER

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

BILL OVER IN ORDER TEMPORARILY

HB 599 -- Without objection, the bill was passed over in its order temporarily at the request of Senator PICCOLA.

BILL ON THIRD CONSIDERATION  
AND FINAL PASSAGE

HB 612 (Pr. No. 2100) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of March 1, 1988 (P.L.82, No.16), known as the Pennsylvania Infrastructure Investment Authority Act, further providing for definitions.

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

BILL OVER IN ORDER

HB 746 -- Without objection, the bill was passed over in its order at the request of Senator PICCOLA.

BILL OVER IN ORDER TEMPORARILY

HB 1168 -- Without objection, the bill was passed over in its order temporarily at the request of Senator PICCOLA.

SECOND CONSIDERATION CALENDAR

BILLS OVER IN ORDER

HB 107 and SB 643 -- Without objection, the bills were passed over in their order at the request of Senator PICCOLA

SENATE RESOLUTION No. 150, ADOPTED

Senator PICCOLA, without objection, called up from page 4 of the Calendar, Senate Resolution No. 150, entitled:

A Resolution urging the President and Congress of the United States to utilize all available trade remedy laws to prevent surges, dumping and subsidized imports of steel pipes, tubes and fittings in the United States market.

On the question,  
Will the Senate adopt the resolution?

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

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

**BILL ON THIRD CONSIDERATION  
AND FINAL PASSAGE**

**HB 1646 (Pr. No. 2433)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 3 (Agriculture) of the Pennsylvania Consolidated Statutes, providing for a prohibition against unauthorized local government unit actions; establishing a cause of action for unauthorized enactment or enforcement of local ordinances governing normal agricultural operations; providing for duties of the Attorney General and for hearings; consolidating the Nutrient Management Act; further providing for scope, for legislative purpose, for definitions and for administration; providing for manure application; further providing for nutrient management and odor management certification; providing for odor management plans; further providing for the Nutrient Management Advisory Board, for financial assistance, for unlawful conduct, for civil penalties and for local preemption; providing for other statutes and for regulations; and making a related repeal.

Considered the third time and agreed to,

On the question,  
Shall the bill pass finally?

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

Senator WAUGH. Madam President, passage of House Bill No. 1646 this evening represents an opportunity for agriculture in Pennsylvania to operate without fear of the unknown. This bill provides a process that addresses what the agricultural community has held up as its number one issue for more than half a decade. That issue is the threat of local ordinances that sometimes impose on their ability to farm. I want to just make clear to the Members and to the folks listening this evening that this is not a widespread problem, quite honestly, but it hits hard in those areas where it does impact. Most of our local municipalities do a good job, but the ones that do not, boy, the farms take a licking in those areas, big time.

House Bill No. 1646 offers a fair and unbiased course of action for our Commonwealth's farm families to seek relief when they feel that those local ordinances are unreasonable. Our municipal governments are charged with protecting the health and safety of their citizens, and as I said earlier, for the most part, they do a good job. This is a very important aspect of their job, and they should take it seriously, but the system breaks down when gross distortions of fact are used by some individuals, when scare tactics and emotion are employed in an attempt to mislead citizens, and those citizens, in turn, try to sway local public officials to prohibit or to restrict agricultural activities. A lot of times these activities really are modern-day practices, but they are considered by a very small few to be unacceptable to them for whatever reason.

Let me give you an example of some of the distortion that we hear. In an article published in the Philadelphia Inquirer just a couple of years ago, statements were made that Philadelphians were recipients of depositions from the air, this is a quote, "almost as pure as urine," unquote, caused by farming operations across Pennsylvania. Do you realize what that does to the people who hear it? In response, the dean of the College of Agricultural Sciences at Penn State called this claim patently absurd and a great disservice and an insult to the intelligence of the people of our great State of Pennsylvania. This is just one example of misguided attempts to play on the emotions and the fears of people across this Commonwealth, while hiding from them decades of sound data and sound science that would help those people develop an informed and reasoned opinion about today's agriculture in Pennsylvania. When farmers are faced with ordinances that prevent them from being able to make timely business decisions and using agricultural practices that are permitted by State and Federal law, when these ordinances value other types of development over farming, the farmers are often left with very few options. Oftentimes facing a surge of legal expenses resulting from attempts to save the farmstead, and often these places are in families for generations, farmers have been known to opt to sell their land for development and move to more farmer-friendly areas.

You know, I believe that these ordinances add more uncertainty to an already inherently uncertain livelihood and profession. When the risks become too great, the infrastructure supporting this industry collapses. The processing companies leave. The farm suppliers and hardware stores cannot make it. Truckers, wholesalers, advertisers, retailers, and financial institutions, all parts of our agriculture community in Pennsylvania, move, they go out of business and go to other States where the future of farming is more positive and these business people, men and women, can be assured of future capacity sufficient to meet their needs. Our farmers will be at an even greater competitive disadvantage when this happens, all because progressive farming just does not fit someone's idea or vision of what a farm should really be.

I am going to put in a personal note here. A lot of the folks in this Chamber know me, and certainly they know what I do when I am not here. I am the first to tell you, Madam President, I would love to see the farms across our State farming with a team of horses. I would love to see it, I myself would do it, but that is not what it is about, that is now how it works today, and that is what some people seem to think agriculture in Pennsylvania should still be. Our farmers in Pennsylvania, when put at a competitive disadvantage, and those businesses, when they are put in a position that does not fit someone else's vision of farming today, we lose hundreds of thousands of jobs that generate almost \$45 billion in our State's economy.

I think a letter from a family in the western part of the State really said it best, and this is just part of a letter that a woman sent to me. Pennsylvanians support agriculture. Recently, it was illustrated by the overwhelming support of the Growing Greener II bond issue in the primary election to provide more funding for farmland preservation, but the folks in these communities may not be aware of how their local government's actions can impact upon agriculture. Whether they admit it or not, some municipalities have been considering and some have actually been passing

ordinances that hinder even the most basic agricultural practices. Now theoretically, they will say this is to protect their citizenry from the evils of farming operations. Dust, noise, flies, odors, are they truly evils? Anyone who has lived on a farm or been in the country knows it comes with the turf, it comes with the territory. Under closer scrutiny, however, such ordinances are actually designed, and this lady who wrote to me, this is her opinion, and I am not too sure she is far off in some situations, these ordinances are actually designed to intimidate farmers and to encourage them to sell their properties for development, which will generate more tax dollars to the municipality. Think about that for a second. In that light, growth drives up land values and property taxes, which increases the likelihood of family farms who find it more difficult to turn a profit there to sell out, to sell for the final crop - homes and development.

Take for instance the grasscutting ordinances, popular in a number of Pennsylvania communities, requiring property owners to keep the growth of all grasses below a specific height, often 6 inches, which severely hampers a farmer's ability to grow and harvest a good crop. Other ordinances seek to prohibit expansion of an operation, to define what products can and cannot be sold at produce stands, for goodness sake, and to describe unreasonable setback limits on new barns or sheds used for cattle or crops. One community even issues criminal citations to farmers when a cow gets out of its pasture or breaks a fence. Anybody who has lived in the country knows that from time to time the cows are going to get out, it does not matter what kind of fence you have up.

House Bill No. 1646 provides farmers with an avenue to challenge the growing number of ordinances designed to curb agriculture activity. Whether to prevent certain practices or to pressure farmers to sell, this bill will address those issues in a way that is fair. It does not take away local authority for zoning and planning. It has been said that it does, but it does not. That is why the township supervisors are with us on this. They do not object to it. This bill will also address environmental concerns of many communities and farm neighbors. Now, opponents of this proposal will claim that it strips local government of all its power, gives carte blanche to large farms to pollute or do whatever they want in our communities, but the truth is the State Department of Agriculture, the Department of Environmental Protection, the United States Department of Agriculture, and the United States Environmental Protection Agency, all regulate agriculture, and more today than ever before in our country or nation's history. The threat of pollution from farms, often trotted out by opponents of this measure, is greatly exaggerated, folks. Let me tell you, out of the 58,000 farms in Pennsylvania, under 1 percent, under 1 percent, a mere fraction, are what are considered CAFOs, or large operations.

It is a mistake to conclude that in Pennsylvania the larger poultry and hog units are replacing smaller farms. It is often said that we are going to run the small farms out of business. It is not true. The opposite is true. The model that operates in the State for hog and chicken farming requires diversity, individual farms as part of this production mix and little farms, without them the system fails. A 2,800-head sow facility, for example, requires two nursery farms to grow small animals and eight farms to finish pigs, getting them ready to go to market. A million layer chicken

complex needs four or five pullet farms and one or two breeder farms for hatcheries.

The diversity of agriculture in Pennsylvania, we cannot lose it, we cannot afford to lose it. Oftentimes the opponents to this bill try to separate or divide agriculture in some way, but it is so very important in our State to have our basket, our agriculture basket, our market basket full. Let me give you a couple of examples of what it means to Pennsylvania. We are the number one producer of mushrooms and calves in this State. We are number two of direct farm sales to consumers, farm markets. We are number three in eggs and chicks. We are number four in milk production, milk cows, milk goats, peaches, grapes, pumpkins, and Christmas trees. We are number five in apples, pears, and processing of tomatoes and trout. We are number six in strawberries, sheep, and lambs. We are number seven in sweet corn. We are number eight in maple syrup. We are number nine in fresh tomatoes, and we are number ten in cantaloupes and broiler chickens, not to mention the great northwest, Senator Earll's home ground, where viniculture, grapes, are so very important, jellies and wine, and I have not had any.

Those opposing a bill such as House Bill No. 1646 really are encouraging cash-strapped farmers to sell their land in some twisted way, I believe. It is the small farms these groups say they want to protect. They will be the first to fold. The small farms will be the first ones to move to greener pastures. Fewer farms mean fewer strawberry patches, fewer farm stands, and no more scenic drives in the country. Madam President, there has to be a better way for municipalities to plan their communities and for those concerned with the environment to further their cause than to continually, continually try to drive a wedge to divide and to desegregate our farm families. Without legislation like this bill this evening, many small farmers can choose to reap something from their land by selling it, or face losing their investment to legal expenses and frivolous lawsuits.

In addition, and I have talked a lot about municipal stuff, it is important to understand that this bill deals only with the environmental issues. I think it is important for folks to understand this, because a lot has been said about this bill and how it affects the environment.

There are provisions in this bill that help DEP encourage agriculture to update regulations regarding water quality and to help them implement new odor management, best management practices, such as the latest in the design and technology when they are building new buildings or installing fans, so here is our opportunity.

Madam President, we can support House Bill No. 1646 tonight, a bill that was generated out of a collaborative effort involving the chairman of the House Committee on Agriculture, Chairman Hershey, and his Democratic chairman, Representative Daley, and many others in the House of Representatives helped, also Senator O'Pake, the Democratic chairman in the Senate on the Committee on Agriculture, Senator Madigan, and Senator Wenger, who are stalwarts in the agriculture community in supporting agriculture, and others in the Senate helped. The farm and environmental groups and the local government groups and their representatives and many others helped put this bill together and in form tonight. It has been a long haul. We can support this bill and take solace in the fact that we are taking a step toward

helping to ensure that farming will remain Pennsylvania's number one industry.

I ask for an affirmative vote.

Thank you very much.

The PRESIDENT. Thank you, Senator Waugh, for your comments on House Bill No. 1646.

The Chair recognizes the gentleman from Blair, Senator Jubelirer.

The PRESIDENT pro tempore. Madam President, to the delight of this body, I am going to offer my remarks for the record and urge the support of the bill, and certainly give credit to Senator Waugh, Senator Wenger, Senator Madigan, Representatives Hershey and Daley, and all those who worked so hard on an issue that is extraordinarily important to rural Pennsylvania, especially in my district.

Madam President, I will now submit my remarks for the record.

The PRESIDENT. Senator Jubelirer's remarks will be spread upon the record.

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

For those of us who represent rural areas where agriculture is still an economic strength, this is a vital piece of legislation. Some parts of my district have proved particularly susceptible to the outbreak of restrictive local ordinances. To survive, farmers must fight back through the legal system, and as local experience shows, they then confront a tough combination of national resources and taxpayer money used to bleed them dry. In this process, farming does not win, no matter the ultimate verdict.

At the heart of the local ordinance movement is the notion that there is the right to reject anything, anywhere, for any reason, at any time. That is a right that exists only in the imagination of the minds behind what is really an anti-agriculture push. Agriculture, whether it is a small family farm or a much larger enterprise, is not helped when it is smothered under a load of arbitrary regulations. Local governments should and do possess powers for setting limits and establishing standards for various kinds of development, but to attempt to dictate who may or may not own various enterprises, or to dictate what sorts of contractual relationships may exist, is a level of interference that knows no end and has no healthy outcome.

I do not discredit the nostalgia people feel for main streets and wide-open countryside, for the small family farm, the corner drugstore, and the main square 5 & 10, but we cannot turn back the economic clock and recapture an era gone by merely by having government re-writing economic rules in arbitrary and crazy-quilt fashion. I do not discount the difficulties facing local officials caught in the clashes pitting homeowners against modern agricultural practices, but it is wrong when groups contend that there is no control, no limit, no protection unless we let local officials write any restriction they want.

There are many important protections contained in State law and State regulation that we have approved over the years. We have tried several ways to solve this problem through legislation, including a bill that the Governor vetoed. This measure provides a promising alternative, simple and effective, for ending the growing, counterproductive conflict between farmers and local officials.

Our agricultural experts in the Senate and the House have done a superb job in crafting this approach. Everyone praises the importance of agriculture to our economy and to the character of our Commonwealth. This bill will ensure that our policies and our actions are as supportive as our words.

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

Senator WOZNIAK. Madam President, to be even more brief, I do not think anybody can touch the depth and breadth of Senator Waugh's understanding of farming and industry, but I would just like to say that as farming has evolved over the past 200, 300 years of the American society, this bill has evolved from its original writing to try to accommodate the needs of the township supervisors, the needs of the people who have differences of opinion to find consensus building.

Pennsylvania is a diverse, complex State, from the rich fertile lands of Lancaster, to the dairy farms of Appalachia, and in a bipartisan mode, I think we should support this language and move it on to the Governor's desk.

Thank you very much.

The PRESIDENT. Thank you, Senator Wozniak, for your additional comments on House Bill No. 1646.

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

Senator O'PAKE. Madam President, I rise briefly in support of Senate Bill No. 1646, which is commonly referred to as the ACRE initiative, and I urge my colleagues in the Senate to do likewise. This has been a very, very difficult issue to deal with over the past few years. We now have before us a bill that is supported by both the agricultural community and the Pennsylvania Association of Township Supervisors. Although this legislation is not the exact proposal as originally submitted by the Governor, it is a reasonable compromise that should prevent lengthy, costly litigation in the future throughout Pennsylvania. I urge its adoption by the Senate.

The PRESIDENT. Thank you, Senator O'Pake, for your comments and support.

The Chair recognizes the gentleman from Bradford, Senator Madigan.

Senator MADIGAN. Madam President, I have been involved in this issue for many, many years, and following the spirit of the chairman, Senator Waugh, in his eloquence and brevity, I submit my remarks for the record.

The PRESIDENT. The remarks will be spread upon the record.

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

Madam President, I rise today to urge my colleagues to support House Bill No. 1646, a measure that would protect farmers against illegal and discriminatory local ordinances and would enlist the assistance of the Pennsylvania Attorney General to ensure that farmers are not forced out of business because of those illegal ordinances.

When a township passes an ordinance specifically designed to hamper farm operations, an ordinance that they have no power under State law to enforce, it represents a serious threat to our State's number one industry. This bill seeks to prevent that injustice from continuing unchecked. Further, it is important to clarify that the bill does not interfere with the current environmental laws that govern farmers, nor would it change existing ordinances and zoning laws. Farmers will have to continue to operate in environmentally sound ways, and legal ordinances that are on the books will not have to be altered. In short, this measure is fair for farmers without placing new restrictions on local governments.

Because it strikes such a good balance, House Bill No. 1646 has earned the support of the Pennsylvania Farm Bureau, the Grange, and other major farming organizations in Pennsylvania. Meanwhile, this

legislation is not opposed by any major association representing municipal concerns.

I would like to thank the agriculture community in particular for their hard work on this legislation, and my colleagues on the Committee on Agriculture and Rural Affairs for working quickly to move this bill to the Senate for consideration.

Madam. President, House Bill No. 1646 represents yet another step we can take to build a stronger economy, enable individual farmers to make a living and remain competitive, and even protect open space from development, because unfair ordinances push farmers out of business and put their land into developers' hands.

For all these reasons, I urge a "yes" vote on House Bill No. 1646. Thank you.

The PRESIDENT. Thank you, Senator Madigan, for your comments in support of Senator Waugh and House Bill No. 1646.

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

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

YEA-49

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

NAY-1

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 without amendments.

SECOND CONSIDERATION CALENDAR

BILLS ON SECOND CONSIDERATION

**HB 86 (Pr. No. 1945)** -- The Senate proceeded to consideration of the bill, entitled:

An Act authorizing the Department of Conservation and Natural Resources on behalf of the Commonwealth to agree to hold and save the United States Army Corps of Engineers free from certain damages arising from certain construction projects.

Considered the second time and agreed to,

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

**SB 726 (Pr. No. 941)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, further providing for assessment limits on counties of the second class; and providing for effect of appeal, escrow and payment under protest.

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 Dauphin, Senator Piccola.

Senator PICCOLA. Madam President, I request a recess of the Senate for the purpose of a meeting of the Committee on Rules and Executive Nominations to be held in the Rules room immediately.

The PRESIDENT. For the purpose of a meeting of the Committee on Rules and Executive Nominations, without objection, the Senate will stand in recess.

AFTER RECESS

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

BILLS REPORTED FROM COMMITTEE

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

**SB 406 (Pr. No. 1059)** (Rereported) (*Concurrence*)

An Act designating SR 65 in the vicinity of Leetsdale, Allegheny County, as the James E. Russo Highway; designating the bridge carrying State Route 2096 over the Youghiogheny River in the City of McKeesport, Allegheny County, as the Senator Albert V. "Bud" Belan Bridge; designating the SR 0322 bridge over the Swatara Creek between Derry and Swatara Townships in Dauphin County as the Major Richard D. Winters Bridge; designating the bridge on the portion of SR 222 southbound, crossing the Conestoga River in Lancaster County, as the AMVETS POW-MIA Memorial Bridge; designating the Sproul State Forest in Clinton County as the "Russell P. Letterman Wild Area"; and designating a section of State Route 22 in Mifflin County as the Vietnam Veterans Memorial Highway.

**SB 462 (Pr. No. 1056)** (Rereported) (*Concurrence*)

An Act amending the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, further providing for sales by Pennsylvania liquor stores, for authority to issue liquor licenses to hotels, restaurants and clubs, for sales by liquor licensees regarding Sunday sales, for sale of malt or brewed beverages by liquor licensees, for malt and brewed beverages retail licenses, for retail dispensers' restrictions on purchases and sales, for revocation and suspension of licenses, for renewal of amusement permits, for the point system for certain licensees and for the assessment of points for noncompliance; providing for renewal of permit for sales for off-premises consumption in cities of the first class; further providing for unlawful acts relative to malt or brewed beverages and licensees; and providing for hours of operation relative to manufacturers, importing distributors and distributors and for unlawful acts relative to liquor, malt and brewed beverages and licensees.

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

**SENATE CONCURS IN HOUSE AMENDMENTS**

**SB 406 (Pr. No. 1059)** -- The Senate proceeded to consideration of the bill, entitled:

An Act designating SR 65 in the vicinity of Leetsdale, Allegheny County, as the James E. Russo Highway; designating the bridge carrying State Route 2096 over the Youghiogheny River in the City of McKeesport, Allegheny County, as the Senator Albert V. "Bud" Belan Bridge; designating the SR 0322 bridge over the Swatara Creek between Derry and Swatara Townships in Dauphin County as the Major Richard D. Winters Bridge; designating the bridge on the portion of SR 222 southbound, crossing the Conestoga River in Lancaster County, as the AMVETS POW-MIA Memorial Bridge; designating the Sproul State Forest in Clinton County as the "Russell P. Letterman Wild Area"; and designating a section of State Route 22 in Mifflin County as the Vietnam Veterans Memorial Highway.

On the question,

Will the Senate concur in the amendments made by the House to Senate Bill No. 406?

Senator PICCOLA. Madam President, I move that the Senate do concur in the amendments made by the House to Senate Bill No. 406.

On the question,

Will the Senate agree to the motion?

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

**YEA-50**

|            |           |             |                      |
|------------|-----------|-------------|----------------------|
| Armstrong  | Greenleaf | Piccola     | Tomlinson            |
| Boscola    | Hughes    | Pileggi     | Vance                |
| Brightbill | Jubelirer | Pippy       | Washington           |
| Browne     | Kasunic   | Punt        | Waugh                |
| Conti      | Kitchen   | Rafferty    | Wenger               |
| Corman     | LaValle   | Regola      | White, Donald        |
| Costa      | Lemmond   | Rhoades     | White, Mary Jo       |
| Earl       | Logan     | Robbins     | Williams, Anthony H. |
| Erickson   | Madigan   | Scarnati    | Williams, Constance  |
| Ferlo      | Mellow    | Stack       | Wonderling           |
| Fontana    | Musto     | Stout       | Wozniak              |
| Fumo       | O'Pake    | Tartaglione |                      |
| Gordner    | Orie      | 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 inform the House of Representatives accordingly.

**SENATE CONCURS IN HOUSE AMENDMENTS**

**SB 462 (Pr. No. 1056)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, further providing for sales by Pennsylvania liquor stores, for authority to issue liquor licenses to hotels, restaurants and clubs, for sales by liquor licensees regarding Sunday sales, for sale of malt or brewed beverages by liquor licensees, for malt and brewed beverages retail licenses, for retail dispensers' restrictions on purchases and sales, for revocation and suspension of licenses, for renewal of amusement permits, for the point system for certain licensees and for the assessment of points for noncompliance; providing for renewal of permit for sales for off-premises consumption in cities of the first class; further providing for unlawful acts relative to malt or brewed beverages and licensees; and providing for hours of operation relative to manufacturers, importing distributors and distributors and for unlawful acts relative to liquor, malt and brewed beverages and licensees.

On the question,

Will the Senate concur in the amendments made by the House to Senate Bill No. 462?

Senator PICCOLA. Madam President, I move that the Senate do concur in the amendments made by the House to Senate Bill No. 462.

On the question,

Will the Senate agree to the motion?

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

Senator RAFFERTY. Madam President, on the passage of this Senate bill, I would like to submit my remarks for the record.

The PRESIDENT. Thank you, Senator Rafferty. The remarks will be spread upon the record.

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

Senate of Pennsylvania

July 4, 2005

I should like to acknowledge the efforts of Representative Ron Raymond, Representative Robert Donatucci, and Senator Sean Logan, all who worked along with me to bring this legislation to fruition. I enclose for the record a letter from the Pennsylvania Liquor Control Board regarding Senate Bill 462.

Thank you.

**JOHN C. RAFFERTY**  
Chairman  
Committee on Law and Justice

Commonwealth of Pennsylvania  
Pennsylvania Liquor Control Board  
502 Northwest Office Building  
Harrisburg, Pennsylvania 17124-0001

June 28, 2005

The Honorable Michael Masch  
Secretary of Budget  
Room 238 - Main Capitol Building  
Harrisburg, PA 17120

RE: PLCB Transfer of Funds

Dear Secretary Masch,

The current session of the Legislature has under consideration Senate Bill No. 462, which contains a provision changing Section 305 of the Liquor Code. This provision would increase the discount rate for licensees from 7% to 10%. Naturally, this increase in discount will impact on the operating results of the Liquor Control Board. It is projected that the revenue stream to the Commonwealth would decrease by \$10.3 [sic]. However, while these monies cannot be recouped as such, the LCB continues to grow at a record pace and we believe we will be able to make a profit transfer in the next fiscal year of \$80 million as requested.

Please note the profit trend for the last three years and a projection for the upcoming year.

| Fiscal Year | Liquor Tax  | State Sales Tax | Income After PSP Transfer | Transfers to General Fund |
|-------------|-------------|-----------------|---------------------------|---------------------------|
| 2005-06*    | 220,488,000 | 85,359,000      | 90,000,000                | 80,000,000                |
| 2004-05*    | 207,649,000 | 80,954,000      | 95,000,000                | 54,900,000                |
| 2003-04**   | 198,014,940 | 77,207,473      | 99,303,467                | 50,000,000                |
| 2002-03**   | 181,264,200 | 70,561,087      | 73,902,284                | 155,000,000               |
| 2001-02**   | 171,228,909 | 66,643,056      | 85,803,750                | 120,000,000               |

Note: FY2004-05 & FY 2005-06 are projected. FY 2005-06 assumes a Licensee discount rate of 10%.

FY 2003-04 was a 53 week year. All others are 52 week-based fiscal years.

\* Projected

\*\* Actual

Additionally, we are projecting \*\$90 million (After PSP Transfer) in revenue during fiscal year 2005-06.

Please contact me if I may be of further assistance in this matter.

Sincerely,

Jonathan H. Newman

And the question recurring,

Will the Senate agree to the motion?

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

#### YEA-39

|            |           |          |                      |
|------------|-----------|----------|----------------------|
| Boscola    | Greenleaf | Orie     | Tartaglione          |
| Brightbill | Hughes    | Piccola  | Thompson             |
| Browne     | Kasunic   | Pileggi  | Tomlinson            |
| Conti      | Kitchen   | Pippy    | Vance                |
| Costa      | LaValle   | Punt     | Washington           |
| Earl       | Lemmond   | Rafferty | White, Mary Jo       |
| Erickson   | Logan     | Rhoades  | Williams, Anthony H. |
| Ferlo      | Mellow    | Scarnati | Williams, Constance  |
| Fontana    | Musto     | Stack    | Wozniak              |
| Fumo       | O'Pake    | Stout    |                      |

#### NAY-11

|           |           |         |               |
|-----------|-----------|---------|---------------|
| Armstrong | Jubelirer | Robbins | White, Donald |
| Corman    | Madigan   | Waugh   | Wonderling    |
| Gordner   | Regola    | 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 inform the House of Representatives accordingly.

## BILLS SIGNED

The PRESIDENT (Lieutenant Governor Catherine Baker Knoll) in the presence of the Senate signed the following bills:

**SB 126, SB 141, SB 511, SB 565, SB 600, SB 608, SB 609, SB 610, SB 611, SB 612, SB 613, SB 614, SB 677, SB 697, SB 722, HB 136, HB 266, HB 267, HB 271, HB 279, HB 1589 and HB 1745.**

## RECESS

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

Senator PICCOLA. Madam President, I move that the Senate stand in recess to the call of the President pro tempore, and I would like to inform the Republican Members that there will be a Republican caucus at 5 p.m. tomorrow.

The PRESIDENT. Senator Piccola moves that the Senate stand in recess to the call of the President pro tempore.

The motion was agreed to by voice vote.

The Senate recessed to the call of the President pro tempore.

## AFTER RECESS

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

## RECESS

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

Senator PICCOLA. Madam President, I move that the Senate do now recess until Tuesday, July 5, 2005, at 7:50 p.m., Eastern Daylight Saving Time.

The motion was agreed to by voice vote.

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