

COMMONWEALTH OF PENNSYLVANIA  
**Legislative Journal**

THURSDAY, JULY 16, 2009

SESSION OF 2009 193RD OF THE GENERAL ASSEMBLY

No. 58

**SENATE**

THURSDAY, July 16, 2009

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

The PRESIDENT (Lieutenant Governor Joseph B. Scarnati III) in the Chair.

**PRAYER**

The Chaplain, Reverend SUSAN KNAUFF, of True Blessings Ministries, Grafton, Ohio, offered the following prayer:

Thank you. Let us all pray.

Father God, I lift up to You, today, this State Senate meeting. I ask, Lord, that Your hand, Your direction, Your will, be done here, not only on this day but every day henceforth. Lord, may each life represented here be divinely touched by the Holy Spirit. I pray and ask for spiritual eyes and ears to be awakened, to be opened, to hear what it is, Lord, that You wish to show forth here, on this day, in this great land of Pennsylvania.

I speak blessings over this land, a land set apart long ago by William Penn, who declared it, as I do again today, a seed unto a nation. May each and every one present here act according to Your standards, Lord God, set by holy men of God long ago, who knew that this State would one day rise up to be a holy example to the rest of the nation. It is dependent upon men and women who put their trust in a Holy God.

Bless everyone here, Lord. And may we take a moment to lay all contentions down and to look unto You, God, so that we may honor You in all of our decisions. Let us reflect upon our heritage and our inheritance, Lord God, which comes from only You. Father, forgive us for the ways that we have wandered from the path that You set out before us, and let us be a nation and a State unto repentance to You, Lord God. Let us remember, according to Proverbs 14:34, that "righteousness exalts a nation," and may this State become even more so righteous in Your eyes, O God.

As You have shown me, Lord, a State whose natural lands are still producing, and a nation in turmoil whose people will flock, one day, to this State, wondering how this is still possible that it is still producing, may we remember from where that provision flows - from You, Lord God Almighty, who, according to Your word, blesses those who turn their faces toward Him. Now I call forth the seed of a nation, you, the great State of Pennsylvania, to spring to life and to take her rightful place before the nation, who in this hour is dependent upon it to do so.

In the name of Jesus Christ, our Lord, we pray, and we thank You, God. Amen.

The PRESIDENT. The Chair thanks Reverend Knauff, who is the guest today of Senator Greenleaf.

**PLEDGE OF ALLEGIANCE**

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

**LEGISLATIVE LEAVES**

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Mr. President, I request a legislative leave for Senator Tomlinson.

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

Senator O'PAKE. Mr. President, I request legislative leaves for Senator Leach, Senator Mellow, and Senator Stack.

The PRESIDENT. Senator Pileggi requests a legislative leave for Senator Tomlinson.

Senator O'Pake requests legislative leaves for Senator Leach, Senator Mellow, and Senator Stack.

Without objection, the leaves will be granted.

**LEAVE OF ABSENCE**

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

**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:

July 16, 2009

Senator CORMAN presented to the Chair **SB 1036**, entitled:

A Supplement to the act of July 28, 1966 (3rd Sp.Sess., P.L.87, No.3), known as the University of Pittsburgh-Commonwealth Act, making appropriations for carrying the same into effect; and providing for a basis for payments of such appropriations, for a method of accounting for the funds appropriated and for certain fiscal information disclosure.

Which was committed to the Committee on APPROPRIATIONS, July 16, 2009.

Senator CORMAN presented to the Chair **SB 1037**, entitled:

A Supplement to the act of November 30, 1965 (P.L.843, No.355), known as the Temple University-Commonwealth Act, making appropriations for carrying the same into effect; providing for a basis for payments of such appropriations; and providing a method of accounting for the funds appropriated and for certain fiscal information disclosure.

Which was committed to the Committee on APPROPRIATIONS, July 16, 2009.

Senator CORMAN presented to the Chair **SB 1038**, entitled:

A Supplement to the act of July 7, 1972 (P.L.743, No.176), known as the Lincoln University-Commonwealth Act, making an appropriation for carrying the same into effect; providing for a basis for payments of the appropriation; and providing a method of accounting for the funds appropriated and for certain fiscal information disclosure.

Which was committed to the Committee on APPROPRIATIONS, July 16, 2009.

Senator CORMAN presented to the Chair **SB 1039**, entitled:

An Act making an appropriation to the Trustees of the University of Pennsylvania.

Which was committed to the Committee on APPROPRIATIONS, July 16, 2009.

Senator CORMAN presented to the Chair **SB 1040**, entitled:

A Supplement to the act of April 1, 1863 (P.L.213, No.227), entitled "An act to accept the grant of Public Lands, by the United States, to the several states, for the endowment of Agricultural Colleges," making appropriations for carrying the same into effect; and providing for a basis for payments of such appropriations, for a method of accounting for the funds appropriated and for certain fiscal information disclosure.

Which was committed to the Committee on APPROPRIATIONS, July 16, 2009.

**SPECIAL ORDER OF BUSINESS  
JOURNAL APPROVED**

The PRESIDENT. The Journal of the Session of July 6, 2009, is now in print.

The Clerk proceeded to read the Journal of the Session of July 6, 2009.

Senator PILEGGI. Mr. President, I move that further reading of the Journal be dispensed with and that the Journal be approved.

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

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

YE A-49

Alloway	Ferlo	O'Pake	Vogel
Argall	Folmer	Orie	Ward
Baker	Fontana	Pileggi	Washington
Boscola	Gordner	Pippy	Waugh
Browne	Greenleaf	Rafferty	White, Donald
Brubaker	Hughes	Robbins	White, Mary Jo
Corman	Kasunic	Scarnati	Williams
Costa	Kitchen	Smucker	Wonderling
Dinniman	Leach	Stack	Wozniak
Earll	Logan	Stout	Yaw
Eichelberger	McIlhinney	Tartaglione	
Erickson	Mellow	Tomlinson	
Farnese	Musto	Vance	

NAY-0

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

The PRESIDENT. The Journal is approved.

**RECESS**

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Mr. President, I request a recess of the Senate for purposes of, first, a meeting of the Committee on Rules and Executive Nominations to be held in the Rules room immediately, to be followed by a Republican caucus to be held in the Majority Caucus Room.

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

Senator O'PAKE. Mr. President, I ask the Senate Democrats to also report to our caucus room.

The PRESIDENT. For purposes of a meeting of the Committee on Rules and Executive Nominations to be held in the Rules room immediately, to be followed by Republican and Democratic caucuses, without objection, the Senate stands in recess.

**AFTER RECESS**

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

**CALENDAR**

**THIRD CONSIDERATION CALENDAR**

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

**SB 1 (Pr. No. 1303)** -- The Senate proceeded to consideration of the bill, entitled:

An Act establishing the Legislative Fiscal Office and providing for its powers and duties; and making a related repeal.

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

On the question,  
Shall the bill pass finally?

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

Senator BROWNE. Mr. President, I rise this afternoon to offer Senate Bill No. 1. I do so in a sincere attempt to provide the Members of the Pennsylvania General Assembly, Republicans and Democrats, leadership as well as rank-and-file, the ability to meet our collective constitutional obligations in the appropriation of our taxpayers' dollars.

Mr. President, as you are well aware, Article VIII of the Pennsylvania Constitution, pursuant to Sections 12 and 13, vests in both the Governor and the General Assembly of this Commonwealth the obligation to enact annual spending plans which match expenditures and available revenues in the same fiscal cycle. One would reasonably conclude that a parallel obligation

of two separate, coequal branches of government would necessitate coequal and parallel powers and tools to fulfill that obligation. Unfortunately, the current process of appropriating the tax dollars of the citizens of Pennsylvania to meet the obligations of their government does not honor the language and spirit of their Constitution.

Mr. President, current provisions of the Commonwealth's Administrative Code, which provide the statutory framework for our current budget process, promulgate a distribution of powers and abilities which honors the Pennsylvania government of a bygone era, where the balance of authority over budget components was necessarily and appropriately vested in the executive branch to compensate for the more limited scope of a part-time legislative body. The framework offered in Senate Bill No. 1, I am confident, will serve to rebalance the relative distribution of powers and abilities in our budget process to effectively match the coequal obligations of the executive and legislative branches of this government, a balance envisioned by our constitutional framers over 40 years ago.

Senate Bill No. 1 accomplishes this objective by addressing three fundamental areas: first, separate but equal authority over budget components. In order for the General Assembly and the Governor of this Commonwealth to meet its coequal obligation to its citizens in the appropriations process, both parties must—probably more important than anything else—must have coequal authority over the basic components of a spending plan. Yet in Pennsylvania, even the basic fundamentals are out of balance. Our statutory framework vests sole authority of over one-half of the budgeting process - the promulgation and certification of our revenue capacity - in the hands of the executive branch. Clearly, without parallel authority over the projection of revenues available to meet public obligations, the General Assembly does not have available to it a coequal ability to meet its constitutional obligations.

Senate Bill No. 1 seeks to remedy this deficiency. It will do so through the creation of a bicameral, bipartisan Legislative Fiscal Office, which will serve in parallel position to the Governor's Budget Office in the fiscal affairs of the Commonwealth. In its most fundamental capacity, it will serve to rebalance the Commonwealth's budget equation through its ability, on behalf of all four legislative Caucuses in this building, to promulgate and certify a revenue estimate, which the General Assembly will be empowered to use to meet its constitutionally imposed balanced budget mandate.

Over 20 States in our nation vest in their legislative branch the authority to certify a revenue estimate in equal position to that of the Governor. The experience in States which operate under this framework is that the marking of a final estimate to a spending plan becomes a consensus exercise, rather than a matter of unilateral stipulation, creating a final product with maximum bilateral accommodation. With the June 15 certification stipulation in Senate Bill No. 1, the General Assembly would have had the ability this year to finalize our share of the budget drafting process as we wait for negotiations with the executive branch on the final package.

Yearly budget deliberations commonly include consideration of various tax policy initiatives. To better equip the General Assembly in this regard, under Senate Bill No. 1, the Legislative Fiscal Office will utilize dynamic modeling to assess the macro impacts of significant tax reform proposals to provide an objec-

tive, independent determination of their effects on the overall private-sector fiscal condition of the Commonwealth.

Second, equal access to information. The relative ability of the branches of this government to meet any of our constitutional obligations is highly dependent on the level of access it has to requisite information. In this regard, for the Pennsylvania General Assembly, in the budgeting of our State's fiscal affairs, deficiencies abound. Mr. President, each of us stands in oversight capacity to the policy decisions and operations of the respective executive departments of our government. Yet that oversight function, added to the budgeting priorities of these agencies, is at best limited by the filtering of relevant information by the Governor's Budget Office as the final spending proposal is developed by the executive branch.

In substance, the General Assembly, in its budgeting capacity, stands in oversight authority not over the source of spending practices and priorities, our executive-level agencies, but only over the Governor's Budget Office. As a component of a financial system, limited authority always produces limited accountability. Senate Bill No. 1 is premised on the proposition that in order for legislative members of this government to be fully empowered with the tools to meet our balanced budget obligation, we must be fully engaged and equipped with the information to accomplish this task.

Senate Bill No. 1 provides for this by empowering the Legislative Fiscal Office, in its parallel role to the Governor's Budget Office, with the same access to information from executive-level agencies, including agency budget requests. Currently, Pennsylvania is one of only nine States which do not give the members of their legislative branch access to agency budget requests. This equal information exchange framework will effectively engage the General Assembly along the complete timeline of the annual appropriations process, not just the current 5 months post the Governor's Budget Address. It will give the Legislative Fiscal Office and, correspondingly, all the Members of the General Assembly, the ability to more effectively and completely evaluate the substance of executive-branch and respective agency budget proposals.

Third, qualitative analysis. Mr. President, for over 5 years running, the annual government performance report developed by the Pew Research Center has stated, in the development of its annual spending plan, the Pennsylvania General Assembly, apart from the Governor, seeks to meet its respective spending priorities but is not concerned with the performance of that spending. This, of course, is unacceptable. Yet compounding this dilemma is the fact that our statutory budget framework perpetuates this imbalance.

Under our Administrative Code, the executive branch is exclusively authorized to promulgate and implement performance measurement in order to evaluate public program effectiveness. Not only does the structure reflect a lack of ability on the part of the legislature to match the Governor in the efficient allocation of Commonwealth resources, it marks a blatant deficiency of fiscal control, as the party vested with the power to spend appropriate resources is also given the exclusive authority to evaluate how well they did it.

Senate Bill No. 1 will remedy this basic weakness by vesting in the Legislative Fiscal Office the authority to develop performance measurement systems, which the General Assembly will use to evaluate how effectively programmatic spending is meet-

ing stated goals and priorities. It will allow the office to utilize activity-based costing methodologies to determine the full and complete costs of program operation and administration, and to more effectively identify and remedy inefficiencies in the spending of limited public resources. With the current and prospective challenges facing Pennsylvania's revenue capacity, these tools will serve an invaluable role in our determination of the most appropriate program investment to best serve the needs of Pennsylvania families.

Mr. President, this year marks the 15th time I will participate in the annual process of developing a spending plan for the Commonwealth as a Member of this Assembly. What I have come to appreciate most about this past decade and a half of serving here is not the process and ceremony, but the human element of both legislative bodies. For, collectively, we represent the diversity which defines Pennsylvania. We are Democrats and Republicans, family people and farmers, accountants and activists, lawyers, laborers, land owners and liberals, moderates and medical professionals, conservationists and conservatives.

Yet despite all our disparate qualities and intentions, as important and powerful is what unites us all together. Separately and collectively, we all have a sincere interest in serving our constituents to the maximum of our abilities, and we covet our obligations to them as provided in our Constitution. Despite the constant scrutiny and skepticism that we experience probably every day, this, above all else in my experience, I know to be true.

Putting aside all of the legalese and fancy financial terms of Senate Bill No. 1, its purpose is as basic as the obligations which we all seek to keep. It proposes to give us all, as Members of this Assembly, the tools and powers necessary to meet them. I honor the Governor for his obligations and the corresponding powers and abilities he currently possesses to carry them out. All I am asking for on behalf of all of us, through Senate Bill No. 1, is for us to be treated the same. Mr. President, let us seize the opportunity to be better equipped to work with the Governor to fulfill our annual balanced budget obligations. Let us pass Senate Bill No. 1.

Thank you very much.

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

Senator WILLIAMS. Mr. President, I ask if I could briefly interrogate the maker of this particular bill.

The PRESIDENT. Would the maker of the bill stand for interrogation?

Senator BROWNE. I will, Mr. President.

The PRESIDENT. He indicates he will. The gentleman may proceed.

Senator WILLIAMS. Mr. President, as I understand it, this bill would require a fiscal note. I would like to hear from the gentleman what the cost of that fiscal note would be.

Senator BROWNE. Mr. President, currently, the projection of our Committee on Appropriations is that the cost of fully equipping this office would be \$4 million. That, I believe, can be refined, because that is relatively high compared to the experience in other States. Actually, I have seen the same functions being administered for about half of that.

But just for the information of the gentleman from Philadelphia, there was an amendment offered in the Committee on Appropriations that recognizes the current fiscal condition of the

Commonwealth and puts off the actual implementation of this office to the following fiscal cycle. The oversight committee can meet and develop the planing for the office, but the actual staffing and spending that is necessary to get the office working would not occur until the following fiscal cycle.

Senator WILLIAMS. In other words, Mr. President, it would be next year, correct?

Senator BROWNE. In 2010-11, Mr. President.

Senator WILLIAMS. Mr. President, does the bill speak to the existing bureaucracy or staff that currently does this?

Senator BROWNE. Well, Mr. President, the issue is to set up a framework of things that currently do not happen. You know, there is staff within the Appropriations offices that do revenue estimating and allow us to advance our spending packages forward. But in the end, I believe that the actions of these individuals should have some meaning, that it should have some purpose. And what I anticipate is, in their function in matching revenues to spending and the Legislative Fiscal Office's function in developing a financial estimate, the actions of the people who currently work in our Appropriations office will have some final results.

So it does not duplicate what is currently happening. We do not have the authority to certify a revenue estimate. We do not have the authority to do performance measurement and develop a performance measurement system. The argument could be made that it could be vested in the four legislative offices, but from my standpoint, in my experience, that would be chaos because you have four separate systems of evaluation, four separate revenue-estimating certification powers, and it would not advance the process forward.

Senator WILLIAMS. Understand, Mr. President, my line of questioning is not to question the motivations, or even, frankly, the substance of it. It is just to make sure the Members are clear about the cost, which is--your number is \$2 million, the fiscal note is \$4 million, the Governor's note is \$4.5 million, and somebody else's is \$5 million. So there is--but it is millions of dollars. The other issue at hand is that we would not be dismantling the existing structures from the Governor's Office and the four Caucuses. Their mechanisms would remain in place with the existing staff. Is that correct?

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

Senator WILLIAMS. With that, I would close my interrogation, Mr. President.

The PRESIDENT. The gentleman is in order.

Senator WILLIAMS. Mr. President, for my closing comments, while I certainly do not question the hard work and the substance of the gentleman, and frankly, I certainly do not question his vision. But what I would question is how does this fit into the guiding principles that we are supposed to be managing on this Senate floor?

We have repeatedly, over the past 3 days, been reminded, as Democrats, that there are three principles that we have to be aware of, one of which is the cliff. The cliff is the 3-year period of time in which, supposedly, all the issues of the past will come to bear upon us. This \$2 million, \$4 million, \$4.5 million, \$5 million, or whatever that number is, that issue comes to bear upon us next year. So while we put off our credit card debt, in essence, and put off a payment, the question still remains for us - how do we pay for this?

