

COMMONWEALTH OF PENNSYLVANIA
Legislative Journal

TUESDAY, JANUARY 5, 2010

SESSION OF 2010 194TH OF THE GENERAL ASSEMBLY

No. 1

SENATE

TUESDAY, January 5, 2010

The Senate met at 12 m., Eastern Standard Time.

The PRESIDING OFFICER (Senator John C. Rafferty, Jr.) in the Chair.

The PRESIDING OFFICER. A happy, healthy new year to all of the Members and guests in the Senate Chamber and to the people of the Commonwealth and all those watching on television.

This being the day and hour fixed by the Constitution for the convening of the 194th Regular Session of the General Assembly, the Senate will now come to order.

PRAYER

The Chaplain, Reverend JAMES DUNLOP, Pastor of Saint John's Lutheran Church, Littlestown, offered the following prayer:

Let us pray.

Gracious and loving God, You entice us with Your loving kindness to turn to You, as our Creator and Provider who endows us, as a loving parent. Blessed are You, and blessed is Your holy name. Your spirit moves among us, guiding and leading us in Your ways. Enable all of us to be open to Your will for us.

We give thanks for the bounty that You have provided for each of us in Your creation. We give thanks for the food that You provide in due season, and for those who work in the farms and the fields of this great Commonwealth, that we may be fed. Continue to guide us in our collective work, that Your bounty may reach those who hunger this day. Enable us to help those who seek meaningful employment so that they may find employment and increase the collective strength of this Commonwealth. Strengthen and guide the leaders of our Commonwealth, that they may help all of our citizens to live in peace, health, and prosperity.

We lift before You those who are suffering this day with sadness, sickness, or want. We especially remember the family and friends of retired Senator Terry Punt, as we join with them in mourning the loss of this dedicated public servant. We also ask that You bring comfort to Senator Stewart Greenleaf and his family during the aftermath of a fire in their home. We give thanks for their safety and pray for the healing and restoration of their lives and home.

We ask for Your forgiveness and mercy for all of the things that we have done and left undone that You have called to us in our lives. We also seek the grace to forgive those who have harmed us in any way, and we implore You for the strength we

need so that we may resist the forces that move against us and against Your desire for our lives and our work.

We ask, this day, that You be with the leaders of our Commonwealth, that they may be led by Your will, that they resist the forces of evil, and that they toil for the good of all in the work that they do in this government. It is with hope and expectation that we approach this new year. May we all move with vigor and openness to the changes that are needed to sustain and strengthen the great Commonwealth of Pennsylvania.

We humbly ask that You continue to bless us in our collective endeavor as Your people gathered in this place, and we ask that You grant wisdom, discernment, creativity, and a sense of wonder to these leaders, that they shape good governance for all of our citizens.

Grant all these things for which we are bold to ask and those things which we need but have failed to ask. In Thy holy name, amen.

The PRESIDING OFFICER. The Chair thanks Reverend Dunlop, who is the guest today of Senator Alloway.

PLEDGE OF ALLEGIANCE

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

ELECTION OF PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The next order of business will be the election of the President pro tempore, as required by Article II, Section 9, of the Constitution of the Commonwealth of Pennsylvania, which states, in part, that the Senate shall, at the beginning and end of each Regular Session, elect one of its own Members President pro tempore.

Before taking up nominations for the office of President pro tempore, the Chair would like to again suggest that if there is no objection, in the event that there is only one candidate for the office, the Chair will dispense with the calling of the roll and ask for a voice vote on the nomination. The Chair hears no objection.

The Chair will now accept nominations for the office of President pro tempore.

The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Mr. President, it is my honor today to nominate Senator Joseph B. Scarnati III of Jefferson County to serve as President pro tempore of the Senate for the year 2010.

Two thousand nine was a difficult year in many ways. Our great Commonwealth suffered through the worst recession since the Great Depression. The unemployment rate reached levels not seen for decades, and we witnessed a crisis of confidence in State institutions. In the face of these challenges, the people of Pennsylvania have made it very clear what they expect of this Senate

and all of State government. They want fiscal responsibility, they want personal integrity, and they want commonsense solutions to our problems.

No one personifies these attributes better than Joe Scarnati. He is the right man at the right time to lead this Senate. Senator Scarnati has shown, time after time, that he can work together with other Members of the Senate, regardless of party or region, to address the many issues facing our State. In 2010, we will need this kind of leadership more than ever, and there is no one I would rather have as the leader of this Senate than my good friend, Lieutenant Governor Joe Scarnati. He has served us with distinction as President pro tempore for these past 3 years, and I know he will serve with equal distinction for years to come.

Mr. President, it is my privilege to nominate, for the office of President pro tempore of the Senate of Pennsylvania, Senator Joseph B. Scarnati III of Jefferson County.

Thank you, Mr. President.

The PRESIDING OFFICER. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, before I make remarks seconding the nomination of Senator Scarnati, I would like to welcome to the Senate the judge who will offer the oath of office, a gentleman who served as Secretary of Labor and Industry and has been a distinguished jurist, Johnny Butler. I think he has tremendous friends in this Chamber, and we just want to say thank you. He has been very friendly and has done a lot of things for us individually when he was Secretary of Labor and Industry, and I would just like to welcome him back here.

Also, Mr. President, I would like to second the nomination of Senator Scarnati. To be in the position of serving in a dual capacity as both the Lieutenant Governor of the Commonwealth of Pennsylvania and the President pro tempore of the Pennsylvania Senate is an awesome responsibility. Senator Scarnati is not the first individual to find himself in this unique position, but he is an individual who has handled the very difficult job of working both within the administration and within the legislative branch with honor and with distinction.

I can tell you on a firsthand basis, as an individual who had an opportunity to serve as President pro tempore of the Pennsylvania Senate, that it is a job that you must take very seriously. It is a position in which you have to put aside any partisan relationships that you may have with individuals. You have to be an individual who represents the needs of the other 49 Members of this tremendous body.

I think Senator Scarnati has done it in an admirable way. He is a man of distinction, as I said, and of high honor, and I am both privileged and honored, on behalf of the Democratic Members of the Senate, to be able to second the nomination of Senator Joe Scarnati to serve as President pro tempore of the Pennsylvania Senate.

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

Senator ORIE. Mr. President, it is once again an honor and a privilege to rise and second the nomination of the gentleman from Jefferson County, Senator Joseph B. Scarnati III, to serve as the President pro tempore of the Pennsylvania State Senate. It is hard to believe that it has already been 3 years that he has served in this position, but he has served with distinction and honor. Senator Scarnati has ushered in an era of openness, nonpartisanship, and most importantly, a focus on results. We

have implemented internal reforms to open up the legislative process as well as substantive reforms to State government, including the 2008 overhaul of our open records law. While there has been much rancor over the budget the past few years, Senator Scarnati has offered a voice of civility and has worked with both sides of the aisle to forge compromises that limit spending and, more importantly, limit taxes.

In 2008, Senator Scarnati became Pennsylvania's 31st Lieutenant Governor with the passing of Catherine Baker Knoll. Lieutenant Governor Scarnati has served all of us with distinction in these roles, and it is my honor and my sincere privilege to second his nomination as President pro tempore.

Thank you, Mr. President.

NOMINATIONS CLOSED

The PRESIDING OFFICER. Are there any other nominations? The Chair hears none and declares the nominations closed.

The candidate for the office of President pro tempore is the Honorable Joe Scarnati of Jefferson County. All those in favor of the Honorable Joe Scarnati for the office of President pro tempore will please say "aye"; those opposed, "no."

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

The PRESIDING OFFICER. The Chair takes great pleasure in once again declaring Senator Joe Scarnati unanimously elected President pro tempore of the Senate of Pennsylvania.

(Applause.)

COMMITTEE APPOINTED TO ESCORT PRESIDENT PRO TEMPORE-ELECT TO THE ROSTRUM

The PRESIDING OFFICER. At this time, the Chair appoints, as a committee to escort the President pro tempore-elect, Senator Joe Scarnati, to the rostrum, the gentleman from Lycoming, Senator Yaw, Chair; the gentleman from Lancaster, Senator Smucker; and the gentleman from Lackawanna, Senator Mellow. The committee will proceed to escort Senator Scarnati to the rostrum.

(Whereupon, the President pro tempore-elect was escorted to the rostrum of the Senate.)

ADMINISTRATION OF OATH OF OFFICE TO PRESIDENT PRO TEMPORE-ELECT

The PRESIDING OFFICER. We are honored to have with us today the Honorable Johnny J. Butler, Judge of the Commonwealth Court of Pennsylvania, to administer the oath of office to our newly elected President pro tempore.

Members and guests will please stand.

Judge BUTLER. Good afternoon. Senator LeAnna Washington, my Senator, always good to be with you.

Mr. President, would you please place your left hand on your Bible, raise your right hand, and repeat after me:

I, Joseph B. Scarnati III, do solemnly swear that I will support, obey, and defend the Constitution of the United States and the Constitution of the Commonwealth of Pennsylvania, and that I will discharge the duties of my office with fidelity.

Congratulations, Mr. President.

(Applause.)

The PRESIDING OFFICER. The Chair wishes to thank Judge Butler for taking the time from his busy schedule to administer the oath of office to Senator Scarnati, the President pro tempore of the Senate of Pennsylvania.

Ladies and gentlemen, it is now my distinct privilege to present the gavel to the President pro tempore of the Senate, the Honorable Joe Scarnati.

(Whereupon, the gavel was presented to the President pro tempore.)

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

REMARKS BY THE PRESIDENT PRO TEMPORE

The PRESIDENT pro tempore. Thank you, Your Honor, Judge Butler; Senator Rafferty, for presiding; Senator Pileggi, Senator Mellow, and Senator Orié, for your kind remarks. It is greatly appreciated. I thank all of the Members here, all of the Members on both sides of the aisle who have been part of this family, part of this team for the last 3 years as I have served as President pro tempore.

Without a doubt, we had a challenging year last year. Two thousand nine is not a year many of us want to repeat. And whereas I do not think anyone in this Chamber is happy with the timeframe that it took to complete the State budget, I think, though, we can all stand tall in the product that we presented in the State budget. The product was bipartisan. It was bipartisan in this Chamber to the extent that we all stood for the same goals: that we did not want to tax our businesses more, that we did not want to tax working families more, and that we certainly did not want to tax our working senior citizens more. We stood tall in holding the line on State taxes, and we can be proud of the conclusion of that budget.

Looking forward, we have many challenges and issues ahead of us in 2010. I do not think anyone in this Chamber believes for one minute that those challenges and issues will be easy. But if we continue to work in the bipartisan manner that we have, and this Chamber continues to work together to get the good results that taxpayers and voters want and demand, I believe we can look at the end of 2010 and be proud of those results, too. I hope you all endeavor to be a source of pride for the Commonwealth in the coming year. I know I will.

Thank you, and God bless. Thank you.
(Applause.)

LEGISLATIVE LEAVES

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

Senator PILEGGI. Mr. President, I request a temporary Capitol leave for Senator Ward, and legislative leaves for Senator Tomlinson, Senator Mary Jo White, and Senator McIlhinney.

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, I request a legislative leave for Senator Williams.

The PRESIDENT. Senator Pileggi requests a temporary Capitol leave for Senator Ward, and legislative leaves for Senator Tomlinson, Senator Mary Jo White, and Senator McIlhinney.

Senator Mellow requests a legislative leave for Senator Williams.

Without objection, the leaves will be granted.

**SPECIAL ORDER OF BUSINESS
JOURNALS APPROVED**

The PRESIDENT. The Journals of the Sessions of December 15, 2009, December 16, 2009, and December 17, 2009, are now in print.

The Clerk proceeded to read the Journals of the Sessions of December 15, 2009, December 16, 2009, and December 17, 2009.

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

YEA-50

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

NAY-0

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

The PRESIDENT. The Journals are approved.

**SPECIAL ORDER OF BUSINESS
GUESTS OF SENATOR MICHAEL BRUBAKER
PRESENTED TO THE SENATE**

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

Senator BRUBAKER. Mr. President, I would like to introduce the winners of my student challenge. They wrote essays and were selected as winners from an independent panel of essay judges. The winners are Matthew Hamers from Lancaster, Jaylen Spangler from Ephrata, and Erin Wee from Manheim. These talented young people represent three different school districts within the 36th Senatorial District and are in grades 3 through 6. Please join me in welcoming these students and their parents, who are sitting in the gallery.

The PRESIDENT. Would the guests of Senator Brubaker please rise to be welcomed by the Senate.

(Applause.)

RECESS

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

Senator PILEGGI. Mr. President, I request a recess of the Senate for the purpose of a Republican caucus to be held in the Majority Caucus Room immediately. I expect the caucus to last approximately 1 hour.

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, I request that the Members of the Democratic Caucus report to our caucus room at the rear of the Chamber.

The PRESIDENT. For purposes of 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.

HOUSE MESSAGE

**HOUSE NONCONCURS IN SENATE
AMENDMENTS TO HOUSE AMENDMENTS
TO SENATE BILL**

The Clerk of the House of Representatives informed the Senate that the House has nonconcurred in amendments made by the Senate to House amendments to **SB 711**.

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

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

**BILL WHICH HOUSE HAS NONCONCURRED
IN SENATE AMENDMENTS**

**SENATE INSISTS UPON ITS AMENDMENTS
NONCONCURRED IN BY THE HOUSE TO SB 711**

SB 711 (Pr. No. 1563) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 4 (Amusements) of the Pennsylvania Consolidated Statutes, making extensive revisions to provisions on gaming, in the areas of legislative intent, definitions, the Pennsylvania Gaming Control Board, applicability of other statutes, powers of the board, code of conduct, expenses of regulatory agencies, licensed gaming entity application appeals from board, license or permit application hearing process and public hearings, board minutes and records, regulatory authority, collection of fees and fines, slot machine license fee, number of slot machines, reports of board, diversity goals of board, license or permit prohibition, specific authority to suspend slot machine license, Category 2 slot machine license, Category 3 slot machine license, applications for license or permit, slot machine license application, slot machine license application character requirements, supplier licenses, manufacturer licenses, gaming service provider, occupation permit application, alternative manufacturer licensing standards, alternative supplier licensing standards, additional licenses and permits and approval of agreements, license renewals, change in ownership or control of slot machine licensee, nonportability of slot machine license, appointment of trustee, table games, slot machine licensee deposits, gross terminal revenue deductions, itemized budget reporting, establishment of State Gaming Fund and net slot machine revenue distribution, distributions from Pennsylvania Race Horse Development Fund, Pennsylva-

nia Gaming Economic Development and Tourism Fund, transfers from State Gaming Fund, responsibility and authority of Department of Revenue, wagering on credit, eminent domain authority, compulsive and problem gambling program, drug and alcohol treatment, labor hiring preferences, declaration of exemption from Federal laws prohibiting slot machines, financial and employment interests, additional restrictions, political influence, regulation requiring exclusion of certain persons, prosecutorial and adjudicative functions, investigations and enforcement, conduct of public officials and employees, prohibited acts and penalties, report of suspicious transactions, additional authority, applicability of Clean Indoor Air Act, liquor licenses at licensed facilities, interception of oral communications, electronic funds transfer terminals, junkets, gaming schools, appropriations and Commonwealth Financing Authority; and making related repeals.

Senator PILEGGI. Mr. President, I move that the Senate do insist upon its amendments to House amendments to Senate Bill No. 711, and that the President pro tempore be authorized to appoint a Committee of Conference on the bill.

The PRESIDENT. Senator Pileggi moves that the Senate do insist on its amendments nonconcurred in by the House of Representatives in Senate Bill No. 711, and that the President pro tempore be authorized to appoint a Committee of Conference.

On the question,

Will the Senate agree to the motion?

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

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

**COMMITTEE OF CONFERENCE
APPOINTED ON SB 711**

The PRESIDENT. The Chair announces that he has appointed Senators PILEGGI (Chairman), EARLL and FONTANA as a Committee of Conference on the part of the Senate to confer with a similar committee of the House, if the House shall appoint such committee, to consider the differences existing between the two Houses in relation to Senate Bill No. 711.

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

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. Senator Tomlinson has returned, and his legislative leave is cancelled.

**SPECIAL ORDER OF BUSINESS
ANNOUNCEMENT BY THE SECRETARY**

The SECRETARY. Consent has been given for the Committee of Conference on Senate Bill No. 711 to meet in Room 461 during today's Session.

RECESS

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

Senator PILEGGI. Mr. President, I request a recess of the Senate for the purpose of a meeting of the Committee of Conference to be scheduled shortly.

The PRESIDENT. For the purpose of a meeting of the Committee of Conference, without objection, the Senate stands in recess.

AFTER RECESS

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

LEGISLATIVE LEAVES CANCELLED

The PRESIDENT. Senator Ward, Senator McIlhinney, and Senator Williams have returned, and their respective leaves are cancelled.

**REPORT OF COMMITTEE OF CONFERENCE
SUBMITTED**

Senator PILEGGI submitted the Report of the Committee of Conference on **SB 711**, which was placed on the Calendar.

CALENDAR**BILL ON CONCURRENCE IN HOUSE AMENDMENTS****BILL OVER IN ORDER**

SB 973 -- Without objection, the bill was passed over in its order at the request of Senator PILEGGI.

THIRD CONSIDERATION CALENDAR**BILLS OVER IN ORDER**

HB 458, HB 1300, HB 1768 and HB 1801 -- Without objection, the bills were passed over in their order at the request of Senator PILEGGI.

SECOND CONSIDERATION CALENDAR**BILLS OVER IN ORDER**

SB 260, SB 435, SB 1011, SB 1073, SB 1077, SB 1086, SB 1091, SB 1117, SB 1135, SB 1145, HB 1145, SB 1155, SB 1161, HB 1609 and HB 1779 -- Without objection, the bills were passed over in their order at the request of Senator PILEGGI.

MOTION TO SUSPEND RULE XX

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

Senator PILEGGI. Mr. President, I move that the Senate proceed, notwithstanding the provisions of Senate Rule XX.3(a), to consider the Report of the Committee of Conference on Senate Bill No. 711, which was adopted by the Committee of Conference at 5 p.m.

The PRESIDENT. Senator Pileggi moves that the Senate proceed, notwithstanding the provisions of Senate Rule XX.3(a), to consider the Report of the Committee of Conference on Senate Bill No. 711, which was adopted by the Committee of Conference at 5 p.m.

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

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

Senator PILEGGI. Mr. President, Senate Bill No. 711 was originally introduced on June 22, 2009, by the gentlewoman

from Erie County, to make much-needed reforms to the Pennsylvania Gaming Control Act. On July 7, the Senate passed Senate Bill No. 711 overwhelmingly, 47 to 1. At this point in its history, Senate Bill No. 711 was purely a reform bill. It did not authorize table games.

In the House, it was referred to the Committee on Gaming Oversight. On October 2, that committee approved Senate Bill No. 711 with amendments which authorized table games at casinos in Pennsylvania. On December 15, after further amendments and committee action, the House passed a version of Senate Bill No. 711 by a vote of 103 to 92. In the Senate, we acted promptly, on the next day, by amending Senate Bill No. 711 and returning it to the House by a vote of 27 to 22. Earlier today, the House nonconcurred in those Senate amendments, setting the stage for a Committee of Conference, which has met and, at 5 p.m., adopted the Report of the Committee of Conference now before the Senate.

The Report of the Committee of Conference on Senate Bill No. 711 being considered today contains few changes from the version of the bill the Senate voted on on December 16, nearly 3 weeks ago. Specifically, the Report of the Committee of Conference would create a third Category 3 license in 2017 if both of the two existing Category 3 licenses have operating facilities. The Report of the Committee of Conference would change the way Philadelphia's local share is allocated, mirroring the distribution provisions in the existing slots laws. Apart from these issues, this Report of the Committee of Conference on Senate Bill No. 711 is substantially the same as Printer's No. 1563, which passed the Senate on December 16.

Mr. President, given this long legislative history and the voluminous media coverage of the issues contained in this bill, I believe that the Members of the Senate and the public have been afforded a fair opportunity to review and comment on the contents of the Report of the Committee of Conference on Senate Bill No. 711 now before us. Accordingly, I ask for an affirmative vote on this motion.

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

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

**SPECIAL ORDER OF BUSINESS
SUPPLEMENTAL CALENDAR No. 2****REPORT OF COMMITTEE OF CONFERENCE****REPORT ADOPTED**

SB 711 (Pr. No. 1586) -- The Senate proceeded to consideration of the bill entitled:

An Act amending Title 4 (Amusements) of the Pennsylvania Consolidated Statutes, making extensive revisions to provisions on gaming, in the areas of legislative intent, definitions, the Pennsylvania Gaming Control Board, applicability of other statutes, powers of the board, code of conduct, expenses of regulatory agencies, licensed gaming entity application appeals from board, license or permit application hearing process and public hearings, board minutes and records, regulatory authority, collection of fees and fines, slot machine license fee, number of slot machines, reports of board, diversity goals of board, license or permit prohibition, specific authority to suspend slot machine license,

