

# COMMONWEALTH OF PENNSYLVANIA

## LEGISLATIVE JOURNAL

WEDNESDAY, NOVEMBER 2, 2005

SESSION OF 2005

189TH OF THE GENERAL ASSEMBLY

No. 63

### HOUSE OF REPRESENTATIVES

The House convened at 9:50 p.m., e.s.t.

#### THE SPEAKER (JOHN M. PERZEL) PRESIDING

#### PRAYER

The SPEAKER. Without objection, the prayer from today's special session will be printed in today's regular session Journal.

REV. ROBERT A. GRAYBILL, Guest Chaplain of the House of Representatives, offered the following prayer:

May you pause with me as I share these words:

O Lord God, we pause as we begin this session to be aware of Your presence. Gathered as elected leaders within this great Commonwealth, I ask of You, Lord, that You be their guide as they take time to consider the matters that are before them.

May You give to each a mind that can weigh the issues and make a clear and concise decision about the situations so that some significant action and sound direction will be accomplished for the best of our people.

May You give to each of them a heart that is willing to listen to the fears and the heartaches of the people, to their worries about the future for their families and their neighborhoods, for this body has an awesome task to work diligently for the solutions that will steady the hearts of our people.

And then, Lord, I ask that You give to each a soul that is driven by a great desire and a sincere compassion to improve the quality of life among the people of Pennsylvania so these leaders can sense these decisions are more than just a legal process but really are part of Your will, O God, for this great land.

And as this day comes to a close for all of us gathered here, may You grant to us a sense of Your peace, knowing that we lived this day with the integrity of heart, mind, and soul.

Hear our prayer we ask, O gracious God. Amen.

#### PLEDGE OF ALLEGIANCE DISPENSED WITH

The SPEAKER. Without objection, the Pledge of Allegiance will be dispensed with.

#### LEAVES OF ABSENCE

The SPEAKER. The leaves of absence granted in today's special session will also be granted in the regular session.

#### MASTER ROLL CALL

The SPEAKER. The master roll call taken in today's special session will also be the master roll call for the regular session.

#### JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, the approval of the Journal of Tuesday, November 1, 2005, will be postponed until printed.

#### JOURNAL APPROVED

The SPEAKER. However, the Journal of Wednesday, June 22, 2005, stands approved as printed.

#### REMARKS SUBMITTED FOR THE RECORD

Mr. M. KELLER submitted the following remarks for the Legislative Journal:

Mr. Speaker, it is my privilege to bring to the attention of the Speaker and the members of the Pennsylvania House of Representatives the name of Logan Douglas Elliott, who has recently been awarded Scouting's highest honor – Eagle Scout.

Mr. Speaker, I would like to read to the members of the House of Representatives the following citation of merit honoring Logan Douglas Elliott.

Whereas, Logan Douglas Elliott earned the Eagle Award in Scouting. This is the highest award that Boy Scouts can bestow and as such represents great sacrifice and tremendous effort on the part of this young man. Logan is a member of Troop 138.

Now therefore, Mr. Speaker and members of the House of Representatives, it is my privilege to congratulate and place in the Legislative Journal the name of Logan Douglas Elliott.

#### HOUSE BILLS INTRODUCED AND REFERRED

**No. 2183** By Representatives VEON, DeWEESE, MUNDY, GEIST, BEBKO-JONES, BELARDI, BLAUM, CALTAGIRONE, CAWLEY, CURRY, FREEMAN, GOODMAN, LaGROTTA, PETRONE, PRESTON, SURRA, THOMAS, WOJNAROSKI, YUDICHAK, GRUCELA,

MARKOSEK, PISTELLA, STABACK, TANGRETTI, WALKO and YOUNGBLOOD

An Act amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, further providing for city natural gas distribution operations; and making repeals.

Referred to Committee on CONSUMER AFFAIRS, November 2, 2005.

**No. 2184** By Representatives TANGRETTI, McGEEHAN, ARMSTRONG, BAKER, BARRAR, BEBKO-JONES, BELARDI, BELFANTI, BIANCUCCI, CALTAGIRONE, CAPPELLI, CASORIO, CLYMER, COHEN, CRAHALLA, DALLY, DeLUCA, DeWEESE, FABRIZIO, FRANKEL, FREEMAN, GEORGE, GOOD, GOODMAN, GRUCELA, HALUSKA, HARHAI, HARPER, HARRIS, HASAY, HENNESSEY, HERMAN, JAMES, JOSEPHS, KIRKLAND, KOTIK, LEACH, LEDERER, MANDERINO, MANN, S. MILLER, MUNDY, O'NEILL, PETRARCA, PISTELLA, PYLE, RAMALEY, READSHAW, RUBLEY, SANTONI, SAYLOR, SCHRODER, SOLOBAY, STABACK, R. STEVENSON, STURLA, E. Z. TAYLOR, THOMAS, WALKO, WOJNAROSKI, YOUNGBLOOD and YUDICHAK

An Act amending the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, providing for identity theft; and imposing powers and duties on the Bureau of Consumer Protection.

Referred to Committee on CONSUMER AFFAIRS, November 2, 2005.

**No. 2185** By Representatives TANGRETTI, HERMAN, ROSS, GINGRICH and LESCOVITZ

An Act amending the act of August 9, 1955 (P.L.323, No.130), known as The County Code, further providing for required financial reporting.

Referred to Committee on LOCAL GOVERNMENT, November 2, 2005.

**No. 2186** By Representatives TANGRETTI, HERMAN, ROSS, GINGRICH and LESCOVITZ

An Act amending the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, further providing for required financial reporting; and making editorial changes.

Referred to Committee on LOCAL GOVERNMENT, November 2, 2005.

**No. 2187** By Representatives R. MILLER and NICKOL

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, providing for supplemental funding for new students; establishing a special account; and making an appropriation.

Referred to Committee on EDUCATION, November 2, 2005.

**No. 2188** By Representatives STAIRS, BAKER, BALDWIN, BASTIAN, BELFANTI, BENNINGHOFF, BEYER, BOYD, CALTAGIRONE, CLYMER, CREIGHTON, FABRIZIO, FLEAGLE, GILLESPIE, GINGRICH, GOOD, GOODMAN, GRUCELA, HARHAI, HARRIS, HASAY, HENNESSEY, HERSHEY, HICKERNELL, JAMES, McILHATTAN, R. MILLER, S. MILLER, PETRARCA, PETRI, SATHER, SEMMEL, SHANER, SIPTROTH, B. SMITH, STERN, SURRA, TIGUE and WILT

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for use of farm vehicle plates.

Referred to Committee on TRANSPORTATION, November 2, 2005.

**No. 2189** By Representatives CREIGHTON, ARMSTRONG, BAKER, BALDWIN, BOYD, CALTAGIRONE, CAPPELLI, CLYMER, FEESE, HARRIS, HASAY, HENNESSEY, HERMAN, HERSHEY, LEH, McILHATTAN, MILLARD, S. MILLER, MUSTIO, ROSS, SCHRODER, R. STEVENSON, THOMAS, WILT, YOUNGBLOOD and BARRAR

An Act amending Titles 26 (Eminent Domain), 42 (Judiciary and Judicial Procedure) and 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, adding provisions relating to eminent domain; and making related repeals.

Referred to Committee on JUDICIARY, November 2, 2005.

**No. 2190** By Representatives BISHOP, MANN, McILHATTAN, BELFANTI, MARKOSEK, BELARDI, SHAPIRO, PHILLIPS, COSTA, WALKO, STEIL, CREIGHTON, CRAHALLA, ROEBUCK, KOTIK, GINGRICH, YOUNGBLOOD, SONNEY, GOODMAN, O'NEILL, STERN, FREEMAN, HESS, CAWLEY, PISTELLA, E. Z. TAYLOR, GRUCELA, ROSS, REICHLEY, PETRARCA, SCHRODER, SURRA, CLYMER, TIGUE, THOMAS, R. STEVENSON, READSHAW, BEBKO-JONES, J. EVANS, YUDICHAK, WATSON, METCALFE, GOOD, STABACK, BOYD, TRUE, KIRKLAND, FRANKEL, BLACKWELL, SCAVELLO, ADOLPH and SIPTROTH

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for unlimited time to bring civil actions, for tolling limitations of civil actions, for unlimited time to bring criminal actions and for limitation of serious criminal actions.

Referred to Committee on APPROPRIATIONS, November 2, 2005.

**No. 2192** By Representatives GEORGE, BELFANTI, DeWEESE, COHEN, BEBKO-JONES, BLACKWELL, CALTAGIRONE, CURRY, FABRIZIO, GOODMAN, GRUCELA, JAMES, PHILLIPS, SIPTROTH, SHANER, SOLOBAY, STABACK, SURRA, TANGRETTI, THOMAS, TIGUE, YOUNGBLOOD and YUDICHAK

An Act amending the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, providing for the Uninsured Employers Guaranty Fund.

Referred to Committee on LABOR RELATIONS, November 2, 2005.

**No. 2193** By Representatives O'NEILL, BUNT, CALTAGIRONE, CREIGHTON, DENLINGER, GODSHALL, GRUCELA, HENNESSEY, HERMAN, McILHINNEY, SCAVELLO, SHANER and E. Z. TAYLOR

An Act amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, further providing for the definition of "homestead."

Referred to Committee on STATE GOVERNMENT, November 2, 2005.

**No. 2194** By Representatives O'NEILL, BEBKO-JONES, CALTAGIRONE, CRAHALLA, GOODMAN, PAYNE, READSHAW, REICHLEY, E. Z. TAYLOR, WATSON and YOUNGBLOOD

An Act providing for the licensing and regulation of pet groomers; establishing the Pet Groomers Licensing Board and the Pet Groomer Recovery Fund; and imposing penalties.

Referred to Committee on PROFESSIONAL LICENSURE, November 2, 2005.

**No. 2195** By Representatives MELIO, THOMAS, McGEEHAN, MANN, CALTAGIRONE, McILHATTAN, BELFANTI, MARKOSEK, BEBKO-JONES, BELARDI, BOYD, CASORIO, DeLUCA, DENLINGER, DeWEESE, FABRIZIO, FRANKEL, FREEMAN, GEIST, GOOD, GOODMAN, GRUCELA, HANNA, HARHAI, HENNESSEY, HERMAN, HESS, HUTCHINSON, JOSEPHS, KOTIK, MUSTIO, O'NEILL, PETRARCA, PHILLIPS, READSHAW, REICHLEY, SCAVELLO, SHANER, SOLOBAY, SONNEY, STABACK, SURRA, TANGRETTI, TURZAI, WALKO, WILT, YOUNGBLOOD, YUDICHAK and SIPTROTH

An Act prohibiting the Commonwealth and its political subdivisions and private entities from collecting and using Social Security numbers under certain circumstances; and providing for enforcement by the Attorney General.

Referred to Committee on INTERGOVERNMENTAL AFFAIRS, November 2, 2005.

### SENATE BILLS FOR CONCURRENCE

The clerk of the Senate, being introduced, presented the following bills for concurrence:

#### **SB 235, PN 1261**

Referred to Committee on PROFESSIONAL LICENSURE, November 2, 2005.

#### **SB 583, PN 607**

Referred to Committee JUDICIARY, November 2, 2005.

#### **SB 595, PN 1265**

Referred to Committee on COMMERCE, November 2, 2005.

#### **SB 665, PN 1260**

Referred to Committee on JUDICIARY, November 2, 2005.

#### **SB 759, PN 1266**

Referred to Committee on JUDICIARY, November 2, 2005.

#### **SB 869, PN 1269**

Referred to Committee on VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS, November 2, 2005.

### SENATE MESSAGE

#### HOUSE BILL CONCURRED IN BY SENATE

The clerk of the Senate, being introduced, returned **HB 1361, PN 1636**, with information that the Senate has passed the same without amendment.

### SENATE MESSAGE

#### AMENDED HOUSE BILLS RETURNED FOR CONCURRENCE AND REFERRED TO COMMITTEE ON RULES

The clerk of the Senate, being introduced, returned **HB 515, PN 3036; HB 1539, PN 3052; HB 1606, PN 2949; and HB 1743, PN 2944**, with information that the Senate has passed the same with amendment in which the concurrence of the House of Representatives is requested.

### SENATE MESSAGE

#### AMENDED HOUSE RESOLUTION RETURNED FOR CONCURRENCE

The clerk of the Senate, being introduced, informed that the Senate has concurred in **HR 354, PN 3024**, with information that the Senate has passed the same with amendment in which the concurrence of the House of Representatives is requested.

### BILL SIGNED BY SPEAKER

Bill numbered and entitled as follows having been prepared for presentation to the Governor, and the same being correct, the title was publicly read as follows:

#### **HB 1361, PN 1636**

An Act amending the act of May 16, 2002 (P.L.315, No.46), known as the Community Services Block Grant Act, further providing for the expiration of the act.

Whereupon, the Speaker, in the presence of the House, signed the same.

### RULES COMMITTEE MEETING

The SPEAKER. The Chair recognizes the majority leader, who moves for an immediate meeting of the Rules Committee.

### BILL ON CONCURRENCE REPORTED FROM COMMITTEE

**HB 1539, PN 3058** (Amended) By Rep. S. SMITH

An Act amending the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, providing for public official compensation; further providing for reports to the Secretary of Revenue; establishing and providing for appropriation to the Emergency Energy Assistance Fund; and making a repeal related to public official compensation.

RULES.

### BILLS REPORTED FROM COMMITTEES, CONSIDERED FIRST TIME, AND TABLED

**HB 601, PN 3053** (Amended) By Rep. GEIST

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for chemical testing to determine amount of alcohol or controlled substance.

TRANSPORTATION.

**HB 731, PN 3054** (Amended) By Rep. GEIST

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, providing for a special registration plate for veterans and members of United States military airborne units and for military airborne parachutist and glider units.

TRANSPORTATION.

**HB 1085, PN 3051** (Amended) By Rep. STAIRS

An Act amending the act of January 25, 1966 (1965 P.L.1546, No.541), referred to as the Higher Education Scholarship Law, further providing for students eligible for State scholarship.

EDUCATION.

**HB 1770, PN 2265** By Rep. RAYMOND

An Act amending the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, further providing for definitions and for the responsible alcohol management program.

LIQUOR CONTROL.

**HB 1879, PN 3056** (Amended) By Rep. GEIST

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for special license plates for

recipients of medals for military service and for exemption of persons, entities and vehicles from fees.

TRANSPORTATION.

**HB 2136, PN 3057** (Amended) By Rep. GEIST

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for penalties and sentencing for accidents involving death or personal injury.

TRANSPORTATION.

**HB 2139, PN 2943** By Rep. GEIST

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for exemption of persons, entities and vehicles from fees.

TRANSPORTATION.

**SB 151, PN 137** By Rep. STAIRS

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, further providing for State Report Card.

EDUCATION.

**SB 599, PN 1322** (Amended) By Rep. GEIST

An Act designating State Route 132 in Bucks County as the Armed Forces and Veterans Memorial Highway; designating a bridge on State Route 150 crossing the Beech Creek in Clinton and Centre Counties the Beech Creek Veterans Memorial Bridge; and designating State Route 291 in Delaware County as the Willie Mae James Leake Memorial Highway.

TRANSPORTATION.

### BILL REPORTED AND REREFERRED TO COMMITTEE ON VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS

**HB 1675, PN 2120** By Rep. STAIRS

An Act establishing an emergency uniform numbering system for public schools.

EDUCATION.

The SPEAKER. The House will be at ease for approximately 10 minutes.

Would the gentleman, Mr. Keller, please come to the rostrum.

Would the gentleman, Mr. Smith, please come to the rostrum.

Will the members please take their seats.

## SUPPLEMENTAL CALENDAR B

**BILL ON CONCURRENCE  
IN SENATE AMENDMENTS  
AS AMENDED**

The House proceeded to consideration of concurrence in Senate amendments to the following **HB 1539, PN 3058**, as further amended by the House Rules Committee:

An Act amending the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, providing for public official compensation; further providing for reports to the Secretary of Revenue; establishing and providing for appropriation to the Emergency Energy Assistance Fund; and making a repeal related to public official compensation.

On the question,  
Will the House concur in Senate amendments as amended by the Rules Committee?

The SPEAKER. It is moved by the gentleman, Mr. Smith, that the House do concur in the amendments.

On that question, the Chair recognizes the gentleman, Mr. Vitali.

Mr. VITALI. Mr. Speaker, is there anyone to stand for interrogation on the amendments made in the House Rules Committee? I have a couple of concerns.

The SPEAKER. The gentleman, Mr. Smith, indicates he will stand for interrogation. The gentleman, Mr. Vitali, is in order and may proceed.

Mr. VITALI. Maybe you can address this concern: It seems to me with regard to the judges, what this bill, HB 1539, is doing is repealing their pay raise along with ours and the executive branch. We are in this amendment in Rules putting a nonseverability clause in, which means if any provision of this repeal is struck down, the whole repeal fails and the pay raise is reinstated. So essentially with this severability clause, my fear is that we are putting the judges in the position where they have a good argument according to the constitutional provisions on compensation, and that argument is, their salaries cannot be reduced. Therefore, that part of HB 1539 is unconstitutional. So they have a good constitutional argument to get their pay raise back by citing that—

The SPEAKER. Mr. Vitali, is that an interrogation or is that—

Mr. VITALI. It is a long question.

The SPEAKER. Get to the question, Mr. Vitali.

Mr. VITALI. I mean, my concern is this: The judges have a way to get their salary increase back, but they do that by nullifying this whole thing so the whole pay raise comes back. That is my concern. Can you address that concern?

Mr. S. SMITH. Mr. Speaker, I am not a constitutional lawyer. I can offer this: I believe the intent of this legislation was to essentially return the compensation system in Pennsylvania to what it was on, say, July 6. That would be as it would reflect on the legislative salaries, the gubernatorial and administrative salaries, as well as the judicial salaries. That is what I believe the intent was, and that is the sum and substance of what is in this legislation at this moment.

Mr. VITALI. Now, I understand the intent and I agree with it, but in crafting the Rules Committee amendment, did you consider that scenario with this nonseverability clause you inserted about 20 minutes ago?

Mr. S. SMITH. The only thing we considered, as far as speaking for myself, the only thing that I believe was considered was that the intent of the legislation was to repeal the pay raise to return the compensation of the judges, of the administrative branch, and the legislative branch to that as it was at the first part of July.

Mr. VITALI. Thank you, Mr. Speaker.

On the question recurring,

Will the House concur in Senate amendments as amended by the Rules Committee?

The SPEAKER. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

## YEAS—196

Adolph	Fairchild	Maher	Ross
Allen	Feese	Maitland	Rubley
Argall	Fichter	Major	Ruffing
Armstrong	Fleagle	Manderino	Sainato
Baker	Flick	Mann	Samuelson
Baldwin	Forcier	Markosek	Santoni
Barrar	Frankel	Marsico	Sather
Bastian	Freeman	McCall	Saylor
Bebko-Jones	Gabig	McGeehan	Scavello
Belardi	Geist	McGill	Schroder
Belfanti	George	McIlhattan	Semmel
Benninghoff	Gerber	McIlhinney	Shapiro
Beyer	Gergely	McNaughton	Siproth
Biancucci	Gillespie	Melio	Smith, S. H.
Birmelin	Gingrich	Metcalfe	Solobay
Bishop	Godshall	Micozzie	Sonney
Blackwell	Good	Millard	Staback
Blaum	Goodman	Miller, R.	Stairs
Boyd	Grell	Miller, S.	Steil
Bunt	Grucela	Mundy	Stern
Butkovitz	Habay	Mustio	Stetler
Buxton	Haluska	Myers	Stevenson, R.
Caltagirone	Hanna	Nailor	Stevenson, T.
Cappelli	Harhai	Nickol	Sturla
Casorio	Harhart	O'Brien	Surra
Causer	Harper	Oliver	Tangretti
Cawley	Harris	O'Neill	Taylor, E. Z.
Civera	Hasay	Pallone	Taylor, J.
Clymer	Hennessey	Parker	Thomas
Cohen	Herman	Payne	Tigue
Cornell	Hershey	Petrarca	True
Corrigan	Hess	Petri	Turzai
Costa	Hickernell	Petrone	Vitali
Crahalla	Hutchinson	Phillips	Walko
Creighton	James	Pickett	Wansacz
Cruz	Josephs	Pistella	Waters
Curry	Kauffman	Preston	Watson
Daley	Keller, M.	Pyle	Wheatley
Dally	Keller, W.	Quigley	Williams
DeLuca	Kenney	Ramaley	Wilt
Denlinger	Killion	Rapp	Wojnarowski
Dermody	Kirkland	Raymond	Wright
DiGirolamo	Kotik	Readshaw	Yewcic
Diven	LaGrotta	Reed	Youngblood
Donatucci	Leach	Reichley	Yudichak
Eachus	Lederer	Roberts	Zug
Ellis	Leh	Roebuck	
Evans, D.	Lescovitz	Rohrer	
Evans, J.	Levdansky	Rooney	Perzel,
Fabrizio	Mackereth		Speaker

## NAYS—2

DeWeese Veon

## NOT VOTING—0

## EXCUSED—5

Gannon Rieger Shaner Smith, B.  
Gruitza

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the amendments as amended by the Rules Committee were concurred in.

Ordered, That the clerk return the same to the Senate for concurrence.

The SPEAKER. There are no further votes on the floor of the House of Representatives this evening.

**RECESS**

The SPEAKER. This House stands in recess to the call of the Chair.

**AFTER RECESS**

The time of recess having expired, the House was called to order.

**CALENDAR****BILLS AND RESOLUTIONS PASSED OVER**

The SPEAKER. Without objection, any bills and resolutions on today's calendar will be passed over. The Chair hears no objection.

**RECESS**

The SPEAKER. The Chair recognizes the gentlelady from Warren, Ms. Rapp.

Ms. RAPP. Mr. Speaker, I move that this House do now recess until Monday, November 7, 2005, at 1 p.m., e.s.t., unless sooner recalled by the Speaker.

On the question,

Will the House agree to the motion?

Motion was agreed to, and at 12:59 p.m., e.s.t., Monday, November 7, 2005, the House recessed.