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WEDNESDAY, JUNE 12, 1996

SESSION OF 1996

180TH OF THE GENERAL ASSEMBLY

No. 40

SENATE

WEDNESDAY, June 12, 1996

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

The PRESIDENT (Lieutenant Governor Mark S. Schweiker) in the Chair.

PRAYER

The Chaplain, Pastor ALLAN R. VIVONA, of Grace Bible Fellowship Church, Harrisburg, offered the following prayer:

Let us pray.

O Lord our Lord, how excellent is Thy name in all the earth. We recognize that You are holy and righteous, King of kings and Lord of lords. We ask today that You remind us that You are the Sovereign God. Enable us to look to that rule and by Your grace follow it.

Father, we invoke Your blessing upon this Senate Session. We ask that You would grant us three requests: Enable us, first of all, to see that You are Almighty God. We ask that You would show us Your power and Your wisdom. Father, I ask that You would lead each Senator to look to You personally for guidance, so that the rule of these people would be good and strong and godly. And then, Father, we ask that You would lead each Senator to lead his or her constituents to a pursuit of Your wisdom and of Your strength. We submit ourselves afresh into Your almighty hand as we come by the authority of our God and Savior, the living Lord Jesus Christ. Amen.

The PRESIDENT. The Chair thanks Reverend Vivona, who is the guest today of Senator Piccola.

JOURNAL APPROVED

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of June 11, 1996.

The Clerk proceeded to read the Journal of the preceding Session, when, on motion of Senator LOEPER, further reading was dispensed with and the Journal was approved.

REPORTS FROM COMMITTEE

Senator LEMMOND, from the Committee on State Government, reported the following bills:

SB 1285 (Pr. No. 1533)

An Act selecting and designating the square dance as the official American folk dance of this Commonwealth.

SB 1476 (Pr. No. 2104) (Amended)

An Act establishing a legislative bipartisan commission for women and the Women's Commission Fund; and making an appropriation.

LEGISLATIVE LEAVES

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

Senator LOEPER. Mr. President, I request a legislative leave for today's Session on behalf of Senator Peterson.

The PRESIDENT. Senator Loeper requests a legislative leave for Senator Peterson. Without objection, that leave is granted.

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

Senator O'PAKE. Mr. President, I request a temporary Capitol leave for Senator Kasunic.

The PRESIDENT. Senator O'Pake requests a temporary Capitol leave for Senator Kasunic. Without objection, that leave is granted.

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

The SECRETARY. Consent has been given for the Committee on Transportation to meet during today's Session to consider House Bills No. 1712, 2013, and 2064.

CALENDAR

**BILLS ON CONCURRENCE IN HOUSE
AMENDMENTS AS AMENDED**

BILL OVER IN ORDER

SB 577 -- Without objection, the bill was passed over in its order at the request of Senator LOEPER.

BILL REREFERRED

SB 801 (Pr. No. 2102) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 2, 1915 (P. L. 736, No. 338), entitled, as reenacted and amended, "Workers' Compensation Act," further providing for definitions, for recovery, for liability for compensation, for financial responsibility, for compensation schedules and

for wages; providing for reporting; further providing for notices, for examinations, for commutation of compensation, for exclusions, for the Workmen's Compensation Appeal Board and for procedure; providing for informal conferences; further providing for processing claims, for commutation petitions, for modifications and reversals, for pleadings, for investigations, for evidence, for appeals, for costs and attorney fees, for the Pennsylvania Workers' Compensation Advisory Council and for insurance policies; providing for settlements and for collective bargaining; further providing for ratings organizations, for rating procedures and for shared liability; providing for employer association groups; further providing for safety committees, for penalties, for prosecutions and for collection of penalties; providing for limitation of actions; further providing for assessments; providing for workers' compensation judges and for transfer of administrative functions; transferring provisions relating to the State Workmen's Insurance Fund; and making a repeal.

Upon motion of Senator LOEPER, and agreed to, the bill was rereferred to the Committee on Labor and Industry.

THIRD CONSIDERATION CALENDAR

BILLS OVER IN ORDER

HB 8 and SB 165 -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILL OVER IN ORDER TEMPORARILY

HB 220 -- Without objection, the bill was passed over in its order temporarily at the request of Senator LOEPER.

BILLS OVER IN ORDER

SB 685 and HB 778 -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILLS AMENDED

SB 942 (Pr. No. 1014) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 30 (Fish) of the Pennsylvania Consolidated Statutes, further providing for the organization of the Pennsylvania Fish and Boat Commission.

On the question,

Will the Senate agree to the bill on third consideration?

Senator MELLOW offered the following amendment No. A3786:

Amend Sec. 1 (Sec. 301), page 3, line 6, by inserting after "and": may continue to hold office for a period of time not to exceed six months or

Amend Sec. 1 (Sec. 301), page 3, line 7, by inserting after "qualified": , whichever occurs first

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 LOEPER.

SB 943 (Pr. No. 1015) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 34 (Game) of the Pennsylvania Consolidated Statutes, further providing for the organization of the Pennsylvania Game Commission.

On the question,

Will the Senate agree to the bill on third consideration?

Senator MELLOW offered the following amendment No. A3790:

Amend Sec. 1 (Sec. 301), page 2, line 21, by inserting after "and": may continue to hold office for a period of time not to exceed six months or

Amend Sec. 1 (Sec. 301), page 2, line 22, by inserting after "qualified": , whichever occurs first

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 LOEPER.

BILL REREFERRED

HB 1130 (Pr. No. 2805) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 23, 1931 (P.L.932, No.317), known as The Third Class City Code, further providing for emergency powers of the mayor or chief executive, for sales of personal property, for regulations concerning contracts and for limited vested pension benefits.

Upon motion of Senator LOEPER, and agreed to, the bill was rereferred to the Committee on Rules and Executive Nominations.

BILL RECOMMITTED

HB 1362 (Pr. No. 3589) -- The Senate proceeded to consideration of the bill entitled:

An Act proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, authorizing an exclusion from taxation of either a portion of the assessed value of homestead property or a portion of the assessed value of all real property.

Upon motion of Senator LOEPER, and agreed to, the bill was recommitted to the Committee on Finance.

BILLS OVER IN ORDER

SB 1469, SB 1553 and SB 1566 -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILL LAID ON THE TABLE

HB 1571 (Pr. No. 3667) -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for a real estate transfer disclosure statement.

Upon motion of Senator LOEPER, and agreed to, the bill was laid on the table.

BILL OVER IN ORDER

SB 1572 -- Without objection, the bill was passed over in its order at the request of Senator LOEPER.

BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE

HB 1865 (Pr. No. 2287) -- The Senate proceeded to consideration of the bill, entitled:

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, further providing for absentee voting.

On the question,

Will the Senate agree to the bill on third consideration?

Senator FUMO offered the following amendment No. A3618:

Amend Title, page 1, line 1, by striking out "an amendment" and inserting: amendments

Amend Title, page 1, line 2, by removing the period after "voting" and inserting: ; and relating to laws that require municipalities to spend funds or that limit the ability of municipalities to raise revenue.

Amend Sec. 1, page 1, line 5, by striking out "amendment" and inserting: amendments

Amend Sec. 1, page 1, line 6, by striking out "is" and inserting: are

Amend Sec. 1, page 1, line 7, by inserting before "That": (1)

Amend Bill, page 2, lines 9 through 16, by striking out all of said lines and inserting:

(2) That Article IX be amended by adding a section to read:

§ 13.1. Laws requiring municipalities to spend funds or limit their ability to raise revenue or receive State tax revenue.

(a) No municipality shall be bound by any statute enacted hereafter requiring such municipality to spend funds, or to take an action requiring the expenditure of funds, unless:

(1) funds are sufficient to fund such expenditure;

(2) the General Assembly authorizes or has authorized the municipality to enact a funding source not available for such municipality prior to the effective date of the enactment of the law that can be used to generate the amount of funds estimated to be sufficient to fund such expenditure;

(3) each house of the General Assembly passes, by a vote of two-thirds of the members elected to it, a resolution which shall be presented to the Governor as provided in section 9 of Article III of this Constitution, which explicitly exempts the Commonwealth from funding a specific law or providing a funding source for that specific law;

(4) the expenditure is required to comply with a law that applies to all persons similarly situated, including State and local governments; or

(5) the law is either required to comply with a Federal requirement, or required for eligibility for a Federal entitlement, which Federal requirement specifically contemplates actions by municipalities for compliance.

(b) Except by a vote of two-thirds of all the members elected to each House, the General Assembly may not enact, amend or repeal any law if the anticipated effect of doing so would be to reduce the authority that any municipality has to raise revenues, in the aggregate, as such authority exists on the effective date of this section.

(c) Laws exempt from the requirements of this section include:

(1) Laws that amend funding formulas existing on the effective date of this section.

(2) Laws adopted to require funding of pension benefits existing on the effective date of this section.

(3) Laws relating to the enforcement of criminal laws but not the execution of judicial sentences.

(4) Election laws.

(5) General appropriation acts.

(6) Special appropriation acts.

(d) As used in this section, the term "municipality" means a county, city, borough, incorporated town, township or any similar general purpose unit of government which shall hereafter be created by the General Assembly. The term shall not include a school district.

Section 2. (a) Upon the first passage by the General Assembly of these proposed constitutional amendments, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of these proposed constitutional amendments.

(b) Upon the second passage by the General Assembly of these proposed constitutional amendments, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of these proposed constitutional amendments. The Secretary of the Commonwealth shall submit these proposed constitutional amendments to the qualified electors of this Commonwealth at the first primary, general or municipal election occurring at least three months after the proposed constitutional amendments are passed by the General Assembly which meets the requirements of and is in conformance with section 1 of Article XI of the Constitution of Pennsylvania.

On the question,

Will the Senate agree to the amendment?

POINT OF ORDER

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

Senator LOEPER. Mr. President, I would like to raise a point of order relevant to the amendment.

The PRESIDENT. The gentleman from Delaware, Senator Loeper, will state his point.

Senator LOEPER. Mr. President, I believe that the amendment dealing with unfunded mandates is not germane to the topic before us, House Bill No. 1865. Therefore, it would appear to me, Mr. President, that it would not be in order to offer it at this time.

Senator FUMO. Mr. President, can the gentleman tell me why he thinks it is not germane?

The PRESIDENT. First let me confirm that Senator Loeper has raised a point of order under our rules that amendment No. A3618 is out of order because it is not germane.

Senator LOEPER. It is my view, Mr. President, that it is not germane because the substance of the bill in House Bill No. 1865 deals with the issue of absentee voting. The subject of the amendment deals with unfunded mandates, and therefore it is my view, Mr. President, that it is not germane to the original bill.

The PRESIDENT. And for the record, we are talking about Senator Fumo's amendment No. A3618.

The Chair recognizes the gentleman from Philadelphia, Senator Fumo.

Senator FUMO. Mr. President, I would refer the Majority Leader, Senator Loeper, as well as the Chair, to Volume 112 of the Pennsylvania Manual, signed Tom Ridge, Governor, and Mark S. Schweiker, Lieutenant Governor, a volume that I am sure the Chair is at least familiar with, having signed the cover. On page 3-74 of that volume is the history of Senate rulings on matters, points of order that come before the Senate, and in the Journal of October 11, 1977, on page 905, this issue was decided by the Senate that it is germane and proper when there is a constitutional amendment before the Senate that you may amend into that particular constitutional amendment other constitutional amendments, even though they may not be similar in nature to the one before the body.

So the precedent has already been set in this Chamber, Mr. President. If the gentleman wants to vote against the amendment, that is one thing, but if we are going to go back on a precedent that was set in 1977, so be it. But that is what the rule is, and I ask the Chair to be so guided.

The PRESIDENT. The Chair thanks the gentleman for his point. I think it is important to acknowledge that in the determination as to whether or not an amendment is germane, the Chair must determine whether or not the amendment is relevant, appropriate, and, of course, in a natural sequence to the subject matter of the bill. The bill itself, House Bill No. 1865, relates only to absentee voting, and the amendment which you propose must at least relate to the same subject matter to be germane.

In the present case, the Chair is well aware that such an argument as espoused by Senator Fumo can be made and that the subject matter of this bill is a constitutional amendment, and therefore the Fumo amendment related only to revenue sharing, as you suggest, is therefore germane in that it relates to a constitutional amendment.

However, this Chair is not ready to read the Senate rules as being this expansive or broad as to permit this type of amendment. And so in the opinion of the Chair, this bill, House Bill No. 1865, deals with absentee voting and the proposed amendment deals with revenue sharing, and yes, while both are dealing with constitutional issues, they are not related in subject matter and not closely allied to the original purpose of this bill as the Chair feels the Senate rules contemplate, and therefore, it is the ruling of the Chair that this amendment is out of order and is not germane to the bill.

RULING OF THE CHAIR APPEALED

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

Senator FUMO. Mr. President, I appeal the ruling of the Chair, and I ask if I may just interrogate the Chair from the standpoint that we are obviously setting a new precedent and I want to make sure that it gets set properly.

The PRESIDENT. Well, the Chair will not face interrogation, and if there is an appeal, then this full body will decide on the appropriateness of the appeal.

On the question,
Shall the ruling of the Chair be sustained?

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

Senator FUMO. Well, it is regrettable that the Chair will not do that, Mr. President, so I will address my remarks to the body.

Apparently, what I think the Chair is saying to me is that now if the Chair is sustained in its ruling, you cannot amend a constitutional amendment, which is not a bill, with any other types of constitutional amendments unless they are similar, and I guess in this case it would take an amendment that would have something to do with voting. That has not been the precedent, and it is regrettable to me that the Chair would take a political position on this as opposed to a purely nonpartisan one, but I recognize Republican politics.

I just want to read into the record from the Pennsylvania Manual, which was signed by the Lieutenant Governor, the Chair:

Germane - Changing Amendment To Constitution

2 (v). The Senate was considering Senate Bill 982 amending the Constitution relating to confirmation proceedings and the president judge of the Superior Court. Senator Nolan offered amendments striking out the title and text of said bill and inserting provisions to amend the Constitution to provide for the election of an Attorney General. The President, Lieutenant Governor Ernest P. Kline, --I might add, of the same party-- ruled the amendments destroyed the original purpose of the bill and were, therefore, out of order, being in violation of the Constitution and Senate Rules. The decision was appealed and after much debate, the Senate reversed the decision.

And that appears in the Senate Journal of October 11, 1977, on page 905. At least in that case, Mr. President, there was not a partisan issue. Lieutenant Governor Kline and Senator Nolan were of the same party, and they fought it out as it should have been fought out, as the way the law is.

Mr. President, we checked with the Legislative Reference Bureau that drafted the amendment, and again for the benefit of the people in Pennsylvania who are watching this on PCN, you cannot offer an amendment to a bill in this Senate unless it is stamped with the approval of the Legislative Reference Bureau, which is a bipartisan body that drafts these amendments, and they will not so stamp an amendment unless it is proper. And one of the tricks that is used by the Majority in order to avoid tough issues like this is that they use a procedural vote and will sometimes raise the issue of germaneness to protect their Members from having to make a hard vote, and it is always accepted as practice that Members of one Caucus always follow their leadership on procedural votes.

Mr. President and Members of this body, I know how tough it would be for Members of the Majority party to break with their leadership on a procedural vote, and I also know how tough it would be for them to break with their leadership on this particular procedural vote and then be faced with an issue that they all say that they support but do not want to vote for. It is again similar to what happened yesterday in the Committee on Rules and Executive Nominations when you say one thing and vote the opposite way.

POINT OF ORDER

Senator LOEPER. Point of order, Mr. President.

The PRESIDENT. The gentleman from Delaware, Senator Loeper, will state his point.

Senator LOEPER. Mr. President, I believe that the issue before us is appealing the ruling of the Chair, and I believe that the gentleman's debate is going far afield from that issue that is before the Senate.

The PRESIDENT. Senator Fumo, if you might center your remarks and we will be underway.

Senator FUMO. I apologize, Mr. President. I did not think the Majority was that thin-skinned, but obviously they are today. Mr. President, this is germane. It is a tough issue. It is one which the hypocrites want to hide from, and I suggest to you that a vote on the appeal of the ruling of the Chair, if you vote with me to overrule the Chair, you are then voting to prevent the State from mandating to local governments programs without funding them. If you vote to sustain the Chair, you are voting to allow the State to continue to place those burdens on local government without funding, and I think it is unconscionable that we would try to hide behind a procedural vote.

I might also add for the history of this, I was promised a long time ago by the gentleman from Montgomery, Senator Tilghman, a man whom I respect and admire in his tenet, my colleague on the Committee on Appropriations--I being the Minority chair, he being the Majority chair--that our bill on the constitutional amendment that we have here as an amendment would be released from committee, so we did not amend another bill based on that fact. We withdrew and the word of the Majority was not kept. That is why we had to do this. I might also add to the Majority that we will continue to do this on each and every opportunity we see. You will not run away from this vote.

I ask for whatever the appropriate vote is, Mr. President, to appeal the ruling of the Chair and stick with the long time-honored tradition of this Senate that has been in place for almost 20 years before we got back into partisan politics.

The PRESIDENT. Healthy debate. The Chair will clarify the implications of an "aye" and a "no" vote, and the full body should be reminded that you shall decide the propriety of the Chair's judgment. First, an "aye" vote will sustain the ruling of the Chair, a "nay" vote would overrule the Chair.

The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, before we begin the roll call on the issue of appealing the ruling of the Chair, I think it is just important to note for the record that I believe that the gentleman has characterized the vote before us as a gross distortion as far as the merits of the proposal that he wishes to put forward at this time. The issue is germaneness of this proposal. It does not deal with the merits of the proposal at all.

I would simply reiterate, Mr. President, that if we were to look at page 14 of the rules of the Senate, "Rule XIV AMENDMENTS, When in Order," I think it is very clear, Mr. President, when it says that "No amendments shall be received

by the presiding officer or considered by the Senate which destroys the general sense of the original bill, or is not appropriate and closely allied to the original purpose of the bill."

Mr. President, I think that is very clear and concise, and therefore, I support sustaining the ruling of the Chair, and I would ask for an affirmative vote.

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

Senator FUMO. Mr. President, in response, we, by offering this amendment, do not destroy the purpose of the original bill. That is what Senator Nolan did in 1977. We do not go that far. We just add to it. And, Mr. President, the rule that the gentleman cited on page 14, under "XIV AMENDMENTS, When in Order," is a rule that pertains to bills. This is not a bill. A bill is something that goes through both Houses and is ultimately signed or vetoed by the Governor and becomes law. This is a joint resolution that results in a constitutional amendment. This does not get signed by the Governor. It goes, if successfully passed in two consecutive Sessions, directly to the people of Pennsylvania.

And if anybody wants to believe the folly that this procedural vote is not about avoiding the amendment itself and the vote on the amendment, then I have a bridge in Brooklyn that is for sale at a very inexpensive price. I do not think the people of Pennsylvania believe that argument. I think people who are frustrated by local taxes and mandates placed on them by us have a right to at least see where their Senators stand on that issue, even though on the campaign trail they all say they are for it, they have a right to see them put up a vote, and that is the real argument here, Mr. President. And we are not going as far as they went in 1977 when the Senate said that you could even gut that bill. We did not do that. Here we are merely adding to a joint resolution. The rule that the gentleman cited is not applicable in this case.

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. Senator Kasunic has returned, and his temporary Capitol leave is cancelled.

LEGISLATIVE LEAVE

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

Senator LOEPER. Mr. President, Senator Tomlinson has been called from the floor to his office, and I request a temporary Capitol leave on his behalf.

The PRESIDENT. Senator Loeper requests a temporary Capitol leave for Senator Tomlinson. Without objection, that leave is granted.

And the question recurring,
Shall the ruling of the Chair be sustained?

The PRESIDENT. The Chair respectfully reminds the Members that an "aye" vote sustains the ruling of the Chair, and a "no" vote would overrule the Chair. An "aye" vote sustains the ruling of the Chair insofar as the Fumo amendment is not germane, and a "no" vote would overrule the Chair.

And the question recurring,
Shall the ruling of the Chair be sustained?

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

YEAS—29

| | | | |
|------------|-----------|----------|-----------|
| Armstrong | Hart | Madigan | Salvatore |
| Bell | Heckler | Mowery | Shaffer |
| Brightbill | Helfrick | Peterson | Thompson |
| Corman | Holl | Piccola | Tilghman |
| Delp | Jubelirer | Punt | Tomlinson |
| Fisher | Lemmond | Rhoades | Uliana |
| Gerlach | Loeper | Robbins | Wenger |
| Greenleaf | | | |

NAYS—20

| | | | |
|------------|---------|-------------|-------------|
| Afflerbach | Fumo | Musto | Stewart |
| Andrezeski | Hughes | OPake | Stout |
| Belan | Kasunic | Porterfield | Tartaglione |
| Bodack | LaValle | Schwartz | Wagner |
| Costa | Mellow | Stapleton | Williams |

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

The PRESIDENT. The ruling of the Chair is sustained and the amendment is out of order.

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

Senator FUMO offered the following amendment No. A3606:

Amend Title, page 1, line 1, by striking out "an amendment" and inserting: amendments

Amend Title, page 1, line 2, by inserting after "Pennsylvania,": requiring a two-thirds majority vote for bills levying a new tax or increasing the rate or base of a tax; and

Amend Sec. 1, page 1, line 5, by striking out "amendment" and inserting: amendments

Amend Sec. 1, page 1, line 6, by striking out "is" and inserting: are

Amend Sec. 1, page 1, by inserting between lines 6 and 7:

(1) That Article III be amended by adding a section to read:

§ 33. Tax bills.

(a) Any bill to levy a new tax or increase the rate or base of any tax may pass only by a two-thirds majority of all the members elected to each House.

(b) The General Assembly may waive subsection (a) when a state of emergency is in effect and is so declared by the Governor. Any provision of law which would, standing alone, be subject to subsection (a) but for this subsection and which becomes law pursuant to such a waiver shall be effective for not longer than two years.

Amend Sec. 1, page 1, line 7, by inserting before "That": (2)

Amend Sec. 2, page 2, lines 9 through 16, by striking out all of said lines and inserting:

Section 2. (a) Upon the first passage by the General Assembly of these proposed constitutional amendments, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of these proposed constitutional amendments.

(b) Upon the second passage by the General Assembly of these proposed constitutional amendments, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising

requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of these proposed constitutional amendments. The Secretary of the Commonwealth shall submit these proposed constitutional amendments to the qualified electors of this Commonwealth at the first primary, general or municipal election occurring at least three months after the proposed constitutional amendments are passed by the General Assembly which meets the requirements of and is in conformance with section 1 of Article XI of the Constitution of Pennsylvania.

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

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

Senator FUMO. Mr. President, this amendment makes it a requirement that in order for taxes to be raised in the Commonwealth of Pennsylvania, that it be done by a two-thirds majority of the Members elected to each House. Many people in the past have been very concerned about the willy-nilly way in which taxes are raised. The public seems to be concerned and upset that it is so easy to raise taxes in this Commonwealth, and this is something that we saw from the Newt revolution and thought it might be applicable here in Pennsylvania, that raising taxes is a serious matter, should be a serious matter, and should be done by two-thirds, but this of course is something that the public must ultimately decide because it would be a constitutional amendment. All we are asking here, Mr. President--

POINT OF ORDER

Senator LOEPER. Point of order, Mr. President.

The PRESIDENT. The gentleman will state his point.

Senator LOEPER. Mr. President, I would raise the same point of order as I did on the last amendment, and that is the germaneness of this constitutional amendment that is before us, and I believe that it also is out of order for the same reasons that I described on the previous amendment.

The PRESIDENT. Senator Loeper has raised a second point of order under our rules that amendment No. A3606 is also out of order because it is not germane.

The Chair recognizes the gentleman from Philadelphia, Senator Fumo.

Senator FUMO. Mr. President, before you rule, may I state something, or do you rule first, or what do we do here? I mean, before you just make up your mind--

The PRESIDENT. Allow the Chair to complete his remark and go to the heart of your next remark, which is that in examining the amendment, it speaks to tax policy and a two-thirds majority and is clearly at odds with House Bill No. 1865, which speaks to absentee voting and only to absentee voting and, therefore, the test of germaneness is not passed. In the opinion of the Chair, the amendment is out of order. But, sir, you certainly may complete your remarks and appeal the ruling, if appropriate.

Senator FUMO. Mr. President, I assume you already made a ruling.

The PRESIDENT. The Chair considers that it is out of order.

RULING OF THE CHAIR APPEALED

Senator FUMO. Mr. President, I had hoped to be able to read something to you before you made a ruling, but that is okay. I appeal the ruling of the Chair for all the arguments I made previously, Mr. President, and after having just experienced the last vote, is it not ironic, citizens of Pennsylvania, that we had a Republican Lieutenant Governor rule and the vote in this Chamber was 29 to 20, exactly along party lines. Exactly what I said was going to happen happened, 29 Republicans in lockstep voted to sustain the Chair to avoid the tough vote and 20 Democrats voted to overrule the Chair so we could get to the heart of the issue. So as long as we are not trying to fool the people of Pennsylvania, you can say what you want, but your actions speak louder than words.

On the question,
Shall the ruling of the Chair be sustained?

Senator FUMO. Mr. President, in addition to my previous arguments.

The PRESIDENT. The Chair would encourage the Senator to center his remarks and we will take up the appeal.

Senator FUMO. Mr. President, I am now talking about the appeal, and I think it is important. I said before that the appeal vote would be what it was because it really had nothing to do with germaneness but rather was a political issue, and I was proven correct.

The PRESIDENT. Senator Fumo, with all due respect, the Chair will guarantee your right to comment on the issue at hand, which is your amendment, its relationship to germaneness, and the appeal. Comments about the political behavior of others I think are outside that bounds, and the Chair would ask you to center your remarks.

Senator FUMO. Mr. President, I know this debate is tough and painful, but it has always been that the Minority will have its say and the Majority will have its way. At least I want to have my say.

Mr. President, as far as the germaneness of this issue, the germaneness of this issue is that it, too, is a constitutional amendment and the resolution before us is a constitutional amendment. We therefore feel it is germane and the precedent from 1977 is applicable, the rule that the gentleman cited in the last debate is not. And more importantly, Mr. President, I want to read to you from the Senate Journal:

For my part, I promise you that partisanship and politics will not be a part of my agenda in this Chamber. I will not view the business before this body to be a Republican issue or a Democrat issue but a Pennsylvania issue, and I will ask that you do the same.

For my part, I promise you that I will be a mediator for all points of view that accomplish our goals of a government that works for Pennsylvanians. I would ask that when you disagree, you do so without being disagreeable.

For my part, I promise you that I will have the courage to stop divisiveness and break gridlock. I would ask that you share in that courage so in the years ahead, when our grandchildren, our great-grandchildren, and their children read about us in the history books

and learn about us in the museums, what will they read and see? I would like to think we share in the desire that they will see that we encouraged and promoted personal responsibility, that we maintained tolerance for opposing points of view, that we stimulated competition and created opportunity, that we governed to sustain and nurture families to be together, to stay together, and that we demonstrated and practiced compassion for families and individuals who need society's help.

Mr. President, that appeared in the Journal on January 17, 1995. It has been so long ago. And those were the words of the Chair, Mr. President, and I really find it a shame that although this is a minor footnote in history, when history does review this footnote and then looks back at the record that has been amassed, it will not see that your words were fulfilled, it will not see that you lived by your words, it will see that your actions belied your words. All we attempt to do today is to bring to the Chamber two issues for the kind of competition and debate that you spoke about, issues that are in fact constitutional amendments. None of our bills have been let out of committee because we are being punished because we are in the Minority. That is not a fair way to run government, but I am a mature Member of the Senate and a politician who understands those realities. We are forced, because you control the committees, to do the amendment process, Mr. President, and that is why we are here today. We would love to consider these bills as we introduce them, but we cannot get them out of committee -- not because they are not meritorious but because they have Democratic sponsorship, and more importantly because they are tough issues and an election year has come up and the Majority wishes to protect its incumbents from any tough issue. That simply is not fair. It is not in the interest of Pennsylvania, and it certainly is not in the interest, in this particular instance, of taxpayers. If you disagree with us, put up a vote. You have 29. Beat it down. It would be a lot quicker. But you continue to believe that you can hide behind procedural votes. And with the advent of television in this Chamber, people are beginning to learn that is nonsense and it is a lie, and it is not going to continue to work. And eventually, high school kids are going to see it, and when they become voters they are going to understand it and explain it to their parents.

Mr. President, this is a charade to avoid a tough vote on an important issue in Pennsylvania. It is a sincere regret that having just read your pious words, which I thought were very appropriate at the time, that you and the other Members of your party violate the spirit of those words and make the rulings that you make today and you get sustained along party lines on those rulings. It is far different than 1977 when a Democratic Lieutenant Governor ruled against a Democratic Majority Leader. Here apparently you do not have the courage to do that and they certainly do not have the guts to face the issues, so they will sustain you.

I ask for an appeal of the ruling of the Chair, and I assume it is appropriate to ask for a negative vote again.

The PRESIDENT. I just would mention that the Chair is impressed with the Senator's research and the citations, and I emphasize that it is okay to disagree politely, which I think we are doing.

The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, I think that we have outlined quite clearly that we do not believe that the issue in the gentleman's amendment is germane to this bill and the reasons for that. I would ask for an "aye" vote in order to sustain the ruling of the Chair.

LEGISLATIVE LEAVES

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

Senator LOEPER. Mr. President, Senator Hart and Senator Robbins have been called to their offices, and I request temporary Capitol leaves on their behalf.

The PRESIDENT. Without objection, those leaves are granted.

And the question recurring,
Shall the ruling of the Chair be sustained?

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

Senator FUMO. Mr. President, I have taken that quote and placed it under the glass at the Minority Leader's desk for future reference. Hopefully, we will never have to read it again, and hopefully having read it once you may be reminded of what you said.

The PRESIDENT. Fair enough.

The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, I could not help but comment, if the gentleman is going to have it at that desk, I hope that when he is up at that desk and debating before this floor that he would take to heart the words that we can disagree without being disagreeable.

Thank you, Mr. President.

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

Senator FUMO. Mr. President, in response, while I recognize that I have been one of the most disagreeable persons in this Chamber at times, that is because the rest of this quote has not been abided by. I would be more than happy to politely disagree if we change the Chair and make it less partisan. I would not even be here politely disagreeing today if all we got was a chance to debate the issues. The only time I become disagreeable is when the rest of what you said gets violated by the Majority. And therefore, I reserve the right to be disagreeable when we are not allowed to have the benefit of the rest of your remarks in action.

The PRESIDENT. There are times when the Chair would like to go beyond what the rules permit.

LEGISLATIVE LEAVE

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

Senator FUMO. Senator Williams has been called from the floor, and I ask for a temporary Capitol leave.

The PRESIDENT. Without objection, that leave is certainly granted.

And the question recurring,
Shall the ruling of the Chair be sustained?

The PRESIDENT. The Chair would remind the Membership that an "aye" vote sustains the ruling of the Chair that the proposed amendment is out of order and did not meet the test of germaneness. A "no" vote would overrule the Chair.

And the question recurring,
Shall the ruling of the Chair be sustained?

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

YEAS—29

| | | | |
|------------|-----------|----------|-----------|
| Armstrong | Hart | Madigan | Salvatore |
| Bell | Heckler | Mowery | Shaffer |
| Brightbill | Helfrick | Peterson | Thompson |
| Corman | Holl | Piccola | Tilghman |
| Delp | Jubelirer | Punt | Tomlinson |
| Fisher | Lemmond | Rhoades | Uliana |
| Gerlach | Loeper | Robbins | Wenger |
| Greenleaf | | | |

NAYS—20

| | | | |
|------------|---------|-------------|-------------|
| Afflerbach | Fumo | Musto | Stewart |
| Andrezeski | Hughes | O'Pake | Stout |
| Belan | Kasunic | Porterfield | Tartaglione |
| Bodack | LaValle | Schwartz | Wagner |
| Costa | Mellow | Stapleton | Williams |

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

The PRESIDENT. The ruling of the Chair is sustained and the amendment is out of order.

And the question recurring,
Will the Senate agree to the bill on third consideration?
It was agreed to.

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:

YEAS—49

| | | | |
|------------|-----------|-------------|-------------|
| Afflerbach | Greenleaf | Mellow | Shaffer |
| Andrezeski | Hart | Mowery | Stapleton |
| Armstrong | Heckler | Musto | Stewart |
| Belan | Helfrick | O'Pake | Stout |
| Bell | Holl | Peterson | Tartaglione |
| Bodack | Hughes | Piccola | Thompson |
| Brightbill | Jubelirer | Porterfield | Tilghman |
| Corman | Kasunic | Punt | Tomlinson |
| Costa | LaValle | Rhoades | Uliana |
| Delp | Lemmond | Robbins | Wagner |
| Fisher | Loeper | Salvatore | Wenger |
| Fumo | Madigan | Schwartz | Williams |
| Gerlach | | | |

NAYS—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 without amendments.

EXECUTIVE NOMINATIONS

EXECUTIVE SESSION

Motion was made by Senator SALVATORE,

That the Senate do now resolve itself into Executive Session for the purpose of considering certain nominations made by the Governor.

Which was agreed to.

NOMINATIONS TAKEN FROM THE TABLE

Senator SALVATORE. Mr. President, I call from the table certain nominations and ask for their consideration.

The Clerk read the nominations as follows:

MEMBER OF THE PENNSYLVANIA COUNCIL ON AGING

May 6, 1996

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Sister Adrian Barrett, P. O. Box 711, Scranton 18510, Lackawanna County, Twenty-second Senatorial District, for reappointment as a member of the Pennsylvania Council on Aging, to serve until October 8, 1997 and until her successor is appointed and qualified.

THOMAS J. RIDGE
Governor

MEMBER OF THE STATE BOARD OF DENTISTRY

May 17, 1996

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Ronald L. Spero (Public Member), 5105 Clinton Drive, Erie 16509, Erie County, Forty-ninth Senatorial District, for appointment as a member of the State Board of Dentistry, to serve until April 16, 1997 or until his successor is appointed and qualified, but not longer than six months beyond that period, vice Paul C. Dunkelberger, Lebanon, resigned.

THOMAS J. RIDGE
Governor

MEMBER OF THE STATE BOARD OF EDUCATION

April 29, 1996

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, James R. Agras, 73 Lebanon

Hills Drive, Pittsburgh 15228, Allegheny County, Thirty-seventh Senatorial District, for appointment as a member of the State Board of Education, to serve until October 1, 1996 or until his successor is appointed and qualified, vice Sister M. Lawrence Antoun, Erie, resigned.

THOMAS J. RIDGE
Governor

MEMBER OF THE BOARD OF GOVERNORS OF THE STATE SYSTEM OF HIGHER EDUCATION

April 30, 1996

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Dr. Muriel M. Berman, 2000 Nottingham Road, Allentown 18103, Lehigh County, Sixteenth Senatorial District, for reappointment as a member of the Board of Governors of the State System of Higher Education, to serve until December 31, 1998 and until her successor is appointed and qualified.

THOMAS J. RIDGE
Governor

MEMBER OF THE BOARD OF GOVERNORS OF THE STATE SYSTEM OF HIGHER EDUCATION

May 31, 1996

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Christopher J. Cerski, 135 Pine Run Road, Wilkes-Barre 18702, Luzerne County, Fourteenth Senatorial District, for appointment as a member of the Board of Governors of the State System of Higher Education, to serve until graduated or separated from the University, vice Christopher M. Makos, Stroudsburg, graduated.

THOMAS J. RIDGE
Governor

MEMBER OF THE BOARD OF GOVERNORS OF THE STATE SYSTEM OF HIGHER EDUCATION

May 31, 1996

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Richard A. Fino, 33 North Earl Street, Apartment A, Shippensburg 17257, Cumberland County, Thirty-first Senatorial District, for appointment as a member of the Board of Governors of the State System of Higher Education, to serve until graduated or separated from the University, vice Amy L. Martin, Elizabethtown, graduated.

THOMAS J. RIDGE
Governor

MEMBER OF THE BOARD OF GOVERNORS OF THE STATE SYSTEM OF HIGHER EDUCATION

May 31, 1996

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Andrew H. Shoffner, 414 South Walnut Street, West Chester 19383, Chester County, Nineteenth Senatorial District, for appointment as a member of the Board of Governors of the State System of Higher Education, to serve until graduated or separated from the University, vice Elizabeth L. Schmid, West Chester, graduated.

THOMAS J. RIDGE
Governor

MEMBER OF THE COUNCIL OF TRUSTEES OF
LOCK HAVEN UNIVERSITY OF PENNSYLVANIA
OF THE STATE SYSTEM OF HIGHER EDUCATION

April 26, 1996

To the Honorable, the Senate of the Commonwealth of
Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Karen R. Rockey, 13 Sagamore Hills, Lock Haven 17745, Clinton County, Thirty-fourth Senatorial District, for appointment as a member of the Council of Trustees of Lock Haven University of Pennsylvania of the State System of Higher Education, to serve until the third Tuesday of January 2001, and until her successor is appointed and qualified, vice Alma Kay Crawford, York, whose term expired.

THOMAS J. RIDGE
Governor

MEMBER OF THE STATE BOARD
OF PODIATRY

May 6, 1996

To the Honorable, the Senate of the Commonwealth of
Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Robert L. Green, D.O., 7155 Sterling Road, Harrisburg 17112, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the State Board of Podiatry, to serve for a term of four years or until his successor is appointed and qualified, but not longer than six months beyond that period, vice Thomas H. Coleman, M.D., Carbondale, whose term expired.

THOMAS J. RIDGE
Governor

MEMBER OF THE STATE REGISTRATION
BOARD FOR PROFESSIONAL ENGINEERS,
LAND SURVEYORS AND GEOLOGISTS

May 17, 1996

To the Honorable, the Senate of the Commonwealth of
Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, George Roman, Gwin Engineers, Inc., 1126 Eighth Avenue, Altoona 16602, Blair County, Thirtieth Senatorial District, for appointment as a member of the State Registration Board for Professional Engineers, Land Surveyors and Geologists, to serve for a term of six years or until his successor is appointed and qualified, but not longer than six months beyond that period, vice Wasinder S. Mokha, Pittsburgh, whose term expired.

THOMAS J. RIDGE
Governor

MEMBER OF THE STATE BOARD
OF PSYCHOLOGY

May 6, 1996

To the Honorable, the Senate of the Commonwealth of
Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Henry M. Weeks, IV, Ph.D., 211 Echo Road, Carlisle 17013-9510, Cumberland County, Thirty-first Senatorial District, for appointment as a member of the State Board of Psychology, to serve for a term of four years or until his successor is appointed and qualified, but not longer than six months beyond that period, vice Joseph L. French, Ed.D., State College, whose term expired.

THOMAS J. RIDGE
Governor

MEMBER OF THE STATE REAL
ESTATE COMMISSION

April 29, 1996

To the Honorable, the Senate of the Commonwealth of
Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, George E. Meagher, III, 1169 Limekiln Pike, Ambler 19002, Montgomery County, Twelfth Senatorial District, for appointment as a member of the State Real Estate Commission, to serve for a term of five years or until his successor is appointed and qualified, but not longer than six months beyond that period, vice John D. Neel, Pittsburgh, whose term expired.

THOMAS J. RIDGE
Governor

MEMBER OF THE STATE BOARD
OF SOCIAL WORK EXAMINERS

May 17, 1996

To the Honorable, the Senate of the Commonwealth of
Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Manuel J. Manolios, 397 Jayson Avenue, Pittsburgh 15228, Allegheny County, Thirty-seventh Senatorial District, for reappointment as a member of the State Board of Social Work Examiners, to serve for a term of four years and until his successor is appointed and qualified, but not longer than six months beyond that period.

THOMAS J. RIDGE
Governor

MEMBER OF THE BOARD OF TRUSTEES OF
THADDEUS STEVENS STATE SCHOOL
OF TECHNOLOGY

May 10, 1996

To the Honorable, the Senate of the Commonwealth of
Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Minor W. Redmond, Jr., 135 Pickway Place, Millersville 17551, Lancaster County, Thirteenth Senatorial District, for reappointment as a member of the Board of

Trustees of Thaddeus Stevens State School of Technology, to serve until the third Tuesday of January 2001, and until his successor is appointed and qualified.

THOMAS J. RIDGE
Governor

MEMBER OF THE WORKMEN'S COMPENSATION
APPEAL BOARD

March 15, 1996

To the Honorable, the Senate of the Commonwealth of
Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, William R. Davis, 511 Sewickley Street, Greensburg 15601, Westmoreland County, Thirty-ninth Senatorial District, for reappointment as a member of the Workmen's Compensation Appeal Board, to serve until the third Tuesday of January 1999, and until his successor is appointed and qualified.

THOMAS J. RIDGE
Governor

MEMBER OF THE WORKMEN'S COMPENSATION
APPEAL BOARD

March 15, 1996

To the Honorable, the Senate of the Commonwealth of
Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Daniel R. Fleck, 508 Yale Road, Pittsburgh 15205-1724, Allegheny County, Thirty-seventh Senatorial District, for appointment as a member of the Workmen's Compensation Appeal Board, to serve until the third Tuesday of January 1999, and until his successor is appointed and qualified, vice George F. Pott, Jr., Gibsonia, whose term expired.

THOMAS J. RIDGE
Governor

MEMBER OF THE WORKMEN'S COMPENSATION
APPEAL BOARD

June 11, 1996

To the Honorable, the Senate of the Commonwealth of
Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Alfonso Frioni, Jr., 419 Clokey Avenue, Mount Lebanon 15228, Allegheny County, Thirty-seventh Senatorial District, for appointment as a member of the Workmen's Compensation Appeal Board, to serve until the third Tuesday of January 1999, and until his successor is appointed and qualified, to add to complement.

THOMAS J. RIDGE
Governor

MEMBER OF THE WORKMEN'S COMPENSATION
APPEAL BOARD

April 11, 1996

To the Honorable, the Senate of the Commonwealth of
Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Susan M. McDermott, Esquire, 2418 Shawnee Street, Philadelphia 19118, Philadelphia County, Fourth Senatorial District, for appointment as a member of the Workmen's Compensation Appeal Board, to serve until the third Tuesday of January 1999, and until her successor is appointed and qualified, to add to complement.

THOMAS J. RIDGE
Governor

MEMBER OF THE WORKMEN'S COMPENSATION
APPEAL BOARD

March 15, 1996

To the Honorable, the Senate of the Commonwealth of
Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Robert T. McIntyre, 96 Arnold Avenue, Scranton 18505, Lackawanna County, Twenty-second Senatorial District, for appointment as a member of the Workmen's Compensation Appeal Board, to serve until the third Tuesday of January 1999, and until his successor is appointed and qualified, vice A. Peter Kanjorski, Esquire, Nanticoke, whose term expired.

THOMAS J. RIDGE
Governor

MEMBER OF THE WORKMEN'S COMPENSATION
APPEAL BOARD

March 15, 1996

To the Honorable, the Senate of the Commonwealth of
Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Gail L. O'Neal, Esquire, 169 Forest Circle, Palmyra 17078, Lebanon County, Forty-eighth Senatorial District, for appointment as a member of the Workmen's Compensation Appeal Board, to serve until the third Tuesday of January 1999, and until her successor is appointed and qualified, vice C. John Urling, Jr., Mechanicsburg, whose term expired.

THOMAS J. RIDGE
Governor

MEMBER OF THE WORKMEN'S COMPENSATION
APPEAL BOARD

March 15, 1996

To the Honorable, the Senate of the Commonwealth of
Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Leta V. Pittman, Esquire, 250 Alcoma Boulevard #605, Pittsburgh 15235, Allegheny County, Forty-third Senatorial District, for appointment as a member of the Workmen's Compensation Appeal Board, to serve until the third Tuesday of January 1999, and until her successor is appointed and qualified, vice J. Douglas Wolfe, Esquire, Johnstown, whose term expired.

THOMAS J. RIDGE
Governor

MEMBER OF THE WORKMEN'S COMPENSATION APPEAL BOARD

May 20, 1996

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Joseph P. Santone, 4309 Caroline Drive, Erie 16509, Erie County, Forty-ninth Senatorial District, for appointment as a member of the Workmen's Compensation Appeal Board, to serve until the third Tuesday of January 1999, and until his successor is appointed and qualified.

THOMAS J. RIDGE
Governor

On the question,
Will the Senate advise and consent to the nominations?

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

YEAS-49

Table listing names of senators who voted 'yea' in four columns: Afflerbach, Andrezeski, Armstrong, Belan, Bell, Bodack, Brightbill, Corman, Costa, Delp, Fisher, Fumo, Gerlach, Greenleaf, Hart, Heckler, Helfrick, Holl, Hughes, Jubelirer, Kasunic, LaValle, Lemmond, Loeper, Madigan, Mellow, Mowery, Musto, O'Pake, Peterson, Piccola, Porterfield, Punt, Rhoades, Robbins, Salvatore, Schwartz, Shaffer, Stapleton, Stewart, Stout, Tartaglione, Thompson, Tilghman, Tomlinson, Uliana, Wagner, Wenger, Williams.

NAYS-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.
Ordered, That the Governor be informed accordingly.

EXECUTIVE SESSION RISES

Senator SALVATORE. Mr. President, I move that the Executive Session do now rise.
The motion was agreed to.

THIRD CONSIDERATION CALENDAR RESUMED

BILL OVER IN ORDER

HB 2446 -- Without objection, the bill was passed over in its order at the request of Senator LOEPER.

SECOND CONSIDERATION CALENDAR

BILLS REREPORTED FROM COMMITTEE AS AMENDED ON SECOND CONSIDERATION

HB 100 (Pr. No. 3677) -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for a Pennsylvania Business Resource Center within the Department of Commerce; and creating the Pennsylvania Business Resource Center Advisory Board.

Considered the second time and agreed to,
Ordered, To be printed on the Calendar for third consideration.

SB 1234 (Pr. No. 2084) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of July 19, 1979 (P. L. 130, No. 48), entitled "Health Care Facilities Act," providing for hospice services.

Considered the second time and agreed to,
Ordered, To be printed on the Calendar for third consideration.

SB 1317 (Pr. No. 2085) -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for registration requirements for telemarketers and for powers and duties of the Office of Attorney General.

Considered the second time and agreed to,
Ordered, To be printed on the Calendar for third consideration.

BILLS OVER IN ORDER

SB 188, SB 232, SB 233, SB 289, SB 323 and SB 819 -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILL ON SECOND CONSIDERATION AND REREFERRED

HB 837 (Pr. No. 3325) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of March 10, 1949 (PL.30, No.14), known as the Public School Code of 1949, providing for a standard employment application form for school districts for certain applicants.

Considered the second time and agreed to.
Upon motion of Senator LOEPER, and agreed to, the bill just considered was rereferred to the Committee on Appropriations.

BILLS OVER IN ORDER

SB 853, HB 873, SB 1035, SB 1158, HB 1182, SB 1315, SB 1316, SB 1329 and SB 1333 -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILL ON SECOND CONSIDERATION

HB 1346 (Pr. No. 3087) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 26, 1931 (P.L.1379, No.348), referred to as the Third Class County Assessment Board Law, changing the date of appeal.

Considered the second time and agreed to,
Ordered, To be printed on the Calendar for third consideration.

BILLS OVER IN ORDER

SB 1398, SB 1447, SB 1479 and SB 1493 -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILL ON SECOND CONSIDERATION

SB 1504 (Pr. No. 1923) -- The Senate proceeded to consideration of the bill, entitled:

A Supplement to the act of July 6, 1995 (P. L. 269, No. 38), "An act providing for the capital budget for the fiscal year 1995-1996," itemizing a project to be acquired by the Pennsylvania Fish and Boat Commission and financed from current revenues of the Boat Fund.

Considered the second time and agreed to,
Ordered, To be printed on the Calendar for third consideration.

BILLS OVER IN ORDER

SB 1513, SB 1521, SB 1533 and SB 1534 -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILL REREFERRED

SB 1536 (Pr. No. 1986) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, providing that breastfeeding is not violative of law and for exceptions to certain offenses for breastfeeding.

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

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

Senator LOEPER. Mr. President, I move that Senate Bill No. 1536 be rereferred to the Committee on Public Health and Welfare.

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

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

Senator MELLOW. Mr. President, would the gentleman from Delaware, Senator Loeper, permit himself to be interrogated?

The PRESIDENT. Senator Loeper, would you stand for interrogation?

Senator LOEPER. Mr. President, yes.

The PRESIDENT. Senator Mellow, you may proceed.

Senator MELLOW. Mr. President, can the gentleman share with us the reason why Senate Bill No. 1536, a Title 18 bill which came from the Committee on Judiciary, is being rereferred to the Committee on Public Health and Welfare?

Senator LOEPER. Mr. President, it is my understanding that there is similar legislation already residing in that committee, and therefore it is our recommendation that it be rereferred to

that committee in order that it can be considered with the other legislation.

Senator MELLOW. Mr. President, can the gentleman give us any indication as to when Senate Bill No. 1536 may be reconsidered or may be considered by the Committee on Public Health and Welfare and reported to the floor of the Senate for consideration?

Senator LOEPER. Mr. President, the chairman of that committee, the gentleman from Venango, Senator Peterson, is not on the floor today, and I would have to converse with him before I would have that determination.

Senator MELLOW. Mr. President, could the gentleman indicate to us if the companion bill or the bill that basically represents, according to the gentleman, the same interests that are in Senate Bill No. 1536, if he would also discuss that with the gentleman from Venango, Senator Peterson, so that perhaps both bills could be reported at the same time to give us the opportunity to discuss them both together?

Senator LOEPER. Mr. President, yes, I will discuss that with Senator Peterson.

Senator MELLOW. Mr. President, I thank the gentleman.

Mr. President, I have to oppose the motion to rerefer Senate Bill No. 1536 to the Committee on Public Health and Welfare. We on this side of the aisle feel that the Committee on Judiciary unanimously reported out a bill and the full Members of the Senate at this point in time should have the opportunity of discussing the bill, debating the bill, and voting its final passage, and I would request a negative vote on the motion to rerefer the bill to the Committee on Public Health and Welfare.

The PRESIDENT. Is the gentleman requesting a roll call?

Senator MELLOW. Yes, sir.

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

Senator LOEPER. Mr. President, I simply ask for an affirmative vote for the motion to rerefer the bill.

The PRESIDENT. The Chair recognizes the gentlewoman from Philadelphia, Senator Schwartz.

Senator SCHWARTZ. Mr. President, I just want to also say that while there is a bill in the Committee on Public Health and Welfare that also deals with the subject of breast feeding, they are quite distinct bills and do different things. This breast feeding bill is very simply a jurisdiction of the Committee on Judiciary.

POINT OF ORDER

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

Senator LOEPER. Point of order, Mr. President.

The PRESIDENT. The gentleman shall state his point.

Senator LOEPER. Mr. President, I believe the issue before us is the motion to rerefer, not the merits of the legislation.

LEGISLATIVE LEAVES

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

Senator MELLOW. Mr. President, I request temporary Capitol leaves for Senator Musto and Senator Stapleton.

The PRESIDENT. Without objection, those leaves are granted.

LEGISLATIVE LEAVE CANCELLED

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

Senator LOEPER. Mr. President, Senator Tomlinson has returned to the floor, and I request that his temporary Capitol leave be cancelled.

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

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

YEAS—29

| | | | |
|------------|-----------|----------|-----------|
| Armstrong | Hart | Madigan | Salvatore |
| Bell | Heckler | Mowery | Shaffer |
| Brightbill | Helfrick | Peterson | Thompson |
| Corman | Holl | Piccola | Tilghman |
| Delp | Jubelirer | Punt | Tomlinson |
| Fisher | Lemmond | Rhoades | Uliana |
| Gerlach | Loeper | Robbins | Wenger |
| Greenleaf | | | |

NAYS—20

| | | | |
|------------|---------|-------------|-------------|
| Afflerbach | Fumo | Musto | Stewart |
| Andrezeski | Hughes | O'Pake | Stout |
| Belan | Kasunic | Porterfield | Tartaglione |
| Bodack | LaValle | Schwartz | Wagner |
| Costa | Mellow | Stapleton | Williams |

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

The PRESIDENT. Senate Bill No. 1536 will be rereferred to the Committee on Public Health and Welfare.

BILLS OVER IN ORDER

SB 1589, HB 1689 and HB 1929 -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILLS ON SECOND CONSIDERATION

HB 2041 (Pr. No. 3090) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 26, 1931 (P.L.1379, No.348), referred to as the Third Class County Assessment Board Law, providing for correction of errors and informal review in counties of the second class A.

Considered the second time and agreed to,
Ordered, To be printed on the Calendar for third consideration.

HB 2102 (Pr. No. 3269) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 26, 1931 (P.L.1379, No.348), referred to as the Third Class County Assessment Board Law, further providing for assessment appeals; and providing for changes in assessment.

Considered the second time and agreed to,
Ordered, To be printed on the Calendar for third consideration.

BILLS OVER IN ORDER

HB 2261 and HB 2379 -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILL REREFERRED

HB 2580 (Pr. No. 3707) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 19, 1990 (P.L.1391, No.215), known as the Motivational Boot Camp Act, further providing for definitions and for selection of inmate participants.

Upon motion of Senator LOEPER, and agreed to, the bill was rereferred to the Committee on Appropriations.

RECESS

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

Senator LOEPER. Mr. President, at this time I ask for a brief recess of the Senate for the purpose of an off-the-floor meeting of the Committee on Transportation to be held in the Rules room at the rear of the Senate Chamber.

I would also remind the Members that we have one bill, House Bill No. 220, that we went over temporarily. It is my understanding that an amendment is forthcoming to be considered on that bill and we will take that up as soon as the Committee on Transportation is finished with its business.

The PRESIDENT. For the purpose of a meeting of the Committee on Transportation to begin immediately following this announcement, the Senate stands in recess.

AFTER RECESS

The PRESIDENT pro tempore (Robert C. Jubelirer) in the Chair.

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

**UNFINISHED BUSINESS
REPORT FROM COMMITTEE**

Senator CORMAN, from the Committee on Transportation, reported the following bill:

HB 1712 (Pr. No. 2619)

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for definitions, for vehicle registration periods of less than one year and for exemptions from the motorbus road tax.

CONGRATULATORY RESOLUTIONS

The PRESIDENT pro tempore laid before the Senate the following resolutions, which were read, considered and adopted:

Congratulations of the Senate were extended to the citizens of the town of Dromore in Northern Ireland and to the citizens of Drumore Township by Senator Armstrong.

Congratulations of the Senate were extended to Mr. and Mrs. George Zlupko by Senator Bell.

Congratulations of the Senate were extended to Mr. and Mrs. Raymond Fischer, Mr. and Mrs. Robert J. Lokar and to Mr. and Mrs. Walter C. Quinn by Senator Bodack.

Congratulations of the Senate were extended to David P. Lineburger and to Timothy J. Long by Senator Gerlach.

Congratulations of the Senate were extended to Kathryn P. Markey by Senator Greenleaf.

Congratulations of the Senate were extended to Christian W. Oram by Senator Helfrick.

Congratulations of the Senate were extended to Alexander Shartle and to Deerfield Senior Services of Blue Bell by Senator Holl.

Congratulations of the Senate were extended to Joyce B. Harrison, Willie J. Mouzon, Sydney King, Price-Selmon Family Reunion and to the United Nations Children's Fund and Penn Towne Links, Inc., by Senator Hughes.

Congratulations of the Senate were extended to Mr. and Mrs. Lester M. Barnett, Mr. and Mrs. John Davis, Mr. and Mrs. C. Vernon Fitzimons, Mr. and Mrs. Carl Arnold, Mr. and Mrs. Lloyd A. Forshey, Sr., Mr. and Mrs. Lawrence Unger, Mr. and Mrs. Kenneth Baker, Mr. and Mrs. Albert Morder, Mr. and Mrs. Warren Dent, Sr., Mr. and Mrs. Harold Weinzierl, Mr. and Mrs. C. Harold Sickles and to Mr. and Mrs. Kero Abrashoff by Senator Jubelirer.

Congratulations of the Senate were extended to Mr. and Mrs. Richard B. Lane and to Eileen Dewey by Senator Madigan.

Congratulations of the Senate were extended to William A. Brady and to Diane Madl by Senator Musto.

Congratulations of the Senate were extended to Dr. Rocco Chirieleison by Senator O'Pake.

Congratulations of the Senate were extended to Mr. and Mrs. Emil Malasavage by Senator Piccola.

Congratulations of the Senate were extended to Holly Koshurba by Senator Porterfield.

Congratulations of the Senate were extended to Dorel Shannon by Senator Schwartz.

Congratulations of the Senate were extended to Cleo Murphy by Senator Shaffer.

Congratulations of the Senate were extended to Mr. and Mrs. Clarence O. Creel, Mr. and Mrs. Steven A. Kalnik, Mr. and Mrs. Warren Lockwood, Mr. and Mrs. Nevin Rupert and to Mr. and Mrs. Rob Shaffer by Senator Stapleton.

Congratulations of the Senate were extended to Mr. and Mrs. Robert Burt and to Mr. and Mrs. Wilbur Evans by Senator Stout.

Congratulations of the Senate were extended to F. Robert Bielski, Herr Foods of Nottingham and to The Phelps School of Malvern by Senator Thompson.

Congratulations of the Senate were extended to Lottie Blake by Senator Tomlinson.

Congratulations of the Senate were extended to Irvin Weaver, Jr., by Senator Wenger.

CONDOLENCE RESOLUTIONS

The PRESIDENT pro tempore laid before the Senate the following resolutions, which were read, considered and adopted:

Condolences of the Senate were extended to the family of the late George J. Sheehan by Senator Jubelirer.

Condolences of the Senate were extended to the family of the late Barry Alderette by Senator LaValle.

Condolences of the Senate were extended to the family of the late Howard J. Fetterhoff by Senator O'Pake and others.

BILLS ON FIRST CONSIDERATION

Senator GERLACH. Mr. President, I move that the Senate do now proceed to consideration of all bills reported from committees for the first time at today's Session.

The motion was agreed to.

The bills were as follows:

SB 1285, SB 1476 and HB 1712.

PETITIONS AND REMONSTRANCES

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

Senator O'PAKE. Mr. President, the purpose of the amendments I wanted to offer to a bill today that was passed over was to stop the Commonwealth of Pennsylvania from piling more insult upon injury on its senior citizens. Today is the third time in 3 months that I have stood on this floor to urge immediate action to improve the State's elderly prescription assistance program by restoring eligibility to tens of thousands of elderly Pennsylvanians who were knocked off PACE by small increases in their Social Security benefits.

I will not repeat those arguments, but I want to share a new experience that I think will be of interest to all my colleagues. The record will show that for more than a year now my bill to increase the income eligibility limits for PACE by just \$1,000 a year, a proposal that would restore more than 25,000 senior citizens to the program, has been gathering dust in a Senate committee. The Governor endorsed this concept by including it in his budget plan in February. Unfortunately, there has been no action yet by the Majority in this legislature.

But let me share with you what happened since we last discussed this. In the last few weeks, as reported in an article published in the Reading Times on May 25, we have seen how honesty and playing by the rules put Warren and Helen Oswald of Mertztown, in my senatorial district in Berks County, 4 cents over the income eligibility limits. This will cost them thousands of dollars a year for medicine. Warren is 84 years

old. He has been retired for 19 years after working for 49 years at the same job. His wife, Helen, is 79 years old and is the mother of five children. She needs nine pills a day for her heart and diabetes problems, among others. They are delightful people. Now, for the sake of 4 cents, these good people, the very type of folks we urge our youngsters to emulate while we bemoan their scarcity, find themselves forced to pay for medications that will cost them between \$4,000 and \$5,000 a year. For the sake of four copper tossaways that fill bowls and jars at nearly every sales counter in this State, the Oswalds, like thousands of other hardworking senior citizens of Pennsylvania, lost their PACE eligibility and have to spend about \$100 a week for their life-sustaining medications.

When I checked out this situation with the Department of Aging, the response was, and I quote, "Yes, it is true and it makes us sick, but we do these things routinely," said the bureaucrats. They cut people off every week who are over the annual limit by as little as a penny. They do not allow the applicants to round off the figures on their calculations, and they do not allow them to zero-out a final figure that is less than a full dollar over the cap, as the State allows with income tax calculations.

Mr. President, PACE is no giveaway, and it is not a program that adds to the tax burden of the residents of Pennsylvania. It is vital and necessary and it is funded entirely through the State Lottery, which was set up specifically to benefit senior citizens. But instead of keeping the promise we made to senior citizens when we initiated PACE 13 years ago, the Department of Aging is now construing the law against senior citizens. The average cost of a prescription has gone up by 173 percent. It used to cost \$9.86, now it costs \$26.90. The number of older Pennsylvanians continues to grow, but there are 188,000 fewer PACE recipients today than there were 8 years ago. Like the Oswalds in Berks County, these are real, live, flesh-and-blood senior citizens who live and breathe and stretch their finances and worry, and every month that passes with no action to raise the income limits is a month when many like the Oswalds find themselves forced to pay hundreds of dollars they cannot afford for prescription medicines they cannot afford to be without.

Mr. President, many people are fond of saying that government should be run like a business. Well, we can start quickly and we should start now by adopting our own give-a-penny-take-a-penny policy, and let us permit rounding off and zeroing out so that 4 cents does not cost more senior citizens \$4,000 a year for medication. Let us not play bureaucratic or political games. The lives and health of our senior citizens are too important to allow legislative intent to be thwarted by bureaucrats with their blinders on.

Thank you, Mr. President.

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Bucks, Senator Heckler.

Senator HECKLER. Mr. President, I was very interested in the comments of the gentleman from Berks County, Senator O'Pake. I hope that he has been following the efforts of our committee, most recently the hearing we held yesterday, to locate the savings which will fund the enhancement in PACE

benefits which we anticipate passing on this floor in the coming weeks.

But to address particularly the gentleman's comments, I would say one thing very clearly: Do not blame the bureaucrats, blame us. We as a legislature designed a program which is an entitlement with an absolute income limit. What we have been striving to do over the past months is to design an enhancement to that program which will include just the kind of flexibility Senator O'Pake addresses. Frankly, simply bumping the income limits up a thousand dollars, any number, will do nothing to prevent the near misses which Senator O'Pake bemoans. Whether it is 4 cents or \$4, it is cold comfort to be on the wrong side of the line we draw and to have no option of any coverage, but rather to look across that narrow gap at complete coverage. It is exactly why we have designed a second-tier benefit.

In fact, very much in the words of a senior citizen who was quoted recently in an article, I believe, from a western Pennsylvania newspaper, a senior citizen who had not missed by 4 cents and previously had been entitled to receive PACE benefits and now was just a few dollars over as a result of a cost-of-living adjustment to her Social Security payments, her words to the reporter were, "Gee, if I could only pay some to retain at least part of a benefit, at least retain part of what I had. I know I make more money now, but gee, if I could only retain part of that benefit."

Simply tinkering with the limits to the entitlement that we presently know as PACE is not going to change that. It is going to shift the pain from one group of individuals to another. It will solve some people's problems, but it will leave the underlying problem unaddressed. That is why the gentleman from Philadelphia, Senator Salvatore, and I, and certainly Senator O'Pake has been part of some of those deliberations, are working to create a new benefit, a benefit that we believe can put 72,000, more than 72,000 senior Pennsylvanians back in the benefit. Some with the full PACE benefit which they have known in the past, and others with a somewhat less generous but still very substantial benefit to see them through their needs for pharmaceuticals.

Just yesterday we held a hearing to examine the manner in which those dollars to fund both of those benefits can be achieved. We must be very, very clear. The Lottery Fund as a whole is just barely holding its own. Lottery revenues peaked some years ago and are not going to be a source for increased benefits. We simply cannot give away what we do not have. Any enhancement in benefit, either the one described by Senator O'Pake or others, or the one we propose, must be funded with cost savings within the existing program. Now, we are confident that we can do that because the PACE program is one of the most generous payers, both to pharmacists and to pharmaceuticals, of any organized prescription drug program, frankly, in the universe. We believe we have located the cost savings which will enable us to reach out to 72,000 Pennsylvanians who presently are not entitled to PACE benefits.

I look forward to cooperation from all the Senators in this Chamber to achieve those savings so that we can responsibly extend those benefits, so that we can solve the problem ad-

dressed by Senator O'Pake and reach out to many more Pennsylvanians. That will only come, however, if we make sure that we put the interests of the senior citizens of this State first, that we listen with due attention to the special interests, both the pharmacies and pharmaceutical manufacturers, and then require them to pay their fair share, really require them to be reimbursed at a level that is comparable to other public and private payer programs. If we do that, we will have the funds to responsibly enhance the benefits.

Those funds are not there today. We cannot responsibly enhance the benefit in any fashion unless and until we make those funds available. I look forward to working with Senator O'Pake and everyone in this Chamber to achieve that savings over the next few weeks and to be able to deliver the good news to Pennsylvania senior citizens that a new day is dawning, both with regard to the extension of existing PACE benefits to many who have been phased out of eligibility, and reaching out with a more flexible benefit to many new potential recipients, recipients who may once have received PACE benefits but who have become ineligible by more than the thousand-dollar limit. I am confident that we can get that job done, and I look forward to working with all parties to achieve that end.

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

Senator O'PAKE. Mr. President, I am aware of the hearing that the Committee on Aging and Youth had yesterday, and we certainly want to cooperate with the gentleman. We realize it is a complex problem, but what I am suggesting is that we take care of the immediate need, which are the 25,000 senior citizens who just went over the limit because they got a Social Security adjustment, before we try to expand the program in a way that maybe the Lottery cannot afford. I suggest if we focus first on raising the income limits to those who are really needy and who just went over the limit, that we plug that problem first and then try to fix the rest of the system later.

Secondly, the gentleman is mistaken in saying that the 4 cents, therefore losing eligibility of \$4,000 in PACE prescription benefits, is the result of an action of the legislature. It is not. The law specifically says that income is to be defined by the Department of Aging. And what I am suggesting is that that bureaucrat could just as easily have discounted the 20 cents, as we do on income tax forms--what is good for income tax ought to be good for PACE eligibility--and by dropping the 20 cents, as you do on income tax applications, that couple would not have been 4 cents over, they would have been 16 cents less and they would have been eligible. That is the bureaucratic blinder I am talking about -- not because of the law, but because of the way the Department of Aging has interpreted the law.

Thank you, Mr. President.

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Bucks, Senator Heckler.

Senator HECKLER. Mr. President, very briefly, just so we are clear about my response, I recognize that the department could do something about folks who are 4 cents over, but what about the folks who are \$1.04 over? Wherever we draw the

line, there is going to be a line and people are going to be perilously close to that line, and as long as we have an all-or-nothing, complete coverage or no coverage whatsoever, with a line drawn down the middle, we are going to have these situations.

It is one of the reasons that I view it as imperative that we achieve an overall enhancement that includes both the Governor's proposal of a \$1,000 enhancement in eligibility and a new direction that has been referred to as a catastrophic plan that establishes the principle of flexibility, which, frankly, should have been in this program since day one. I would hope that we can achieve both of those together, and I say that in part because I know I looked at at least one of the House proposals which involves a \$2,000 enhancement. There is literally no limit. If we are just going to sort of attempt to see who is going to bid the highest in terms of trying to do something for senior citizens, the sky is always going to be the limit. Our first constraint is what resources are available, and we are going to have to fight very hard to find the necessary resources to make any benefit enhancement responsibly, and then secondly, we are going to have to think about how we use the dollars we can find most intelligently, and I believe that the so-called catastrophic or flexible benefit is the smart way to use those dollars. I am hoping that we can achieve that end.

Thank you.

The PRESIDENT pro tempore. The Chair thanks both Senator O'Pake and Senator Heckler for the dialogue on a very important issue, and now recognizes the gentleman from Erie, Senator Andrezeski.

Senator ANDREZESKI. Mr. President, I would like to, in brief, continue some of this dialogue because this increase of eligibility for the PACE program is not just a health care issue in Pennsylvania. For us on this side of the aisle it speaks directly to the issue of fairness for Pennsylvanians, for Pennsylvania's neediest older citizens, and it speaks to an historic promise that is inherent in this program to provide a meaningful prescription assistance to needy older Pennsylvanians. I think that if we fail to adjust this PACE eligibility, we are breaking that promise.

Mr. President, we brought up the names of senior citizens from the district of the gentleman from Berks, Senator O'Pake, and we talked about them. We could bring up the names of people from all of our districts and talk about them. The fact is we have lost tens of thousands of people from eligibility. I would like to point out that I do not think it would be too far off to say that as a third-party provider we are probably paying 30 percent more than any other third-party provider would pay on a prescription program. All we have to do is bring our costs in line with other third-party providers. If we want to look at cost savings, then let us start looking at cost savings by doing what the others do and going by their reimbursement rates. We have to make a decision if we are going to use the PACE program as a benefit for seniors or as a cash cow for pharmaceutical and drug companies, and that is an easy decision for us on this side of the aisle. Let us just do that.

Now, I would like to address the program itself. The beauty of the program is its simplicity. If you meet the income guide-

lines, you are able to have a prescription. I know that the gentleman from Bucks, Senator Heckler, and also the gentleman from Philadelphia, Senator Salvatore, have worked on a proposal called a PACE II Catastrophic Program, and some of the guidelines that have been issued on that would cover single people with incomes of \$13,000 up to \$15,600, and married people with incomes of \$16,000 to \$19,400. And there will be a copay and some other requirements.

Interestingly enough, under the proposals that I read, there would be a deductible of \$600, so you would have to pay your first \$600, and a 30-percent copay of up to \$25 per claim. Now, in doing a little further research, and these are just some average figures, but the current PACE recipient uses \$824.60 in benefits. So if you take the \$600 deductible and you add on that big copay, it does very little to increase the financial burden of an average user of this PACE program. Now, granted, somebody who is using thousands of dollars a year is obviously going to benefit by this, but the fact remains that this Pharmaceutical Assistance Contract for the Elderly is losing a lot of its simplicity. I think the reduction of over 184,000 older Pennsylvanians since 1988, the 63-percent reduction, can be reversed; simplicity and the program can be maintained by upping the income eligibility, something that we have the ability to do.

Also, in conclusion, I would like to say that we also have the ability to do that, and we also have the ability to bring our third-party costs within the averages that other third-party payers are paying for out there, and I hope that we would be able to do this.

Thank you, Mr. President.

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Bucks, Senator Heckler.

Senator HECKLER. Mr. President, just to respond briefly to the comments of the gentleman from Erie, Senator Andrezeski. He is quite right that the second-tier benefit we propose is somewhat less generous than the comprehensive PACE coverage which is presently available to fewer and fewer Pennsylvanians. As described, I believe that the proposal for which we hope to find the funding, with cooperation from all parties, will indeed include the enhancement which Senator O'Pake speaks of, reaching out to people with another \$1,000, raising the income eligibility for PACE comprehensive coverage by \$1,000 and then going beyond that, reaching out to people who simply would not be covered at all by Senator O'Pake's proposal.

So that we are clear, I believe that is exactly consistent with the idea that the neediest of our citizens receive a comprehensive benefit, that those who have somewhat more resources would have available a more flexible benefit which indeed in some years might not involve their having prescriptions paid at all. However, the most important thing, having dealt with senior citizens throughout the State over the years, the biggest thing we can do for them is give them an assurance that when the need confronts them, when the doctors prescribe those two and three and four maintenance prescriptions in order for them to maintain their health, that is when the support will be there. That is when we will be there to help, and that is exactly what

the flexible proposal does. That is exactly what the second tier is there for. When the overall long-term chronic demand exists, when, heaven forbid, the catastrophe confronts them where there is a serious medical crisis with chemotherapeutic agents, other very expensive and rare drugs, that there will be substantial assistance. That is what we believe we can do for the people of Pennsylvania with everyone's help. I am confident that we can achieve that.

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Allegheny, Senator Wagner.

Senator WAGNER. Mr. President, I am delighted that we are having this discussion today with the gentleman from Bucks, Senator Heckler, the gentleman from Berks, Senator O'Pake, the gentleman from Erie, Senator Andrezeski, and many others who are very concerned about this important issue related to senior citizens. I think what is important to say from the start is there probably is no single issue that is more important to our senior citizen population in Pennsylvania than the PACE program and the fact that so many of them have fallen off the PACE program because their income levels have exceeded the limits.

It is important to note also that this program is funded through the Lottery, so every time I talk, Mr. President, about this program, I encourage Pennsylvanians to play the Lottery, to play your favorite number today, to make sure that there is sufficient funding in the program for senior citizens. Back in February, or maybe it was January and I may have my months confused in this budget season, the Governor made a commitment in his Budget Address to specifically address this issue. In that commitment, Mr. President, I took that to mean that by the time we recess at the end of June of this year, there are going to be changes in the PACE guidelines for senior citizens in Pennsylvania, and certainly that is the message that my constituency in the 42nd Senatorial District got. Now, when you look at the number of people who qualify for PACE, it is a little less than 300,000, which means with 50 senatorial districts, there are 5,000 or 6,000 constituents in each of our senatorial districts, on average, who qualify for PACE, and that number is getting less and less and less. And unless we do something and we do something rather quickly, more and more are going to fall off the guidelines.

So, Mr. President, I rise to say that there is urgency related to this issue, and I would not want to see this issue be pushed off to the fall. I believe this Senate, this General Assembly, should deal with the issue in the month of June to send a message to signal what the new guidelines are, what new guidelines are acceptable based on the funding that is available to increase the limits. And if we have to deal with a more complicated process that is more difficult for the public and the seniors to understand, I think we should take a little longer to do that. But the Governor sent a message in his Budget Address that this would be dealt with. We have all sent that message over time.

When we look at all the recipients of PACE, approximately 80 percent, and I know Senator Heckler and Senator O'Pake are aware of this, are women. And the greatest percentage of those people are single women who are having a very difficult

time living on the amounts of money that they receive through Social Security and possibly a pension. I have a list of names here, and I am not going to go through them, of my constituents who have talked with me about how they also have fallen off the guidelines by \$10 or \$20 or \$30, and their prescription costs each month are \$300. So in essence, they have lost \$2,000, \$3,000, \$4,000 a year because first and foremost are their prescriptions because they need their prescriptions to live.

So I am asking Senator Heckler and the leadership in the Senate to please let us move something and move it in June and deal with the issue.

Thank you, Mr. President.

HB 1571 AND HB 1711 TAKEN FROM THE TABLE

Senator WENGER. Mr. President, I move that House Bill No. 1571, Printer's No. 3667, and House Bill No. 1711, Printer's No. 3285, be taken from the table and that they be placed on the Calendar.

The motion was agreed to.

The PRESIDENT pro tempore. The bills will be placed on the Calendar.

THIRD CONSIDERATION CALENDAR RESUMED

HB 220 CALLED UP

HB 220 (Pr. No. 3658) -- Without objection, the bill, which previously went over in its order temporarily, was called up, from page 2 of the Third Consideration Calendar, by Senator WENGER.

BILL AMENDED

HB 220 (Pr. No. 3658) -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for the observance of the first Thursday in May of each year as "Commonwealth Day of Prayer."

On the question,

Will the Senate agree to the bill on third consideration?

Senator SCHWARTZ offered the following amendment No. A4389:

Amend Title, page 1, line 2, by inserting after "Prayer": and Celebration of Religious Freedom

Amend Sec. 1, page 1, line 5, by inserting after "Prayer": and Celebration of Religious Freedom:

Amend Sec. 1, page 1, line 7, by inserting after "Prayer": and Celebration of Religious Freedom

Amend Sec. 1, page 1, line 9, by removing the period after "meditation" and inserting: and on which freedom of religion in this Commonwealth may be celebrated.

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 WENGER.

SPECIAL ORDER OF BUSINESS SUPPLEMENTAL CALENDAR No. 1

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 220 (Pr. No. 3712) -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for the observance of the first Thursday in May of each year as "Commonwealth Day of Prayer and Celebration of Religious Freedom."

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?

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT pro tempore. The Chair notes the presence on the floor of Senator Hart, and her temporary Capitol leave is cancelled.

And the question recurring,

Shall the bill pass finally?

The PRESIDENT pro tempore. The Chair recognizes the gentlewoman from Philadelphia, Senator Schwartz.

Senator SCHWARTZ. Mr. President, I want to very briefly comment on the cooperation on both sides of the aisle in crafting what is really a very short but I think meaningful amendment in the fact that the bill now recognizes the fact of religious freedom in this Commonwealth.

It was brought to my attention or I was reminded that the Commonwealth was founded on the principle of religious freedom. That is what William Penn is noted for, among other things, and it certainly makes me much more comfortable in being able to vote for this bill and the fact that this bill now also acknowledges that the first Thursday in May would be a day not only to recognize and have a day of prayer or meditation, but that it also would be a day that we recognize and celebrate religious freedom, which of course is the foundation of this country and this Commonwealth and is something that I think really does improve the status of this bill.

So I recognize the gentleman from Dauphin, Senator Piccola, in crafting some of this language and some of the other Members of the Chamber in being willing to work with me in recognizing that many of us in this Commonwealth observe religion in different ways, have different religious beliefs, and that we should acknowledge that as well. To fail to do so has some potential negative consequences.

So I thank the Members of the Chamber and I am pleased now to be able to support this legislation.

The PRESIDENT pro tempore. The Chair recognizes the gentlewoman from Allegheny, Senator Hart.

Senator HART. Mr. President, I also rise in support of House Bill No. 220, and I am pleased that the Senate could come to agreement on the language of the bill. I am pleased

that it is supported by Members on both sides of the aisle. After reviewing the original bill and discussing it with some of the House Members, I had been encouraged to try to get my Leadership here to move the bill and agreed wholeheartedly that it is time, especially at this most contentious time of the year in the legislature, that we all pause and reflect and really place into law an annual day of prayer. I think it is important for every one of us, including the diverse religions of Pennsylvania, to just take time and reflect on what is a greater cause for our being here. We are all here together, working together and trying to do good for the good of all.

So I think that is a good move on the part of the entire legislature, and I hope that the House will concur in our amendments so we can move forward.

Thank you, Mr. President.

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Chester, Senator Thompson.

Senator THOMPSON. Mr. President, I rise, too, in support of both the bill and the amendment. I think what could have been an issue for looking at our diversity ends up celebrating our diversity, and I think as a result of that this is a much stronger proposal and one that I think should be agreed to by everybody. I think it is an excellent proposal.

And the question recurring,
Shall the bill pass finally?

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

YEAS—49

| | | | |
|------------|-----------|-------------|-------------|
| Afflerbach | Greenleaf | Mellow | Shaffer |
| Andrezeski | Hart | Mowery | Stapleton |
| Armstrong | Heckler | Musto | Stewart |
| Belan | Helfrick | O'Pake | Stout |
| Bell | Holl | Peterson | Tartaglione |
| Bodack | Hughes | Piccola | Thompson |
| Brightbill | Jubelirer | Porterfield | Tilghman |
| Corman | Kasunic | Punt | Tomlinson |
| Costa | LaValle | Rhoades | Uliana |
| Delp | Lemmond | Robbins | Wagner |
| Fisher | Loeper | Salvatore | Wenger |
| Fumo | Madigan | Schwartz | Williams |
| Gerlach | | | |

NAYS—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.

ADJOURNMENT

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Lancaster, Senator Wenger.

Senator WENGER. Mr. President, I move that the Senate do now adjourn until Monday, June 17, 1996, at 4 p.m., Eastern Daylight Saving Time.

The motion was agreed to.

The Senate adjourned at 1:07 p.m., Eastern Daylight Saving Time.