

COMMONWEALTH OF PENNSYLVANIA

Legislative Journal

WEDNESDAY, NOVEMBER 20, 1996

SESSION OF 1996

180TH OF THE GENERAL ASSEMBLY

No. 61

SENATE

WEDNESDAY, November 20, 1996

The Senate met at 11 a.m., Eastern Standard Time.

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

PRAYER

The Chaplain, Reverend MICHAEL M. MAZER, of First Baptist Church, Washington, offered the following prayer:

Let us pray together.

O Lord our God, we come to You now in this moment of prayer, and we ask that You would teach us to number our days that we may apply our hearts unto wisdom, for we know all too well that time is short and no one knows how little time that we have left. Thus, may we be found using wisely our time and our talents and all of our strength which You have given to us.

We pray today that You would break for us the bread of life, for our hearts are hungry, just as there are hearts of people everywhere who are hungry as well. Save us, O God, from thinking that even for a moment that we can feed our souls on things that we can purchase in the stores. Save us from the vain delusion that piling up wealth and creature comforts can bring satisfaction into our lives because we know that everything would be emptiness in the long run.

Dear God, we pray for the Senators today whom we have elected, that You would keep them from being enslaved to the nonessential, from the weary round which takes all of their strength away, which can fray their nerves and, in truth, can shorten their lives and add nothing to their usefulness or to the helping of our Commonwealth. Help them to give themselves today to the important and to recognize that which is trivial, and may they have keen eyes to see the difference. Give them the courage today, O God, to say no to everything that makes it more difficult to say yes to You. And we would pray that as they meet today and as they work through the day and perhaps even into the evening hours, that You would be with them, giving them the strength to do all that You have before them.

Bless us all, be with our Commonwealth, grant us Your blessings from on high. We pray this in Jesus' name. Amen.

The PRESIDENT. The Chair thanks Reverend Mazer, who is the guest today of Senator Stout.

JOURNAL APPROVED

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of November 19, 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.

COMMUNICATION FROM THE GOVERNOR

RECALL COMMUNICATION
LAID ON THE TABLE

The PRESIDENT laid before the Senate the following communication in writing from His Excellency, the Governor of the Commonwealth, which was read as follows and laid on the table:

MEMBER OF THE PENNSYLVANIA
GAME COMMISSION

November 20, 1996

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated June 5, 1996 for the appointment of Angelo Mazzanti (District 7), R. R. #1, Box 147, Springville 18844, Wyoming County, Twentieth Senatorial District, as a member of the Pennsylvania Game Commission, to serve for a term of eight years, vice Edward L. Vogue, Jr., Dupont, whose term expired.

I respectfully request the return to me of the official message of nomination on the premises.

THOMAS J. RIDGE
Governor

HOUSE MESSAGES

HOUSE CONCURS IN SENATE BILLS

The Clerk of the House of Representatives returned to the Senate SB 1165 and SB 1645, with the information the House has passed the same without amendments.

SENATE BILLS RETURNED WITH AMENDMENTS

The Clerk of the House of Representatives returned to the Senate SB 1315, SB 1316, SB 1317, SB 1322, and SB 1469, with the information the House has passed the same with amendments in which the concurrence of the Senate is requested.

The PRESIDENT. Pursuant to Senate Rule XIV, section 5, these bills will be referred to the Committee on Rules and Executive Nominations.

BILLS SIGNED

The PRESIDENT (Lieutenant Governor Mark S. Schweiker) in the presence of the Senate signed the following bills:

SB 1165, SB 1645, HB 544, HB 1532, HB 2312, HB 2313, HB 2314 and HB 2828.

SPECIAL ORDER OF BUSINESS ANNOUNCEMENTS BY THE SECRETARY

The SECRETARY. Consent has been given for the Committee on Appropriations to meet during today's Session to consider House Bill No. 2292; also the Committee on Rules and Executive Nominations to consider House Bill No. 1509 and certain nominations.

REPORTS FROM COMMITTEE

Senator TILGHMAN, from the Committee on Appropriations, reported the following bills:

HB 2257 (Pr. No. 4273) (Amended) (Rereported)

An Act amending the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, providing for an investigative unit, for records of importing distributors and for fee surcharges; and providing for distributors' and importing distributors' restrictions on sales of malt or brewed beverages, for prices of malt or brewed beverages, for Sunday sales of alcoholic beverages and for distribution of malt and brewed beverages.

HB 2595 (Pr. No. 4274) (Amended) (Rereported)

An Act amending the act of February 19, 1980 (P.L. 15, No.9), known as Real Estate Licensing and Registration Act, providing for commercial real estate broker liens; and further providing for power to promulgate regulations.

LEGISLATIVE LEAVES

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

Senator LOEPER. Mr. President, I request legislative leaves on behalf of Senator Armstrong and Senator Peterson, and a temporary Capitol leave on behalf of Senator Rhoades.

The PRESIDENT. Senator Loeper requests a temporary Capitol leave for Senator Rhoades, and legislative leaves for Senator Armstrong and Senator Peterson. Without objection, those leaves are granted.

The Chair recognizes the gentleman from Cambria, Senator Stewart.

Senator STEWART. Mr. President, I request temporary Capitol leaves for Senator Andrezeski and Senator Tartaglione, and a legislative leave for Senator Williams.

The PRESIDENT. Senator Stewart requests temporary Capitol leaves for Senator Andrezeski and Senator Tartaglione, and a legislative leave for Senator Williams. Without objection, those leaves are granted.

LEAVE OF ABSENCE

Senator LOEPER asked and obtained leave of absence for Senator SALVATORE, for today's Session, for personal reasons.

CALENDAR

HB 2210 CALLED UP OUT OF ORDER

HB 2210 (Pr. No. 4270) -- Without objection, the bill was called up out of order, from page 5 of the Third Consideration Calendar, by Senator LOEPER, as a Special Order of Business.

BILL AMENDED

HB 2210 (Pr. No. 4270) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of October 15, 1975 (P.L.390, No.111), known as the Health Care Services Malpractice Act, further providing for definitions, for statutes of limitation, for professional liability insurance and the Medical Professional Liability Catastrophe Loss Fund, for administration of that fund and for liability of excess carriers; providing for a Medical Professional Insurance Fund Advisory Board and for surcharge limits; and further providing for plan operation and rates, for reports to the Insurance Commissioner, for forms of doing business and for the Joint Study Committee.

On the question,

Will the Senate agree to the bill on third consideration?

Senator LOEPER offered the following amendment No. A7693:

Amend Title, page 1, line 19, by striking out "STATUTES OF LIMITATION" and inserting: statute of limitations

Amend Title, page 2, line 1, by striking out "INSURANCE" and inserting: Liability Insurance Catastrophe Loss

Amend Title, page 2, line 2, by striking out "AND" where it appears the first time

Amend Title, page 2, line 3, by removing the comma after "COMMISSIONER" and inserting: and

Amend Title, page 2, line 4, by striking out "AND FOR" and inserting: ; providing for medical malpractice; and deleting provisions relating to

Amend Sec. 1 (Sec. 103), page 4, by inserting between lines 27 and 28:

"Claimant" means a patient and includes a patient's immediate family, guardian, personal representative or estate.

Amend Sec. 1 (Sec. 103), page 5, by inserting between lines 8 and 9:

"Director" means the Director of the Medical Professional Liability Catastrophe Loss Fund.

Amend Sec. 1 (Sec. 103), page 5, by inserting between lines 10 and 11:

"Fund coverage limits" means the coverage provided by the Medical Professional Liability Catastrophe Loss Fund under section 701(a).

Amend Sec. 1 (Sec. 103), page 5, by inserting between lines 18 and 19:

"Guardian" means a fiduciary who has the care and management of the estate or person of a minor or an incapacitated person.

Amend Sec. 1 (Sec. 103), page 5, lines 23 and 24, by inserting brackets before and after "AN OSTEOPATHIC PHYSICIAN OR SURGEON,"

Amend Sec. 1 (Sec. 103), page 5, line 27, by inserting brackets before and after "HIS"

Amend Sec. 1 (Sec. 103), page 5, by inserting between lines 27 and 28:

"Immediate family" means a parent, spouse or child or an adult sibling residing in the same household.

Amend Sec. 1 (Sec. 103), page 5, line 30, by inserting a bracket before "HEALTH"

Amend Sec. 1 (Sec. 103), page 6, line 15, by inserting a bracket after "HEALTH." and inserting immediately thereafter: a procedure in accordance with section 811-A.

Amend Sec. 1 (Sec. 103), page 6, line 24, by inserting brackets before and after "LICENSED"

Amend Sec. 1 (Sec. 103), page 6, by inserting between lines 24 and 25:

"Personal representative" means an executor or administrator of a patient's estate.

Amend Sec. 3 (Sec. 701), page 14, line 20, by inserting brackets before "SEPTEMBER" where it appears the first time and after "DURING" where it appears the second time

Amend Sec. 3 (Sec. 701), page 14, line 21, by inserting brackets before and after "THEREAFTER"

Amend Sec. 3 (Sec. 701), page 14, line 23, by inserting brackets before and after "OFFICE OF THE DIRECTOR" and inserting: fund

Amend Bill, page 25, by inserting between lines 19 and 20:

Section 10. The act is amended by adding an article to read:

ARTICLE VIII-A

Medical Malpractice

SUBARTICLE A

Preliminary Provisions

Section 801-A. Declaration of Policy.—The General Assembly finds and declares that it is the purpose of this article to streamline the legal process relating to medical negligence lawsuits in this Commonwealth so that there may be prompt and efficient adjudication of such claims.

SUBARTICLE B

Professional Liability Claims

Section 811-A. Informed Consent.—(a) Except in emergencies, a physician owes a duty to a patient to obtain the informed consent of the patient or the patient's authorized representative prior to conducting the following procedures:

(1) Performing surgery, including the related administration of anesthesia.

(2) Administering radiation or chemotherapy.

(3) Administering a blood transfusion.

(4) Inserting a surgical device or appliance.

(5) Administering an experimental medication, using an experimental device or using an approved medication or device in an experimental manner.

(b) Consent is informed if the patient has been given a description of a procedure set forth in subsection (a) and the risks and alternatives that a reasonably prudent patient would require to make an informed decision as to that procedure. The physician shall be entitled to present evidence of the description of that procedure and those risks and alternatives that a physician acting in accordance with accepted medical standards of medical practice would provide.

(c) Expert testimony is required to determine whether the procedure constituted the type of procedure set forth in subsection (a) and to identify the risks of that procedure, the alternatives to that procedure and the risks of these alternatives.

(d) A physician is liable for failure to obtain the informed consent only if the patient proves that receiving such information would have been a substantial factor in the patient's decision whether to undergo a procedure set forth in subsection (a).

Section 812-A. Punitive Damages.—(a) Punitive damages may be awarded for conduct that is the result of the health care provider's willful or wanton conduct or reckless indifference to the rights of others. In assessing punitive damages, the trier of fact can properly consider the character of the health care provider's act, the nature and extent of the harm to the patient that the health care provider caused or intended to cause and the wealth of the health care provider.

(b) A showing of gross negligence is insufficient to support an award of punitive damages.

(c) Punitive damages shall not be awarded against a health care provider who is only vicariously liable for the actions of its agent that caused the injury unless it can be shown by a preponderance of the evidence that the party knew of and allowed the conduct by its agent that resulted in the award of punitive damages.

(d) (1) When punitive damages are claimed, a praecipe to strike punitive damages may be filed. Upon the filing of a praecipe to strike punitive damages, an order shall issue striking without prejudice the claim for punitive damages. This shall have the effect of tolling the statute of limitations as to the health care provider filing the praecipe.

(2) At the close of discovery, the claimant shall have the right to move to reinstate a claim for punitive damages against a health care provider who has filed a praecipe to strike punitive damages. Upon hearing the motion for reinstatement of the claim for punitive damages, the judge shall determine whether the evidence adduced during discovery supports a prima facie case for the imposition of punitive damages against the health care provider. Upon the judicial finding of a prima facie case, the claim for punitive damages shall be reinstated.

(3) The claimant shall have no right to discover the financial assets or wealth of the health care provider who filed a praecipe to strike punitive damages until the claim has been reinstated by the court pursuant to paragraph (2) or by agreement of the parties.

(e) A claim for punitive damages shall be bifurcated at the time of trial. After a verdict has been rendered on the issue of liability and compensatory damages by the trier of fact, the question of punitive damages shall be adjudicated by the trier of fact.

(f) The trier of fact shall separately determine whether and to what amount punitive damages shall be awarded, subject to the standard set forth in subsection (a). Evidence of the health care provider's wealth or financial condition shall then be admissible into evidence for the purpose of adjudicating punitive damages.

(g) Except in cases alleging intentional misconduct, punitive damages against an individual physician shall not exceed 200% of the compensatory damages awarded. Punitive damages, when awarded, shall not be less than \$100,000 unless a lower verdict amount is returned by the trier of fact.

Section 813-A. Dilatory or Frivolous Motions, Claims and Defenses.—(a) On a pleading, motion or other paper filed in an action, the signature of an attorney or party constitutes a certification of all of the following:

(1) The attorney or party has read the document that is being signed.

(2) To the best of the attorney's or party's knowledge, information and belief formed after reasonable inquiry, the document is well-grounded in fact.

(3) Claims or defenses are warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law. This paragraph applies only to a signature by an attorney.

(4) The document is not being filed for purposes of delay or of needless increase in the cost of the litigation.

(b) If a pleading, motion or other paper filed in an action is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the party.

(c) If a certification under subsection (a) is presented for an improper purpose, the court, upon motion or upon its own initiative, shall impose upon the person who signed the document or a represented party, or both, an appropriate sanction, which may include a civil penalty not to exceed \$5,000. A sanction under this subsection may include an order to pay to the other party the amount of the reasonable expenses incurred because of the filing, including a reasonable attorney fee.

SUBARTICLE E

Pretrial Procedure

Section 821-A. Complaint Procedure.—(a) A complaint of a claimant represented by an attorney shall be signed by at least one

attorney of record in the attorney's individual name. The attorney's address shall be stated. The signature of an attorney constitutes a certification that the attorney has read the pleading; that the attorney has performed a reasonable investigation of the facts and applicable law; and that, based upon that investigation, there is good ground to support the alleged facts and each cause of action asserted against a defendant.

(b) If a complaint alleges that a health care provider deviated from a standard of care, the signature of an attorney further constitutes certification that the attorney has a report from a qualified expert which states the standard of care; the expert's opinion that, based upon the information available after reasonable investigation, there is a basis to conclude that the health care provider deviated from that standard; and the information upon which the expert bases the opinion.

(c) (1) Certification by an attorney pursuant to subsections (a) and (b) is unnecessary in the following instances:

(i) A client first contacts an attorney less than 120 days before expiration of the statute of limitations.

(ii) A health care provider has failed to produce copies of medical records requested by the patient or his attorney, for a period of more than 60 days following a request for such records.

(iii) A qualified expert has advised the attorney that, based upon the records available, it cannot be determined whether any health care provider deviated from accepted practice without first conducting discovery.

(iv) Expert testimony is unnecessary for prosecution of the claim.

(v) The trial court determines that the interest of justice would be served by waiving the requirement of certification under the facts of the case.

(2) If an attorney proceeds without expert certification, the health care provider may move to require such certification as follows:

(i) If an attorney has proceeded because the statute of limitations may expire in less than 120 days, certification must follow within 90 days of filing suit.

(ii) If an attorney has proceeded because of the failure of a health care provider to furnish records, certification must follow within 90 days of the claimant being supplied with complete copies of the records requested.

(iii) If an attorney has proceeded because of the need to conduct discovery before a determination of malpractice has occurred, certification must follow within 90 days of the claimant being supplied with the requested discovery. In the case of discovery by deposition, the time within which to comply shall begin to run upon receipt by the claimant of signed transcripts.

(d) If an attorney is found to have violated the certification requirement, the court or opposing counsel may report such attorney to the Disciplinary Board of the Supreme Court of Pennsylvania; and the court may impose an appropriate sanction, including an order to pay the amount of the reasonable expenses incurred because of the filing, including a reasonable attorney fee.

(e) Nothing set forth in this section shall entitle the health care provider to discovery of the identity of claimant's consulting experts. If the health care provider seeks a determination as to whether the claimant has violated the certification requirement, the matter may be referred to the Disciplinary Board; or a motion may be filed with the court. The trial court, upon motion, shall conduct an in-camera review of claimant counsel's evaluation of the claim before filing suit, for purposes of determining whether referral to the Disciplinary Board or a sanction is appropriate. In any proceeding before the court or the Disciplinary Board, the identity of consulting experts shall remain privileged.

Section 822-A. Limitation on Discovery.—Discovery shall proceed in an expeditious manner and shall be completed within one year after the health care provider files an answer to the complaint or in a manner consistent with the rules of the county in which an action is pending or the applicable rules of court, but all discovery shall be completed no later than two years after a claim is commenced. Dis-

covery may be extended for an additional period of up to 180 days upon filing of a petition with the court showing good cause for extension within two years after a claim is commenced.

Section 823-A. Expert Reports.—No party shall be permitted to have a witness testify as an expert unless the other parties have been provided with a trial expert report. A claimant shall distribute trial expert reports within 60 days after completion of discovery. A health care provider shall distribute trial expert reports within 60 days after receipt of claimant's trial expert reports. The trial expert report shall state the substance of the facts and opinions to which the expert will testify and summarize the grounds for each opinion. A party may be exempted from the requirements of this section upon the filing of a petition showing good cause for the exemption. The parties shall be permitted to submit additional or supplemental trial expert reports, provided there is no delay in the trial of the case.

Section 824-A. Discovery Conference and Mediation.—(a) At any time after commencement of the action, but within 60 days after the answer was filed, the court may direct the attorneys for the parties to appear for a conference on the subjects of discovery and mediation. In addition, the court shall convene a discovery conference upon motion by the attorney for any party if the motion includes all of the following:

(1) A statement of the issues as they then appear.

(2) A proposed plan and schedule of discovery.

(3) Any limitations proposed to be placed on discovery.

(4) Any other proposed orders with respect to discovery.

(5) A statement showing that the attorney making the motion has made a reasonable effort to reach agreement with opposing attorneys on the matters set forth in the motion.

(b) Each party and each attorney are under a duty to participate in good faith in the framing of a discovery plan. Notice of the motion shall be served on all parties. Objections to additions of matters set forth in the motion shall be served no later than ten days after service of the motion.

(c) Following the discovery conference, the court shall enter an order tentatively identifying the issues for discovery purposes, establishing a plan and schedule for discovery; setting limitations on discovery, if any; and determining such other matters, including the allocation of expenses, as are necessary for the proper management of discovery in the action. An order may be altered or amended whenever justice so requires.

(d) Subject to the right of a party who properly moves for a discovery conference to prompt convening of the conference, the court may combine the discovery conference with a pretrial conference required by section 826-A.

(e) The court shall also inquire of the parties whether they are willing to participate in an early mediation session to be held within 60 days of the discovery conference. The court shall order mediation if either party requests mediation, or upon its own motion. The court may exercise its discretion and not order mediation if it appears likely that mediation would not be productive. The court shall assign as mediators those attorneys that are agreeable to the court and the bar generally, who have experience in such litigation.

Section 825-A. Conciliation Schedule.—(a) Within 90 days after the conclusion of the discovery period set forth in section 822-A, the court shall hold at least one mandatory conciliation conference.

(b) Any party may file a petition requesting that a conciliation conference be held prior to or after the conclusion of the discovery period. The petition shall certify that the parties agree the claim is ready for a conciliation conference and that meaningful settlement discussions would be helpful. The court may schedule a conference in this event.

(c) Conciliation may take the form of a settlement conference or mediation as requested by the parties or the court.

Section 826-A. Pretrial Conference.—(a) At least 30 days prior to trial, the court shall direct the attorneys for the parties to appear before it for a conference to consider:

(1) The simplification of the issues.

(2) The necessity or desirability of amendments to the pleadings.

(3) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof.

(4) Such other matters as may aid in the disposition of the action.

(b) The court shall make an order which recites the action taken at the conference, the amendments allowed to the pleadings and the agreements made by the parties as to any of the matters considered and which limits the issues for trial to those not disposed of by admissions or agreements of counsel. The order controls the subsequent course of the action unless it is modified to prevent manifest injustice. The court, in its discretion, may establish, by rule, a pretrial calendar on which actions may be placed for consideration.

Section 827-A. Affidavit of Noninvolvement.—(a) Any health care provider named as a defendant in a medical malpractice action may cause the action against that provider to be dismissed upon the filing of an affidavit of noninvolvement with the court. The affidavit of noninvolvement shall set forth, with particularity, the facts which demonstrate that the provider was misidentified or otherwise not involved, individually or through its servants or employees, in the care and treatment of the claimant, and was not obligated, either individually or through its servants or employees, to provide for the care and treatment of the claimant.

(b) The filing of an affidavit of noninvolvement by a health care provider shall have the effect of tolling the statute of limitations as to that provider with respect to the claim at issue as of the date of the filing of the original pleading.

(c) A codefendant or claimant shall have the right to challenge an affidavit of noninvolvement by filing a motion and submitting an affidavit which contradicts the assertions of noninvolvement made by the health care provider in the affidavit of noninvolvement.

(d) If the court determines that a health care provider named as a defendant falsely files or makes false or inaccurate statements in an affidavit of noninvolvement, the court, upon motion or upon its own initiative, shall immediately reinstate the claim against that provider. In any action where the health care provider is found by the court to have knowingly filed a false or inaccurate affidavit of noninvolvement, the court shall impose upon the person who signed the affidavit or represented the party, or both, an appropriate sanction, including, but not limited to, an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the false affidavit, including a reasonable attorney fee.

SUBARTICLE D Trial Procedure

Section 831-A. Advance Payments.—No advance payment made by the health care provider or the provider's basic coverage insurance carrier to or for the claimant shall be construed as an admission of liability for injuries or damages suffered by the claimant. Evidence of an advance payment shall not be admissible in a proceeding.

Section 832-A. Periodic Payment of Damages.—(a) In any medical malpractice action in which a final verdict has been reached that includes an award of future damages, the court, upon motion of any party, may consider that the damages be paid by periodic or installment payments, provided that the terms of such payments be agreed to by all parties.

(b) If a judgment ordering the payment of damages by periodic payments is agreed to as set forth in subsection (a), consideration shall be given to the following terms, which shall include, but not be limited to:

- (1) An appropriate time frame.
- (2) The amount of damages per installment.
- (3) The posting of security or purchase of an annuity that will assure full payment of the awarded damages.

(4) Any other conditions deemed necessary to secure the payment of awarded damages to the claimant.

(c) Included within its judgment, the court shall make inquiry to determine that the claimant, or the claimant's guardian, has made a reasonable and informed decision as to the person designated as the beneficiary and residual beneficiary of the periodic payments.

SUBARTICLE E

Mandatory Reporting and Preservation of Medical Records

Section 841-A. Mandatory Reporting.—(a) Each malpractice insurer, including the Medical Professional Liability Catastrophe Loss Fund established by this act which makes payment under a policy of insurance in settlement, or in partial settlement of, or in satisfaction of a judgment in a medical malpractice action or claim shall provide to the appropriate licensure board a true and correct copy of the report required to be filed with the Federal Government by section 421 of the Health Care Quality Improvement Act of 1986 (Public Law 99-660, 42 U.S.C. § 11101 et seq.). The copy of the report required by this section shall be filed simultaneously with the report required by section 421 of the Health Care Quality Improvement Act of 1986. The Insurance Department shall monitor and enforce compliance with this section. The Bureau of Professional and Occupational Affairs and the licensure boards shall have access to information pertaining to compliance.

(b) A malpractice insurer or person who reports under subsection (a) in good faith and without malice shall be immune from civil or criminal liability arising from the report.

(c) Upon receipt of a report received pursuant to subsection (a), the appropriate licensure board and the Bureau of Professional and Occupational Affairs shall review the report and conduct an investigation. If the information obtained through the investigation warrants, the board shall promptly initiate a disciplinary proceeding against the health care provider and take appropriate disciplinary action. Information received under this subsection shall not be considered public information for the purposes of the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law or the act of July 3, 1986 (P.L.388, No.84), known as the "Sunshine Act," until used in a formal disciplinary proceeding.

(d) Each licensure board shall submit a report not later than March 1 of each year to the chairman and the minority chairman of the Consumer Protection and Professional Licensure Committee of the Senate and to the chairman and minority chairman of the Professional Licensure Committee of the House of Representatives. The report shall include, but not be limited to, the number of reports received under subsection (a), the status of the investigations of those reports, any disciplinary action which has been taken and the length of time from the receipt of each report to final licensure board action.

SUBARTICLE F

Mandatory Risk Management Programs

Section 851-A. Mandatory Risk Management Programs.—(a) Hospitals, nursing homes and public health centers qualifying as a health care provider as defined in this chapter shall submit to the commissioner for review and approval an institutional plan of risk management.

(b) Every insurance company or exchange or self-insurance plan providing professional liability coverage to individuals defined as health care providers in this chapter shall submit to the Insurance Department for review and approval a program of risk management to be offered to all such individuals.

Amend Sec. 10, page 25, line 20, by striking out "10" and inserting: 11

Amend Bill, page 25, by inserting between lines 20 and 21:

Section 12. The provisions of this act are severable. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

Section 13. All acts and parts of acts are repealed insofar as they are inconsistent with this act.

Amend Sec. 11, page 25, line 21, by striking out "11" and inserting: 14

Amend Sec. 11, page 25, line 21, by striking out "IMMEDIATELY." and inserting: as follows:

(1) The addition of Article VIII-A of the act shall take effect in 60 days.

(2) The remainder of this act shall take effect immediately.

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.

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. Senator Tartaglione has returned, and her temporary Capitol leave is cancelled.

LEGISLATIVE LEAVE

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

Senator STEWART. Mr. President, I request a temporary Capitol leave for Senator Hughes.

The PRESIDENT. Without objection, that leave is granted.

**SPECIAL ORDER OF BUSINESS
GUEST OF SENATOR NOAH W. WENGER
PRESENTED TO THE SENATE**

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

Senator WENGER. Mr. President, we have in the gallery today a special guest. He is an outstanding citizen from the borough of Ephrata in Lancaster County and is a good personal friend of mine. His name is Clair Wolf, and I would like the Senate to welcome Mr. Wolf to the Capitol today.

The PRESIDENT. Would our special guest please rise so the Senate may acknowledge you.

(Applause.)

RECESS

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

Senator LOEPER. Mr. President, at this time I request a recess of the Senate for the purpose of a meeting of the Committee on Rules and Executive Nominations in the Rules room at the rear of the Senate Chamber, and I ask for a roll-call vote on the motion to recess.

The PRESIDENT. Senator Loeper moves that the Senate recess for the purpose of a meeting of the Committee on Rules and Executive Nominations.

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

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

YEAS—49

Afflerbach	Greenleaf	Madigan	Shaffer
Andrezeski	Hart	Mellow	Stapleton
Armstrong	Heckler	Mowery	Stewart
Belan	Helfrick	Musto	Stout
Bell	Holl	O'Pake	Tartaglione
Bodack	Hughes	Peterson	Thompson

Brightbill	Jubelirer	Piccola	Tilghman
Corman	Kasunic	Porterfield	Tomlinson
Costa	Kitchen	Punt	Uliana
Delp	LaValle	Rhoades	Wagner
Fisher	Lemmond	Robbins	Wenger
Fumo	Loeper	Schwartz	Williams
Gerlach			

NAYS—0

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

ANNOUNCEMENT BY MAJORITY LEADER

Senator LOEPER. Mr. President, for the information of the Members, it is my intention to hold the meeting of the Committee on Rules and Executive Nominations off the floor at this time and then return to the floor to deal with a Supplemental Calendar on House Bill No. 2210 prior to recessing to go to caucus.

Mr. President, just one addendum to the request that I made relative to the recess. After the meeting of the Committee on Rules and Executive Nominations, it would be followed immediately by a meeting of the Committee on Appropriations before we come back and vote on a Supplemental Calendar.

The PRESIDENT. With that, the Senate stands in recess.

AFTER RECESS

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

REPORT FROM COMMITTEE

Senator LOEPER, from the Committee on Rules and Executive Nominations, reported the following bill:

HB 1509 (Pr. No. 4282) (Amended) (Rereported)

An Act amending Titles 15 (Corporations and Unincorporated Associations) and 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, providing for generation choice for customers of electric cooperatives and utilities; further providing for definitions; reenacting procedural requirements for taxicab certificates and medallions; providing for restructuring of the electric utility industry; and further providing for taxation.

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

**BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE**

HB 2210 (Pr. No. 4281) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of October 15, 1975 (P.L.390, No.111), known as the Health Care Services Malpractice Act, further providing for definitions, for statute of limitations, for professional liability insurance and the Medical Professional Liability Catastrophe Loss Fund, for administration of that fund and for liability of excess carriers; providing for a Medical Professional Liability Insurance Catastrophe Loss Fund Advisory Board and for surcharge limits; further providing for plan operation and rates, for reports to the Insurance Com-

missioner and for forms of doing business; providing for medical malpractice; and deleting provisions relating to the Joint Study Committee.

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 LEAVES

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

Senator LOEPER. Mr. President, Senator Heckler and Senator Robbins have been called from the floor, and I request temporary Capitol leaves on their behalf.

The PRESIDENT. Without objection, those leaves are granted.

And the question recurring,
Shall the bill pass finally?

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

Senator LOEPER. Mr. President, before us today is a very critical and important insurance reform measure that is crucial to providing Pennsylvania residents with available and affordable health care. The bill that is before us in House Bill No. 2210 essentially has two purposes. It is going to help curb the frivolous lawsuits that drive up the costs of medical care that could force health care providers to leave the State. And secondly, Mr. President, it will also prevent huge emergency surcharges on basic malpractice insurance premiums that doctors and hospitals pay through the State-run Medical Cat Fund.

Mr. President, at this time I particularly would like to take note of the efforts of the gentleman from Montgomery, Senator Holl, and his Committee on Banking and Insurance, who have been vitally involved and directly involved in the Med Cat Fund issue for a significant period of time. And a great deal of credit is due Senator Holl, the Members of his committee, and particularly also Senator Holl's staff for bringing this issue to fruition, and also to bringing a solution to the crisis that currently exists in the Medical Cat Fund.

Mr. President, I think most Members are aware that doctors have paid a 164-percent emergency surcharge on their Med Cat Fund premium in 1996, and they are currently facing a potential 254-percent surcharge on their basic malpractice insurance premiums for the year 1997. These kinds of increases can no longer continue. We are facing a serious situation here, one that has the potential to hurt health care consumers and make it impossible for many medical professionals to continue to practice in the Commonwealth of Pennsylvania. We have to address the surcharge and other administrative problems immediately, and then, Mr. President, in my view, evaluate the long-term options on the future of the fund. Stabilization of the Med Cat Fund is crucial to helping doctors, hospitals, and health care consumers, and I think, Mr. President, as I mentioned earlier, the efforts of Senator Holl, his hearings and

input have helped us develop a solution that will prevent costly surcharges that are hurting health care providers all over Pennsylvania.

As I also mentioned earlier, a second part of the reform equation involves changing and improving our medical malpractice system to put reasonable caps on punitive damages, discourage frivolous lawsuits, and create a realistic standard for informed consent prior to conducting any medical procedures.

Mr. President, I also would just like to take a moment to thank the members of my staff, in particular the efforts of Donna Malpezzi and Steve MacNett, and Drew Crompton of the staff of the gentleman from Blair, Senator Jubelirer, who have spent innumerable hours, along with Steve Tuckey, again a member of our legal staff, in trying to resolve the differences of the interested parties on this issue. I also want to thank very much the gentleman from Lackawanna, Senator Mellow, and the Minority in working with us to bring what I believe is a very fair and effective compromise to the Members of the Senate today in order to try to address this issue. Mr. President, I ask for an affirmative vote on the bill.

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

Senator HOLL. Mr. President, for the Members of the Senate and for the record, I feel that it is important on this very significant legislation that we put certain information, including history, background, and what has developed on this Cat Fund problem. Over the past 2 1/2 years, the Senate Committee on Banking and Insurance has worked diligently with interested parties to develop reforms to the Pennsylvania Medical Professional Liability Catastrophe Loss Fund. The focus of these reforms has been to bring into control the fund's estimated \$1.9 billion unfunded liability.

The fund was created in 1975 as a part of the Health Care Services Malpractice Act. As some of you may remember, there was a crisis in the medical community because some providers were unable to purchase medical malpractice insurance and others could not afford the coverage that was available. The providers came to the legislature for relief and the Med Cat Fund was created.

Now, under the act created in 1975, providers, including physicians, hospitals, podiatrists and nursing homes, were required to carry \$1.2 million per occurrence in liability insurance. They obtain the first \$200,000 in the private market and \$1 million in coverage with the State-run Cat Fund. They buy the \$200,000 primary coverage from the private market and the balance from the Cat Fund. A traditional premium is paid for the first \$200,000 obtained in the private sector, called the primary care, and a surcharge is imposed for the \$1 million in coverage provided through the fund. The surcharge is based on a percentage of the premium paid for the first \$200,000 and was developed as a mechanism to finance claims on an annual basis. Commercial carriers, commercial insurers, are required to carry reserves to protect insureds against future losses. The Cat Fund does the opposite. It charges for claims as they are settled, with no reserve. This is referred to as the pay-as-you-go system. It was a defective system and it failed.

And while the pay-as-you-go system enabled providers to get through the availability crisis in the 1970s, it no longer works well in today's environment. Last year providers were assessed an emergency surcharge, as the gentleman from Delaware, Senator Loeper, said, and an unusually high surcharge was assessed this year. These surcharges are high not because there was an explosion in the number of malpractice suits filed, but for a variety of other reasons. First, there was a tremendous backlog of cases at the Cat Fund, and the new director has attempted to expeditiously settle these old claims. And second, the Philadelphia court system was ordered by the Pennsylvania Supreme Court to speed up its settlement of claims, many of which were malpractice claims. These two factors led to more cases than normal being settled and the subsequent high surcharge to pay for those claims.

The issue of the long-term future of the fund, whether it should continue to operate or be eliminated, is not settled in this legislation. It is not settled. While many States moved to develop funds back in the 1970s, only seven out of the many States have funds today similar to Pennsylvania's. These two are Kansas and Wisconsin, and they are different, but they are similar, but they require providers to participate in the State fund. As chairman of the Committee on Banking and Insurance, and I believe most of the Members of this committee will agree, I am committed to working with interested groups to phase out the fund entirely, to get rid of it, or to make the fund voluntary.

In the interim, the fund must be stabilized. The committee has held several hearings and has worked closely with a wide variety of all interested groups to develop the language in House Bill No. 2210. This bill will provide for more equitable surcharges by changing the calculation of the surcharge from a percentage of premium paid for primary coverage to the prevailing primary premium, which is based on a JUA, a Joint Underwriting Association, rating, and the JUA rates are not subject to unusual fluctuations in the private market that may not reflect actual risk.

This bill will provide for a partial phase-out of the fund and reduce the fund's future unfunded liabilities by incrementally increasing the primary limits to \$500,000 in the year 2001.

It will provide for more accountability by requiring the fund to collect claims data and other pertinent information and report to the Insurance Commissioner and the legislature.

It will reduce or eliminate the need for emergency surcharges by granting the fund short-term borrowing authority, and establish a board to develop standards for the prompt investigation and settlement of claims and undertake a long-range plan on the future of the fund.

The Pennsylvania Medical Society and others recognize the importance of passing House Bill No. 2210 in this Session now. It is critical, and it is a critical first step to bringing the Cat Fund surcharges into control and will move to resolve, once and for all, the long-term issues related to the fund.

The PRESIDENT. The Chair recognizes the gentleman from Cumberland, Senator Mowery.

Senator MOWERY. Mr. President, I, too, would like to rise on behalf of the bill that I hope will take care of at least some

of the problems that we have been faced with here in these past few years, particularly in the medical profession, and I am sure as far as the legal profession also.

I would like to personally thank the gentleman from Montgomery, Senator Holl, and his committee, and in addition to that, of course, our leadership for the many hours that were put in in these negotiations. Even though it certainly will not solve all of the problems that we hoped it would, I think that it is a great beginning. I, too, am supportive of a continuous effort on our part to try to eliminate the Cat Fund completely and get back to the private sector as far as providing the coverage, so I hope we can all support this legislation.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Blair, Senator Jubelirer.

The PRESIDENT pro tempore. Mr. President, I believe this to be an historic day. I would have never believed that we could have gotten this far. I have never seen an issue that perhaps was as difficult to deal with as was this issue. It is one that I have been involved with now for 12 years.

Some 12 years ago I began a journey to try to work with the interested parties to try to put together a consensus and bring to this General Assembly what I thought then was an historic piece of legislation, one that would have been a role model for the entire country to follow. As fate would have it, in 1986, it just was not to be. Unfortunately, the next 10 years dictated that had that legislation passed, we would not be here today. It is a tribute to those who the gentleman from Delaware, Senator Loeper, mentioned and, frankly, to Senator Loeper himself, who is very modest, who shepherded this whole negotiating team together, along with the gentleman from Montgomery, Senator Holl, in the Cat Fund part of it, but in the tort reform part of it certainly Senator Loeper, as the Majority Leader, undertook a very difficult issue and in a relatively short time worked with a lot of people to be able to put this together. The issues of medical malpractice and patient care and insurance costs and litigation over medical outcomes, as I indicated, have long defied efforts to achieve a fair consensus remedy. It just seemed that we could not put it together. Unfortunately, it did indeed take a cost crisis to finally force the adversaries in this process into serious and realistic problem solving.

I think this General Assembly can be extremely proud of the piece of legislation that it is about to approve. Mr. President, it is what we are supposed to be all about, problem solving. It does not always work out that way. Sometimes it works out in a partisan manner and sometimes it just does not work out at all, but I believe in a very bipartisan fashion this General Assembly has responded in its finest tradition to problem solving. Professional groups have taken a professional approach to tough issues and helped us develop a reasonable, just, and, yes, a promising set of answers.

Obviously, we cannot afford to have medical practitioners leaving the State or limiting their practices because of the costs of litigation. Too many areas of Pennsylvania are underserved as is, and certainly we who come from rural Pennsylvania know that best of all. The system was working against the

interests of people, communities, and professions. The consequences were hurting cost containment, hurting patient access to care, and hurting efforts to attract and keep medical providers as our hospitals work overtime to try to bring those professionals to the Commonwealth. Therefore, the system was broken and it had to be fixed.

At the same time we have a primary obligation to ensure that patients do not pay the price of solving these problems. Victims have rights, too. Through the combined measures in the bill before us, we accomplish two things. We address the immediate crisis posed by the outlandish surcharges confronting the medical profession and we move against some of the factors that have unfairly driven up the costs. These steps should separate the unnecessary lawsuits and unneeded costs from the legitimate actions in cases where patients have indeed been harmed.

Mr. President and Members of the Senate, the bottom line in this debate is not about any group or any profession winning or losing, make no mistake about it. The bottom line is that we are taking necessary and well-conceived steps to help ensure that Pennsylvanians receive quality health care and that we have addressed a problem that has cried out for help for some time.

As I indicated before, Mr. President, I have been involved in this issue for over 12 years. This is an historic day, and I think this General Assembly can be extraordinarily proud of the manner in which it has been handled. We are about to solve, at least make a beginning in solving, a problem that hopefully will only be a sure way to ensure quality health care in Pennsylvania and that those who need it the most will continue to get it.

Again, my congratulations to Senator Loeper, Senator Holl, Senator Mellow's office and staff, and all those who worked so very hard to make this day happen. I look forward to seeing this bill passed, Mr. President, and signed into law by the Governor.

LEGISLATIVE LEAVE CANCELLED

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

And the question recurring,
Shall the bill pass finally?

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

Senator MELLOW. Mr. President, very briefly, I would also like to join my colleagues in saying that a job well done has taken place in this General Assembly to make sure that we have not only addressed the issue with the Cat Fund, but we have also addressed the issue with medical tort.

Mr. President, in all the years that I have been in the Senate, I realize that anytime you are dealing with tort and limiting tort and just the discussion in itself of liability, it brings a tremendous response and a lot of work and a lot of discussion. And I do not remember the last time that we had the opportunity of addressing this particular issue with regard to medical tort and medical malpractice, but anytime you have the oppor-

tunity of bringing together a group of individuals on a bipartisan basis and a group of professionals working within their profession, not only the doctors who were so deeply involved in the discussion but also the trial lawyers who were also very deeply involved in the discussion, and you can coordinate that through Members of the Senate and the staffs and you can come up with a conclusion that probably will have the support of each and every Member in this Chamber, I think you have accomplished something.

I agree with the gentleman from Blair, Senator Jubelirer, that the gentleman from Delaware, Senator Loeper, is entirely too modest because he was the individual who shepherded this through. He was the fellow who talked about it through the spring and summer, and I had the opportunity of discussing it with him and just expressing how important we thought it was to bring the parties together to try to come up with a compromise as opposed to having confrontation here on the floor of the Senate and then again over in the House of Representatives. So I would like to congratulate Senator Loeper on doing an outstanding job.

And furthermore, Mr. President, also in the things that were discussed with me directly and with members of our staff and also with the gentleman from Luzerne, Senator Musto, who had a lot of input into what finally took place, and that is an understanding that we have that having arrived at a compromise on this particular piece of legislation that there were a lot of concessions made, but perhaps one of the concessions that I am sure was not written but it was certainly implied is that there is a good chance that there would be no medical malpractice reform legislation that we will have to visit for at least the next 4 years. And just having the assurance of that alone, Mr. President, is great in knowing that we believe that a job has been done and that, hopefully for the immediate future, we have been able to resolve a major issue and people can go back to work doing the jobs that they have been trained to do, in this particular case delivering the proper type of medical care that the 12 million people in Pennsylvania so rightfully deserve.

So, Senator Loeper, I say to you, congratulations.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Fisher.

Senator FISHER. Mr. President, I, too, add my congratulations to the gentleman from Delaware, Senator Loeper, the gentleman from Montgomery, Senator Holl, and others, and particularly to the staffs who have been involved in trying to bring together the changes that are needed and those that are incorporated in House Bill No. 2210.

I remember back, in fact it was one of the first issues that I ever became involved with as a Member of the General Assembly, when I was in my first term as a House Member, as a member of the House Judiciary Committee, and that was what resulted in Act 111 of 1975, which was then the law that established the Medical Cat Fund in Pennsylvania. And I remember back at that time, the crisis that Pennsylvania's physicians were facing then was one of both availability and affordability of insurance, the insurance which they needed to pro-

tect them and protect their patients in the event of some wrong or some tort that occurred in the course of treatment.

And the creation of the Medical Cat Fund, which has had a lengthy life of 20 years or more now, has gone through its ups and downs, and there have been some changes. There has been some concern, but it has never reached the height that it did in the last 2 years, where those same physicians--maybe not the same individuals but that same group of physicians--were then saying we cannot afford the rates that are being charged and we cannot afford a surcharge, whether it was in 1995 or the surcharge that was due at the beginning of 1997. And it resulted in not just the passage of House Bill No. 790 in the House, but it resulted in some statements, I am not sure whether they were the appropriate ones or not, that people were not going to pay those surcharges. But in fact what it did result in was that people finally got together and worked on a solution. It is not a solution that is going to solve all the problems in the area of medical malpractice. I think everybody involved with it knows that.

But I believe what is important is the solution on two sides. On the Cat Fund side, it hopefully will bring some stability in rates, and if nothing else, those physicians who have to pay are going to be able to pay in four installments. I know a lot of hardworking young physicians out there who when asked to be able to come up with one check basically said to me, I cannot come up with one check and still pay the college tuition for my son or my daughter and continue to keep the lights on in my office, but this bill will allow them to make payments on a quarterly basis and be able to estimate in a better fashion what is needed.

But also I think for the first time that I have been here as a Member of this General Assembly when we have dealt with this issue, we have made some actual changes in the way medical malpractice cases will be tried, and whether the award goes against the private insurance carrier or whether it goes against the Cat Fund, those changes are important. It is not everything that was in House Bill No. 790, but there are some changes that I think are meaningful.

Certainly the change in the area of informed consent is a very meaningful change. The change in the area of punitive damage is a most significant change. Just as the United States Supreme Court said earlier this year that punitive damages have to be somehow related to compensatory damages that are awarded, that is what this bill will do. It puts a maximum percentage on the award of punitive damages, and I think everybody, no matter what their perspective is, has to come to the conclusion that that kind of change is a commonsense approach. Certainly the times when punitive damages are going to be awarded we hope are very few. It is a terrible tragedy not just to have the accident but to have any finding in fact the physician should be liable for punitive damages, but those changes are significant. The others, which maybe when one looks at them they may be more procedural than substantive, are in fact substantive changes as they relate to the trial of a medical malpractice case.

And I would hope that in putting these comments on the record that someday if the Pennsylvania Supreme Court is

asked to look at this issue, they would recognize the history of how we got to where we are, and that the Pennsylvania Supreme Court would not take a narrow view of the changes that are made in here and somehow come up with a finding that these were procedural and are outside the jurisdiction of the General Assembly to change, because they are within our jurisdiction to change what really goes to the heart of how an award is going to be determined and the rules that will be used to determine whether or not a person has a valid claim and what the award should be in compensating an injured plaintiff in Pennsylvania for that valid claim.

So to those involved and to all of us, I think it is a job well done, and to those who are listening out there - physicians, attorneys, the citizens of Pennsylvania - it is something that I believe will help bring some stability not just in the insurance premiums but in the costs of medical care to the people of Pennsylvania we are sent here to represent.

Thank you, Mr. President.

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

Senator AFFLERBACH. Mr. President, as the gentleman from Allegheny, Senator Fisher, has noted, some of us have been involved in this issue for two decades or more. I happen to be one of those individuals, and I am very, very pleased to see that we have finally come to a method by which we can address medical malpractice, both from the standpoint of the Cat Fund and tort reform.

In addition to congratulating and expressing our gratitude to those Senators and staffs who were involved, I think it is appropriate to also note for the record that the two Pennsylvania professional organizations which have the most to gain or lose from any sort of compromise on this bill also came to the table and this time stayed at the table to help us hammer out a compromise that would achieve that delicate balance between providing health care professionals and facilities with a degree of protection from frivolous or unwarranted lawsuits based upon simply nothing more than a disappointing outcome, and, on the other hand, maintaining consumer protections and safeguards for the truly meritorious cases. And that, of course, means that we should extend our gratitude to the Pennsylvania Medical Society and the Pennsylvania Trial Lawyers Association.

As the gentleman from Blair, Senator Jubelirer, noted, in the past when we attempted to strike some degree of compromise on this legislation, it was difficult to keep these two parties at the negotiating table. In fact it was difficult, in some circumstances, to even get them to the negotiating table. This time they came, they stayed, and I think it demonstrates that when people of good will from all of the interested parties, including this legislature, are able to get together and agree that we are going to resolve an issue, we can resolve it.

I think this compromise is probably the first meaningful malpractice reform that we have had, at least in the 25 years that I have been working in the program, and I strongly urge its adoption.

The PRESIDENT. The Chair recognizes the gentleman from Luzerne, Senator Lemmond.

Senator LEMMOND. Mr. President, I would like very much to adopt all of the preceding Senators' remarks of congratulations to all who cooperated in bringing us to the passage of this legislation. I think that in Pennsylvania we have some of the best trial lawyers in the country. I know that our medical profession is second to none, and I want to say and I want to add most of them, all of them, to those who should be congratulated, and for a reason that sometimes we do not have reason to congratulate them for, they have become actively interested in a matter of concern to us all and they have brought to us their wishes, made their positions known, they have been actively involved in this process.

The presidents of the associations have been involved - President Mundy, and President Greco, who is from northeastern Pennsylvania - and I suggest to my fellow lawyers and to the members of the medical profession that they might wish to congratulate their leaders in bringing about this resolution, just as we here in the Senate are sending our congratulations to our leaders who have made this happen.

It is a good day for all of us. I am sure that for the bench and the bar and the medical profession it is a spectacular day, and it is a day that all of us have many congratulations to pass among many people.

Thank you so much, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Butler, Senator Shaffer.

Senator SHAFFER. Mr. President, will the gentleman from Delaware, Senator Loeper, the prime sponsor, agree to very brief interrogation?

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

Senator LOEPER. Yes, Mr. President.

The PRESIDENT. Senator Shaffer, you may continue.

Senator SHAFFER. Mr. President, a one-question interrogation, if I might. It was my understanding that the gentleman from Lackawanna, Senator Mellow, in his remarks said that it was his understanding that the legislation before us concludes and embodies an agreement between the principals at interest here today, which are the trial bar and the medical community, and I thought I understood Senator Mellow to say that it was his understanding that this brings at least the issues embodied in this legislation to a conclusion for the next 4 years.

I want to ask the gentleman from Delaware, Senator Loeper, if indeed it is his understanding that the legislation before us, if it is the intent of this side of the aisle and if it is his understanding that it is the intent of the parties at interest in this issue to bring this matter to a conclusion before the General Assembly for at least the next 4 years?

Senator LOEPER. Mr. President, as was indicated earlier, the negotiations on this issue were very long, arduous, and finally productive, and at the conclusion of those negotiations in producing this agreement, there was an agreement that there be a 4-year moratorium on parts of this issue in order to give them a chance to be implemented, in order to give them a chance to work in a positive fashion, and I am very confident that we are going to be able to move forward in a positive vein.

Thank you, Mr. President.

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

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

Senator O'PAKE. Mr. President, very briefly, in addition to all the congratulatory tributes that have been paid here, we have all been badgered by very knowledgeable and very well-intentioned people on this issue, and I think what is probably most comforting about what we are doing today is that neither side is entirely happy, neither side is entirely satisfied, and what that probably means is that the average person in Pennsylvania will be the winner today.

Thank you, Mr. President.

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

RECESS

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

Senator LOEPER. Mr. President, at this time I request a recess of the Senate for the purpose of a Republican caucus to begin immediately in the first floor caucus room, with an optimistic expectation of trying to return to the floor by 3:45.

The PRESIDENT. For purposes of Republican and Democratic caucuses, with the intention of returning at approximately 3:45, this 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.

LEGISLATIVE LEAVES

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

Senator LOEPER. Mr. President, Senator Heckler and Senator Shaffer have been called from the floor, and I request temporary Capitol leaves on their behalf.

The PRESIDENT pro tempore. Senator Loeper requests temporary Capitol leaves for Senator Heckler and Senator Shaffer. Without objection, those leaves will be granted.

The Chair recognizes the gentleman from Cambria, Senator Stewart.

Senator STEWART. Mr. President, I request temporary Capitol leaves for Senator Belan, Senator Bodack, and Senator Stout.

The PRESIDENT pro tempore. Senator Stewart requests temporary Capitol leaves for Senator Belan, Senator Bodack, and Senator Stout. There being no objection, those leaves will be granted.

CONSIDERATION OF CALENDAR RESUMED

THIRD CONSIDERATION CALENDAR

BILLS OVER IN ORDER

HB 304, HB 305 and HB 306 -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILLS LAID ON THE TABLE

HB 682 (Pr. No. 1647) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of May 27, 1953 (P.L.244, No.34), entitled "An act relating to and regulating the contracts of incorporated towns and providing penalties," further providing for contracts.

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

Senator LOEPER. Mr. President, I move that House Bill No. 682 be laid on the table.

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

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

YEAS-49

Table with 4 columns of names: Afflerbach, Andrezeski, Armstrong, Belan, Bell, Bodack, Brightbill, Corman, Costa, Delp, Fisher, Greenleaf, Hart, Heckler, Helfrick, Holl, Hughes, Jubelirer, Kasunic, Kitchen, LaValle, Lemmond, Madigan, Mellow, Mowery, Musto, O'Pake, Peterson, Piccola, Porterfield, Punt, Rhoades, Robbins, Shaffer, Stapleton, Stewart, Stout, Tartaglione, Thompson, Tilghman, Tomlinson, Uliana, Wagner, Wenger, Williams.

Fumo Loeper Schwartz Williams Gerlach

NAYS-0

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

The PRESIDENT pro tempore. House Bill No. 682 will be laid on the table.

HB 683 (Pr. No. 755) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of February 1, 1966 (1965 P.L.1656, No.581), known as The Borough Code, further providing for contracts.

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

Senator LOEPER. Mr. President, I move that House Bill No. 683 be laid on the table.

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

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

YEAS-49

Table with 4 columns of names: Afflerbach, Andrezeski, Armstrong, Belan, Bell, Bodack, Brightbill, Corman, Costa, Delp, Fisher, Fumo, Gerlach, Greenleaf, Hart, Heckler, Helfrick, Holl, Hughes, Jubelirer, Kasunic, Kitchen, LaValle, Lemmond, Loeper, Madigan, Mellow, Mowery, Musto, O'Pake, Peterson, Piccola, Porterfield, Punt, Rhoades, Robbins, Schwartz, Shaffer, Stapleton, Stewart, Stout, Tartaglione, Thompson, Tilghman, Tomlinson, Uliana, Wagner, Wenger, Williams.

NAYS-0

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

The PRESIDENT pro tempore. House Bill No. 683 will be laid on the table.

HB 684 (Pr. No. 756) -- The Senate proceeded to consideration of the bill, entitled:

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

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

Senator LOEPER. Mr. President, I move that House Bill No. 684 be laid on the table.

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

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

YEAS—49

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

NAYS—0

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

The PRESIDENT pro tempore. House Bill No. 684 will be laid on the table.

LEGISLATIVE LEAVES CANCELLED

The PRESIDENT pro tempore. The Chair notes the presence on the floor of Senator Hughes, Senator Rhoades, and Senator Robbins, and their temporary Capitol leaves will be cancelled.

SPECIAL ORDER OF BUSINESS
SUPPLEMENTAL CALENDAR No. 2BILL REREPORTED FROM COMMITTEE AS
AMENDED ON SECOND CONSIDERATION
AND REREFERRED

HB 1509 (Pr. No. 4282) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Titles 15 (Corporations and Unincorporated Associations) and 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, providing for generation choice for customers of electric cooperatives and utilities; further providing for definitions; reenacting procedural requirements for taxicab certificates and medallions; providing for restructuring of the electric utility industry; and further providing for taxation.

Considered the second time and agreed to,

Ordered, To be printed for third consideration.

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

THIRD CONSIDERATION CALENDAR RESUMED

BILL OVER IN ORDER

HB 685 -- Without objection, the bill was passed over in its order at the request of Senator LOEPER.

BILL LAID ON THE TABLE

HB 686 (Pr. No. 758) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 24, 1931 (P.L.1206, No.331), known as The First Class Township Code, further providing for contracts.

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

BILL AMENDED

HB 981 (Pr. No. 4154) -- The Senate proceeded to consideration of the bill, entitled:

An Act establishing the Special Independent Prosecutor's Panel and providing for its powers and duties; and providing for special investigative counsel and for independent counsel.

On the question,

Will the Senate agree to the bill on third consideration?

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

Senator PICCOLA. Mr. President, I would like to offer A7799 to House Bill No. 981, deleting from that amendment on page 1, lines 15 through 22.

And the question recurring,

Will the Senate agree to the bill on third consideration?

Senator PICCOLA offered the following amendment No. A7799:

Amend Sec. 102, page 3, by inserting between lines 11 and 12: "Grounds to investigate." Information which would lead a reasonable person to suspect that a crime is being, or has been committed.

Amend Sec. 301, page 3, line 26, by striking out "PRESIDENT"

Amend Sec. 301, page 3, line 26, by inserting after "JUDGES": , including senior judges.

Amend Sec. 302, page 6, line 17, by inserting after "period,": appoint a special investigative counsel to

Amend Sec. 304, page 8, line 8, by inserting after "investigation.": The summary shall be placed under seal.

Amend Sec. 309, page 14, lines 10 through 17, by striking out all of said lines

Amend Sec. 508, page 18, lines 1 through 4, by striking out all of said lines and inserting: all prosecutions. All other information shall remain under seal.

Amend Sec. 512, page 21, lines 4 through 10, by striking out all of lines 4 through 9 and "(2)" in line 10 and inserting: (1)

Amend Sec. 512, page 21, lines 20 through 30; page 22, lines 1 through 4, by striking out all of lines 20 through 30, page 21, all of lines 1 through 3 and "(c)" in line 4 and inserting: (b)

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.

LEGISLATIVE LEAVES

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

Senator LOEPER. Mr. President, Senator Lemmond and Senator Helfrick have been called from the floor, and I request temporary Capitol leaves on their behalf.

The PRESIDENT pro tempore. Senator Loeper requests temporary Capitol leaves for Senator Lemmond and Senator Helfrick. Without objection, those leaves will be granted.

The Chair recognizes the gentleman from Cambria, Senator Stewart.

Senator STEWART. Mr. President, Senator Fumo and Senator O'Pake have been called to their offices, and I ask for temporary Capitol leaves on their behalf.

The PRESIDENT pro tempore. Senator Stewart requests temporary Capitol leaves for Senator Fumo and Senator O'Pake. Without objection, those leaves will also be granted.

THIRD CONSIDERATION CALENDAR RESUMED

BILLS OVER IN ORDER

HB 1116, HB 1117, HB 1118 and SB 1122 -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILL AMENDED

SB 1470 (Pr. No. 2430) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for causes of action; and providing for priority of restitution.

On the question,

Will the Senate agree to the bill on third consideration?

Senator LOEPER offered the following amendment No. A7750:

Amend Sec. 1 (Sec. 8313), page 1, line 14, by inserting after "EMPLOYEE": solely

Amend Sec. 1 (Sec. 8313), page 2, line 1, by inserting after "PERSON": solely

Amend Sec. 3, page 2, line 14, by striking out all of said line

Amend Sec. 4, page 2, line 15, by striking out "4" and inserting:

3

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.

LEGISLATIVE LEAVE CANCELLED

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

THIRD CONSIDERATION CALENDAR RESUMED

BILL OVER IN ORDER

SB 1559 -- Without objection, the bill was passed over in its order at the request of Senator LOEPER.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 1782 (Pr. No. 3657) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of May 26, 1947 (P. L. 318, No. 140), known as The C.P.A. Law, amending the title; further providing for the short title, for definitions, for the Public Accountants' Advisory Committee, for the State Board of Accountancy and its general powers, for general qualifications, for education and experience and for reciprocity; providing for foreign reciprocity; further providing for licensure, for partnership and corporate licensure and for registration of public accountants; providing for licensure of firms and for peer review; further providing for discipline, for reinstatement, for revocation and suspension, for agency, for work product, for privilege, for penalties and remedies, for construction and for audits; regulating the professional responsibility of licensees; and reenacting certain provisions.

Considered the third time and agreed to,

On the question,

Shall the bill pass finally?

PARLIAMENTARY INQUIRY

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

Senator MELLOW. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The gentleman will state his point.

Senator MELLOW. Mr. President, I am a licensed public accountant in Pennsylvania, and I am concerned about the possibility of having a conflict of interest if I vote on House Bill No. 1782 and I request a ruling from the Chair.

The PRESIDENT pro tempore. The Chair would rule that the gentleman is part of a class and there is no conflict of interest, and under the rules of the Senate, he would be required to vote.

Senator MELLOW. Thank you, Mr. President.

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

BILL OVER IN ORDER TEMPORARILY

HB 2021 -- Without objection, the bill was passed over in its order temporarily at the request of Senator LOEPER.

BILL OVER IN ORDER

HB 2118 -- Without objection, the bill was passed over in its order at the request of Senator LOEPER.

BILL REREFERRED

HB 2186 (Pr. No. 4272) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 30 (Fish) of the Pennsylvania Consolidated Statutes, further providing for clarification of the status of members of the Fish and Boat Commission, its Boating Advisory Board and deputy waterways patrolmen; providing for a volunteer program; further providing for classification of offenses and penalties, for boating under the influence and for Class A regulated fishing lakes; and providing for marking of dams.

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

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 2295 (Pr. No. 4205) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for copying and recording devices; and providing for unlawful operation of a recording device in a motion picture theater.

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

On the question, Shall the bill pass finally?

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

YEAS-49

Table listing names of Senators who voted 'YEAS-49' for HB 2295. Names include Afflerbach, Greenleaf, Madigan, Shaffer, Andrezeski, Hart, Mellow, Stapleton, etc.

Fumo Loeper 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.

BILL REREFERRED

HB 2463 (Pr. No. 4236) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 34 (Game) of the Pennsylvania Consolidated Statutes, defining "bodily injury," "facsimile," "poaching" and "serious bodily injury"; further defining "game," "hunt" or "hunting," "take" and "wildlife" to include facsimiles; further providing for the terms of commission members; providing for the use of facsimiles for law enforcement purposes, for the use of protective materials by officers and for an additional penalty for poaching; and further providing for incident reports and assistance, for increased penalties for shooting at, causing injury to or killing another person, for the use of lights while hunting, for carrying loaded firearms in certain vehicles, for safety zones by employees and agents of political subdivisions holding valid deer control permits, for the training of dogs, for restrictions on vehicles, for license revocation, for disabled hunting licenses and for taxidermy permits.

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

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 2511 (Pr. No. 3636) -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for volunteer health services; limiting liability of a volunteer license holder; and requiring reports.

Considered the third time and 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

Table listing names of Senators who voted 'YEAS-49' for HB 2511. Names include Afflerbach, Greenleaf, Madigan, Shaffer, Andrezeski, Hart, Mellow, Stapleton, etc.

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.

LEGISLATIVE LEAVE CANCELLED

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

THIRD CONSIDERATION CALENDAR RESUMED

BILL OVER IN ORDER

HB 2579 -- Without objection, the bill was passed over in its order at the request of Senator LOEPER.

BILL REREFERRED

HB 2585 (Pr. No. 4237) -- 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; providing for use of credit and debit cards; providing for limitation on regulatory jurisdiction; prohibiting interference with lawful fishing and boating and further providing for disabled veterans.

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

BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 2617 (Pr. No. 4214) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of October 28, 1966 (1st Sp.Sess., P.L.55, No.7), known as the Goods and Services Installment Sales Act, further providing for installment contract service charges and installment account service charges and for the minimum service charge.

Considered the third time and agreed to,

And the amendments made thereto having been printed as required by the Constitution,

On the question,
Shall the bill pass finally?

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

YEAS—34

Afflerbach	Heckler	O'Pake	Stewart
Andrezeski	Helfrick	Peterson	Stout
Armstrong	Holl	Piccola	Thompson
Brightbill	Jubelirer	Punt	Tilghman
Corman	Lemmond	Rhoades	Tomlinson
Delp	Loeper	Robbins	Uliana
Fisher	Madigan	Shaffer	Wagner
Greenleaf	Mellow	Stapleton	Wenger
Hart	Musto		

NAYS—15

Belan	Fumo	Kitchen	Schwartz
Bell	Gerlach	LaValle	Tartaglione
Bodack	Hughes	Mowery	Williams
Costa	Kasunic	Porterfield	

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.

HB 2630 (Pr. No. 3576) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 28, 1935 (P.L.477, No.193), referred to as the Enforcement Officer Disability Benefits Law, extending benefits to certain employees of the Office of Attorney General.

Considered the third time and 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	Madigan	Shaffer
Andrezeski	Hart	Mellow	Stapleton
Armstrong	Heckler	Mowery	Stewart
Belan	Helfrick	Musto	Stout
Bell	Holl	O'Pake	Tartaglione
Bodack	Hughes	Peterson	Thompson
Brightbill	Jubelirer	Piccola	Tilghman
Corman	Kasunic	Porterfield	Tomlinson
Costa	Kitchen	Punt	Uliana
Delp	LaValle	Rhoades	Wagner
Fisher	Lemmond	Robbins	Wenger
Fumo	Loeper	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.

LEGISLATIVE LEAVE CANCELLED

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

CONSIDERATION OF CALENDAR RESUMED

SECOND CONSIDERATION CALENDAR

BILLS ON SECOND CONSIDERATION

HB 647 (Pr. No. 3369) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for the expungement of certain arrest records relating to sexual offenses.

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

HB 974 (Pr. No. 3587) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, empowering the Governor to authorize the transfer of certain convicted offenders pursuant to outstanding treaties; providing for Accelerated Rehabilitative Disposition; and making a repeal.

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

SB 1166 (Pr. No. 1362) -- The Senate proceeded to consideration of the bill, entitled:

An Act authorizing the Department of General Services, with the approval of the Governor, to sell and convey to Growth Horizons, Inc., certain improved land situate in the Township of Bristol, Bucks County.

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

HB 1181 (Pr. No. 4265) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for orders for protection from domestic abuse and for the release of confidential reports.

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

BILLS RECOMMITTED

SB 1404 (Pr. No. 1757) -- The Senate proceeded to consideration of the bill entitled:

An Act creating and establishing a statutory trust for the protection of producers storing agricultural products with commercial warehouse operators; providing for requirements by such operators; and providing for requirements and procedures for preservation of trust protections by producers.

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

SB 1405 (Pr. No. 2287) -- The Senate proceeded to consideration of the bill entitled:

An Act creating and establishing a statutory trust for the protection of unpaid producers of agricultural products and providing for requirements and procedures for preservation of trust protections by producers.

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

SB 1406 (Pr. No. 2288) -- The Senate proceeded to consideration of the bill entitled:

An Act amending the act of July 2, 1986 (P. L. 301, No. 74), entitled "An act providing for the provisions of poultry and egg contracts;....," further providing for provisions of contracts.

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

BILLS OVER IN ORDER

SB 1672, SB 1673, SB 1674, SB 1675 and SB 1676 -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILL REREFERRED

SB 1709 (Pr. No. 2359) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of November 13, 1995 (P. L. 604, No. 61), entitled "State Fire Commissioner Act," providing for the Fire Equipment Loan System.

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

BILL ON SECOND CONSIDERATION

HB 1972 (Pr. No. 3784) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for reappointment of district justice; and authorizing immunity for employers who disclose certain information regarding employees.

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

BILLS REREFERRED

HB 2065 (Pr. No. 4216) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of April 14, 1972 (P.L.221, No.63), known as the Pennsylvania Drug and Alcohol Abuse Control Act, adding a definition; providing for commitment of minors; and further providing for financial obligation.

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

HB 2191 (Pr. No. 4271) -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for supervision of child-care facilities; and conferring powers and duties on the Department of Public Welfare.

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

BILLS ON SECOND CONSIDERATION

HB 2243 (Pr. No. 2859) -- The Senate proceeded to consideration of the bill, entitled:

An Act prohibiting certain fees for the use of State property for the purpose of making commercial motion pictures.

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

HB 2348 (Pr. No. 3035) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for retail theft.

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

HB 2362 (Pr. No. 4266) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Titles 18 (Crimes and Offenses) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for wiretapping and electronic surveillance and for windshield obstructions.

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

HB 2393 (Pr. No. 4267) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Titles 18 (Crimes and Offenses) and 54 (Names) of the Pennsylvania Consolidated Statutes, requiring the Pennsylvania State Police to receive notification when the court orders a change of name for a person with a criminal record; regulating change of name after conviction of a felony; and further providing for certain injunctive relief.

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

HB 2401 (Pr. No. 3213) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for bad checks.

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

HB 2403 (Pr. No. 4268) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, providing for police animals and for the sale of dogs; and providing penalties.

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

HB 2522 (Pr. No. 3785) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for harassment and stalking; prohibiting the provision of certain stimulants to minors; and providing penalties.

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

BILL REREFERRED

HB 2586 (Pr. No. 4252) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of August 9, 1955 (P.L.323, No.130), known as The County Code, authorizing counties to make appropriations to municipal corporations for disaster or emergency aid.

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

BILLS ON SECOND CONSIDERATION

HB 2592 (Pr. No. 3936) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for exceptions to the interception and disclosure of communications by inmates of county correctional institutions.

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

HB 2627 (Pr. No. 4249) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 10, 1974 (P.L.852, No.287), referred to as the Underground Utility Line Protection Law, further providing for definitions, for duties of facility owners, for a One Call System, and for designers and contractors for a One Call System; and providing for penalties.

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

BILL REREFERRED

HB 2657 (Pr. No. 4158) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of May 25, 1945 (P.L.1050, No.394), known as the Local Tax Collection Law, requiring notice to be sent to certain taxpayers who fail to make timely payment of certain taxes.

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

ANNOUNCEMENT BY MAJORITY LEADER

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

Senator LOEPER. Mr. President, for the information of the Members, we still have some amendments to deal with on one bill, then we have two Supplemental Calendars before us with two bills to consider, and then we also need a meeting of the Committee on Rules and Executive Nominations yet today.

The PRESIDENT pro tempore. Where do you wish to take us now, Senator Loeper?

Senator LOEPER. Maybe we should work together on that, Mr. President.

The PRESIDENT pro tempore. It is a pretty open-ended question, I know.

THIRD CONSIDERATION CALENDAR RESUMED

HB 2021 CALLED UP

HB 2021 (Pr. No. 4202) -- Without objection, the bill, which previously went over in its order temporarily, was called up, from page 4 of the Third Consideration Calendar, by Senator LOEPER.

BILL AMENDED AND REREFERRED

HB 2021 (Pr. No. 4202) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of August 9, 1955 (P.L.323, No.130), known as The County Code, further providing for taking money and property by gift, for creation of a capital reserve fund, for the operating reserve fund, for billing and collecting by the county treasurer, for functions of the controller, for custody of documents, for books of fiscal affairs, for settlement of accounts, for audit of accounts, for claims against a county, for reports to commissioners, for fees of witnesses and jurors, for receipts and accounts of money due a county, for preparation of proposed annual budget, for amending budgets, for levies, for tax rates, for appropriations, for filing the budget, for notice and for the preparation of uniform forms; and providing for refusal to submit to examination and for the procedure for approval.

On the question,

Will the Senate agree to the bill on third consideration?

Senator CORMAN offered the following amendment No. A7683:

Amend Bill, page 16, by inserting between lines 29 and 30:

Section 12. The act is amended by adding a section to read:

Section 1770.2. Authorization of Excise Tax.—(a) The county commissioners of any county which has a recognized tourist promotion agency designated to act within the county may impose an excise tax not to exceed two per centum of the consideration received by each operator of a hotel within the county from each transaction of renting a room or rooms to transients. The tax shall be collected by the operator from the patron of the room or rooms and paid over to the county as herein provided.

(b) The county commissioners may by ordinance impose requirements for keeping of records, the filing of tax returns and the time and manner of collection and payment of tax. The county commissioners may also impose, by ordinance, penalties and interest for failure to comply with recordkeeping, filing, collection and payment requirements.

(c) The treasurer of each county electing to impose the tax authorized under this section shall collect the tax and deposit the reve-

nuces received from the tax in a special fund established for that purpose. After deducting from the fund any direct or indirect costs attributable to collection of the tax, the county shall distribute to the recognized tourist promotion agency designated to act within the county all revenues received from the tax not later than sixty (60) days after receipt of the tax revenues. The revenues from the special fund shall be used by the recognized tourist promotion agency to directly fund county-wide tourist promotion.

(d) In any county electing to impose the tax authorized under this act, the recognized tourist promotion agency may, after receiving any revenues from the special fund established under subsection (c), apply to the Department of Community and Economic Development for, and be awarded, a matching grant under the act of April 28, 1961 (P.L.111, No.50), known as the "Tourist Promotion Law." A copy of the application to the Department of Community and Economic Development and any amendment shall be given to the county commissioners.

(e) The tax year for a tax imposed under this section shall run concurrently with the calendar year.

(f) An audited report on the income and expenditures incurred by a recognized tourist promotion agency receiving any revenues from the tax authorized under this section shall be submitted annually by the recognized tourist promotion agency to the county commissioners.

(g) As used in this section, the following words and phrases shall have the meaning given to them in this subsection:

"Consideration." Receipts, fees, charges, rentals, leases, cash, credits, property of any kind or nature, or other payment received by operators in exchange for or in consideration of the use or occupancy by a transient of a room or rooms in a hotel for any temporary period.

"County." Any county of the fifth class having a population in excess of one hundred twenty-three thousand (123,000) residents.

"Hotel." A hotel, motel, inn, guest house or other structure which holds itself out by any means, including advertising, license, registration with an innkeepers' group, convention listing association, travel publication or similar association or with a government agency, as being available to provide overnight lodging or use of facility space for consideration to persons seeking temporary accommodation; any place which advertises to the public at large or any segment thereof that it will provide beds, sanitary facilities or other space for a temporary period to members of the public at large; or any place recognized as a hostelry. The term does not include any portion of a facility that is devoted to persons who have an established permanent residence or a college or university student residence hall.

"Occupancy." The use or possession or the right to the use or possession by any person other than a permanent resident of any room in a hotel for any purpose, or the right to the use or possession of the furnishings or to the services accompanying the use and possession of the room.

"Operator." An individual, partnership, nonprofit or profit-making association or corporation or other person or group of persons who maintain, operate, manage, own, have custody of or otherwise possess the right to rent or lease overnight accommodations in a hotel to the public for consideration.

"Patron." A person who pays the consideration for the occupancy of a room or rooms in a hotel.

"Permanent resident." A person who has occupied or has the right to occupancy of a room or rooms in a hotel as a patron or otherwise for a period exceeding sixty (60) consecutive days.

"Recognized tourist promotion agency." The nonprofit corporation, organization, association or agency which is engaged in planning and promoting programs designed to stimulate and increase the volume of tourist, visitor and vacation business within counties served by the agency as that term is defined in the act of April 28, 1961 (P.L.111, No.50), known as the "Tourist Promotion Law."

"Room." A space in a hotel set aside for use and occupancy by patrons, or otherwise, for consideration, having at least one bed or other sleeping accommodation in a room or group of rooms.

"Transaction." The activity involving the obtaining by a transient or patron of the use or occupancy of a hotel room from which consideration is payable to the operator under an express or an implied contract.

"Transient." An individual who obtains accommodation in a hotel by means of registering at the facility for the temporary occupancy of a room for the personal use of the individual by paying a fee to the operator.

Amend Sec. 12, page 16, line 30, by striking out "12" and inserting: 13

Amend Sec. 13, page 18, line 20, by striking out "13" and inserting: 14

Amend Sec. 14, page 19, line 9, by striking out "14" and inserting: 15

Amend Sec. 15, page 21, line 10, by striking out "15" and inserting: 16

Amend Sec. 16, page 23, line 14, by striking out "16" and inserting: 17

On the question,

Will the Senate agree to the amendment?

It was agreed to.

On the question,

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

Senator COSTA offered the following amendment No. A7818:

Amend Title, page 1, line 15, by striking out "and"

Amend Title, page 1, line 17, by removing the period after "approval" and inserting: ; providing for eligibility for retirement allowances for certain employees in counties of the second class; and making a repeal.

Amend Bill, page 23, by inserting between lines 13 and 14:

Section 16. Notwithstanding the provisions of section 1710(b) of the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, every county officer or employee in a county of the second class who is a sheriff, deputy sheriff or prison guard who shall have been a county officer or employee during a period of 20 or more years and who has reached the age of 55 years or more in the case of a prison guard or 50 years of age or more in the case of a sheriff or deputy sheriff, shall, upon application to the retirement board, be eligible for retirement from service and shall thereafter receive, during life a retirement allowance in accordance with section 1712 of the Second Class County Code.

Section 17. Section 1710(b) of the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, is repealed insofar as it is inconsistent with section 16 of this act.

Amend Sec. 16, page 23, line 14, by striking out "16" and inserting: 18

On the question,

Will the Senate agree to the amendment?

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

Senator FISHER. Mr. President, I just wanted to rise and add my support to that of the gentleman from Allegheny, Senator Costa, for this amendment.

Thank you, Mr. President.

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

Senator HART. Mr. President, I rise in opposition to this amendment, and I kind of wish the sponsor had wanted to make some comments about it, but I will.

The amendment would change the retirement age for sheriffs in Allegheny County from 55 to 50 with 20 years of service. We did consider this issue actually almost 1 year ago in the Senate. In fact, I think it was in the Committee on Rules and Executive Nominations. We had some studies done on it and discovered that this amendment would actually cost the county of Allegheny about \$300,000. Mr. President, the administration in the Allegheny County Commissioner's Office, the two commissioners whom I spoke to on this issue, do oppose this amendment. They are clearly concerned that this would add an additional tax burden to the residents of Allegheny County, and I would ask my colleagues, since this is a very localized issue, to please consider that and not add that burden to the citizens of Allegheny County and please oppose this amendment.

Thank you, Mr. President.

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

Senator COSTA. Mr. President, I rise in support of this amendment. It is an amendment that would reduce the retirement age from 55 to 50. I will respond to the first point as a former county officeholder. After having had discussions as recently as yesterday in this building with some of the Allegheny County Commissioners, it is my understanding that they are neutral, essentially, on this position, and with respect to the costs that have been associated with it, there appears to be that there may be savings in terms of deputy sheriffs retiring at an earlier age at higher salaries and then being able to fill those positions with lower-wage employees. So I would ask the body to support this amendment, as it only applies to Allegheny County.

The PRESIDENT pro tempore. The Chair recognizes the gentleman from York, Senator Delp.

Senator DELP. Mr. President, I would just make one quick comment. The last time I heard that argument was on the Mellow bill for teachers, which we just found out cost the Commonwealth millions and millions of dollars, so I am not so sure it is going to save Allegheny County any money.

Thank you.

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

Senator COSTA. Mr. President, with respect to the Mellow bill, it all depends upon what version of any report you want to read. It is my understanding that the Mellow bill has in fact saved the Commonwealth money, and likewise with this particular piece of legislation, and I will not debate the merits any further.

The PRESIDENT pro tempore. Let us not get far afield.

Senator COSTA. I agree, Mr. President.

The PRESIDENT pro tempore. The amendment before us deals with Allegheny County only. We can debate the Mellow bill some other time.

The Chair recognizes the gentlewoman from Allegheny, Senator Hart.

Senator HART. Mr. President, actually to further elaborate on that issue, I did meet with two of the county commissioners and discussed this bill. Clearly it would probably save the

county a couple of dollars in the initial year if some higher-salary employees would retire. Unfortunately, though, Mr. President, in the future you would have more people retiring at an earlier age and living on that pension longer. Therefore, as we discovered with other legislation such as this, offering an early retirement costs us more in the long run. Again, I would caution my colleagues, we have had an actuarial study done on this and it would cost the county about \$300,000 annually.

Thank you, Mr. President.

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

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

YEAS—32

Afflerbach	Fumo	Mellow	Stewart
Andrezeski	Gerlach	Musto	Stout
Belan	Greenleaf	O'Pake	Tartaglione
Bell	Holl	Porterfield	Tilghman
Bodack	Hughes	Punt	Tomlinson
Brightbill	Kasunic	Rhoades	Uliana
Costa	Kitchen	Schwartz	Wagner
Fisher	LaValle	Stapleton	Williams

NAYS—17

Armstrong	Helfrick	Madigan	Robbins
Corman	Jubelirer	Mowery	Shaffer
Delp	Lemmond	Peterson	Thompson
Hart	Loeper	Piccola	Wenger
Heckler			

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

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

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

Senator CORMAN offered the following amendment No. A7085:

Amend Sec. 2 (Sec. 1701.1), page 3, by inserting between lines 8 and 9:

(b.2) Notwithstanding any law to the contrary, if, as a result of a vacancy in the office of elected tax collector in a municipality within a county of the third, fourth, fifth, sixth, seventh or eighth class, an employe or paid official of the municipality is appointed or directed by the governing body of the municipality to assume the duties of tax collector, the county commissioners may, by resolution, provide, until a successor tax collector is elected in accordance with law, for either:

(1) The county treasurer to have the duties and responsibilities of billing and collecting all county and county institution taxes levied within the municipality.

(2) Payment to the municipality, rather than the employe or paid official appointed or directed by the governing body of the municipality to assume the duties of tax collector, the compensation that otherwise would be attributable to the billing and collecting of county and county institution taxes levied within the municipality.

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

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

Senator LOEPER offered the following amendment No. A7810:

Amend Title, page 1, line 15, by striking out "and" where it appears the second time

Amend Title, page 1, line 17, by removing the period after "approval" and inserting: ; and further providing for refunds of unconstitutional taxes for counties of the second, second class A and third through eighth classes.

Amend Bill, page 23, by inserting between lines 13 and 14:

Section 16. Notwithstanding any other provisions of the act of May 21, 1943 (P.L.349, No.162), entitled "An act requiring political subdivisions to refund certain taxes, license fees, penalties, fines or moneys paid thereto, and providing procedure for obtaining such refunds," to the contrary, if the tax imposed under the act of June 17, 1913 (P.L.507, No.335), referred to as the Intangible Personal Property Tax Law, is held by final judgment of a court of competent jurisdiction to be unconstitutional, the county of the second, second class A or third through eighth class imposing that tax shall refund the moneys collected and due only in the year in which the declaration of unconstitutionality was made. Any taxpayer owing the tax from prior years shall continue to be held liable for the tax.

Amend Sec. 16, page 23, line 14, by striking out "16" and inserting: 17

Amend Sec. 16, page 23, line 25, by inserting after "section": and section 16

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

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

Senator LOEPER offered the following amendment No. A7702:

Amend Title, page 1, line 15, by striking out "and" where it appears the second time

Amend Title, page 1, line 17, by removing the period after "approval" and inserting: ; and repealing certain provisions of law imposing liability on counties for certain payments.

Amend Bill, page 23, by inserting between lines 13 and 14:

Section 16. The following acts and parts of acts are repealed:
Section 505 of the act of October 20, 1966 (3rd Sp.Sess., P.L.96, No.6), known as the Mental Health and Mental Retardation Act of 1966.

As much of section 472 of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, as relates to public nursing homes.

Section 408 of the act of July 9, 1976 (P.L.817, No.143), known as the Mental Health Procedures Act.

Section 17. Any liability of county authorities under section 505 of the act of October 20, 1966 (3rd Sp.Sess., P.L.96, No.6), known as the Mental Health and Mental Retardation Act of 1966, is discharged.

Amend Sec. 16, page 23, line 14, by striking out "16" and inserting: 18

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

Without objection, the bill, as amended, was rereferred to the Committee on Appropriations, at the request of Senator LOEPER.

LEGISLATIVE LEAVE

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

Senator STEWART. Mr. President, Senator Stapleton has been called to his office, and I request a temporary Capitol leave.

The PRESIDENT. Without objection, that leave is granted.

SPECIAL ORDER OF BUSINESS SUPPLEMENTAL CALENDAR No. 4

BILL OVER IN ORDER

SB 1470 (Pr. No. 2439) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for causes of action; and providing for priority of restitution.

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

On the question,
Shall the bill pass finally?

The PRESIDENT. The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Mr. President, this is a short bill and it is somewhat simple, and I understand where the drafter of this language is coming from in the sense that somebody's heart is in the right place, but I am not sure that the language here does what it is intended to do. What the language says is, "an action may be brought by a person against a former employer of that person for damages resulting from the employer's discharge of that person solely because that person files a claim for workers' compensation." And, of course, the word "solely" was added to the bill.

My concern here, Mr. President, is that if someone was terminated because they filed a fraudulent workers' compensation claim, it would seem to me that that would be an appropriate termination. But this bill, as drafted, does not leave that option open and, therefore, I have a problem voting for the bill. I think that this is one of those very delicate issues that needs to be handled very carefully. And I understand the emotion that goes with this bill, but I am going to ask the sponsor of this bill if we could go over it until next week to perhaps take another look at this language so that if we do this to remedy the problem we want to remedy, that we get it right.

The PRESIDENT. Senator Brightbill, do you wish to question the sponsor?

Senator BRIGHTBILL. No, Mr. President. I have asked the sponsor if we could go over the bill to try to get this language right, and he is talking to the Majority Leader right now.

Senator LOEPER. Mr. President, may we be at ease for a moment?

The PRESIDENT. The Senate will be at ease at the request of Senator Loeper.

(The Senate was at ease.)

RECONSIDERATION OF SB 1470

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

Senator LOEPER. Mr. President, I move to reconsider the vote by which Senate Bill No. 1470 was agreed to on third consideration.

The motion was agreed to.

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

Upon motion of Senator LOEPER and, agreed to, the bill went over in its order.

SPECIAL ORDER OF BUSINESS SUPPLEMENTAL CALENDAR No. 3

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

HB 2257 (Pr. No. 4273) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, providing for an investigative unit, for records of importing distributors and for fee surcharges; and providing for distributors' and importing distributors' restrictions on sales of malt or brewed beverages, for prices of malt or brewed beverages, for Sunday sales of alcoholic beverages and for distribution of malt and brewed beverages.

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

On the question,
Shall the bill pass finally?

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

YEAS—38

Afflerbach	Greenleaf	Mellow	Stapleton
Andrezeski	Heckler	Mowery	Stewart
Belan	Holl	Musto	Tartaglione
Bodack	Hughes	O'Pake	Thompson
Corman	Jubelirer	Peterson	Tilghman
Costa	Kasunic	Piccola	Tomlinson
Delp	Kitchen	Punt	Uliana
Fisher	LaValle	Rhoades	Wagner
Fumo	Lemmond	Schwartz	Williams
Gerlach	Loeper		

NAYS—11

Armstrong	Hart	Porterfield	Stout
Bell	Helfrick	Robbins	Wenger
Brightbill	Madigan	Shaffer	

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.

ANNOUNCEMENT BY MAJORITY LEADER

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

Senator LOEPER. Mr. President, I believe that concludes consideration of today's Calendar. However, at this time there is a need for a meeting of the Committee on Rules and Executive Nominations.

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

The SECRETARY. Consent has been given for the Committee on Rules and Executive Nominations to meet imminently in the Rules room to consider Senate Bill No. 1098, House Bills No. 2046 and 2091, and certain nominations.

RECESS

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

Senator LOEPER. Mr. President, for the purpose of an off-the-floor meeting of the Committee on Rules and Executive Nominations, I request that all members of the Committee on Rules and Executive Nominations report to the Rules room at the rear of the Senate Chamber.

The PRESIDENT. For a meeting of the Committee on Rules and Executive Nominations to be conducted in the Rules room at the rear of the Senate Chamber, the Senate will stand 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.

REPORTS FROM COMMITTEES

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

SB 1098 (Pr. No. 2441) (Amended) (Rereported) (Concurrence)

An Act amending the act of April 9, 1929 (P. L. 343, No. 176), entitled, as amended, "The Fiscal Code," further providing for investment of moneys of the Commonwealth; providing for the Zoological

Enhancement Fund and for transfers from the Motor License Fund, for the Organ Donation Awareness Trust Fund; and making a repeal.

HB 2046 (Pr. No. 4288) (Amended)

An Act amending the act of December 10, 1968 (P.L.1158, No.365), entitled "An act creating and establishing the Legislative Data Processing Committee: providing for its membership; prescribing its powers, functions and duties; and making an appropriation," providing for the members of the Legislative Data Processing Committee and for access to legislative information within computer information systems by persons outside the General Assembly.

HB 2091 (Pr. No. 4198) (Rereported) (Concurrence)

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for examination of applicant for driver's license; providing for physical examinations; further providing for qualifications for school bus driver endorsement; providing for a driver's license compact; and further providing for the operation of school buses, for driving under the influence of alcohol or controlled substances, for snow plow lamps, for permits for movement of wooden structures and for financial responsibility.

Senator TILGHMAN, from the Committee on Appropriations, reported the following bill:

HB 2292 (Pr. No. 4283) (Amended) (Rereported)

An Act amending the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, further providing for identification cards and for special occasion permits; providing licenses for regional history centers; providing for multipurpose cultural and science facilities licenses; and further providing for advertising.

RESOLUTION REPORTED FROM COMMITTEE

Senator LOEPER, from the Committee on Rules and Executive Nominations, reported the following resolution:

SR 158 (Pr. No. 2438)

A Resolution commemorating the 30th Anniversary of the passage of the Mental Health and Mental Retardation Act of 1966.

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

**COMMUNICATIONS FROM THE GOVERNOR
REPORTED FROM COMMITTEE ON RULES
AND EXECUTIVE NOMINATIONS,
TAKEN FROM THE TABLE**

Senator LOEPER, from the Committee on Rules and Executive Nominations, by unanimous consent, reported the following communication, and called from the table certain communications from His Excellency, the Governor of the Commonwealth, recalling the following nominations, which were read by the Clerk as follows:

**MEMBER OF THE PENNSYLVANIA
GAME COMMISSION**

November 20, 1996

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated June 5, 1996 for the appointment of Angelo Mazzanti (District 7), R. R. #1, Box 147, Springville 18844, Wyoming County, Twentieth Senatorial District, as a member of the Pennsylvania Game Commission, to serve for a term of eight years, vice Edward L. Vogue, Jr., Dupont, whose term expired.

I respectfully request the return to me of the official message of nomination on the premises.

THOMAS J. RIDGE
Governor

MEMBER OF THE HEALTH POLICY BOARD

November 18, 1996

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated June 10, 1996 for the appointment of Valerie Smith, 7723 Farmdale Avenue, Harrisburg 17112, Dauphin County, Fifteenth Senatorial District, as a member of the Health Policy Board, to serve for a term of three years and until her successor is appointed and qualified, vice Sally S. Klein, Harrisburg, resigned.

I respectfully request the return to me of the official message of nomination on the premises.

THOMAS J. RIDGE
Governor

**MEMBER OF THE PENNSYLVANIA
LIQUOR CONTROL BOARD**

November 13, 1996

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated July 22, 1996 for the appointment of Nannette McLaughlin, 65 Fairway Drive, Camp Hill, PA 17011, Cumberland County, Thirty-first Senatorial District, as a member of the Pennsylvania Liquor Control Board, to serve until the third Tuesday in May 2000, vice Oliver L. Slinker, Harrisburg, whose term expired.

I respectfully request the return to me of the official message of nomination on the premises.

THOMAS J. RIDGE
Governor

**MEMBER OF THE STATE BOARD OF EXAMINERS
IN SPEECH-LANGUAGE AND HEARING**

November 18, 1996

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated June 10, 1996 for the appointment of Paula Vitz, 265 Brookview Drive, Red Lion 17356, York County, Twenty-eighth Senatorial District, as a member of the State Board of Examiners in Speech-Language and Hearing, to serve until June 15, 1998 and until her successor is appointed and qualified, but not longer than six months beyond that period, vice Linda S. Fagenholtz, M.D., Erie, resigned.

I respectfully request the return to me of the official message of nomination on the premises.

THOMAS J. RIDGE
Governor

NOMINATIONS RETURNED TO THE GOVERNOR

Senator LOEPER. Mr. President, I move that the nominations just read by the Clerk be returned to His Excellency, the Governor.

The motion was agreed to.

The PRESIDENT pro tempore. The nominations will be returned to the Governor.

**REPORT FROM COMMITTEE ON
RULES AND EXECUTIVE NOMINATIONS**

Senator LOEPER, from the Committee on Rules and Executive Nominations, reported the following nominations made by His Excellency, the Governor of the Commonwealth, which were read by the Clerk as follows:

**MEMBER OF THE CHILDREN'S
TRUST FUND BOARD**

August 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, Elan W. Lewis, 150 McEvoy Road, Fenelton 16034, Butler County, Twenty-first Senatorial District, for appointment as a member of the Children's Trust Fund Board, to serve for a term of three years, and until her successor is appointed and qualified, vice Carmen A. Anderson, Pittsburgh, whose term expired.

THOMAS J. RIDGE
Governor

**MEMBER OF THE STATE
CONSERVATION COMMISSION**

November 8, 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, David W. Trimpey, R. D. 2, Box 83, Pittsfield 16340, Warren County, Twenty-fifth Senatorial District, for reappointment as a member of the State Conservation Commission, to serve until November 7, 2000, and until his successor is appointed and qualified, but not longer than six months beyond that period.

THOMAS J. RIDGE
Governor

**MEMBER OF THE STATE BOARD
OF COSMETOLOGY**

October 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, Harold Cobb, 2917 Schoolhouse Road, Middletown 17057, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the State Board of Cosmetology, to serve for a term of three years and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Antonette J. Grygo, McKeesport, whose term expired.

THOMAS J. RIDGE
Governor

MEMBER OF THE BOARD OF DIRECTORS
OF THE PENNSYLVANIA ECONOMIC
DEVELOPMENT FINANCING AUTHORITY

August 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, Jonathan H. Newman, Esquire, 1079 Baron Drive, Bryn Mawr 19010, Montgomery County, Seventeenth Senatorial District, for appointment as a member of the Board of Directors of the Pennsylvania Economic Development Financing Authority, to serve for a term of four years and until his successor is appointed and qualified, pursuant to Act 58, approved June 27, 1996.

THOMAS J. RIDGE
Governor

MEMBER OF THE HEALTH POLICY BOARD

July 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, Dr. William G. Berger, 608 Woodland Avenue, Grove City 16127, Mercer County, Fiftieth Senatorial District, for appointment as a member of the Health Policy Board, to serve for a term of three years and until his successor is appointed and qualified, vice Robert W. Sorrell, Philadelphia, whose term expired.

THOMAS J. RIDGE
Governor

JUDGE, COURT OF COMMON PLEAS,
WESTMORELAND COUNTY

October 8, 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 J. Ober, Esquire, R. D. #5, Box 331, Greensburg 15601, Westmoreland County, Thirty-ninth Senatorial District, for appointment as Judge of the Court of Common Pleas of Westmoreland County, to serve until the first Monday of January 1998, vice The Honorable Gilfert M. Mihalich, mandatory retirement.

THOMAS J. RIDGE
Governor

JUDGE, COURT OF COMMON PLEAS,
DELAWARE COUNTY

September 18, 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 Proud, Esquire, 26 Rabbit Run, Rose Valley Borough 19086, Delaware County, Ninth Senatorial District, for appointment as Judge of the Court of Common Pleas of Delaware County, to serve until the first Monday of January 1998, vice The Honorable Anthony R. Semeraro, deceased.

THOMAS J. RIDGE
Governor

JUDGE, TRAFFIC COURT OF PHILADELPHIA

October 7, 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, Francis E. Kelly, 8242 Rockwell Avenue, Philadelphia 19111, Philadelphia County, Fourth Senatorial District, for appointment as Judge of the Traffic Court of Philadelphia, to serve until the first Monday of January 1998, vice The Honorable George Twardy, deceased.

THOMAS J. RIDGE
Governor

MEMBER OF THE BOARD OF TRUSTEES
OF LAURELTON CENTER

September 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, William W. Wilkinson, 10 Round Top Road, Williamsport 17701, Lycoming County, Twenty-third Senatorial District, for appointment as a member of the Board of Trustees of Laurelton Center, to serve until the third Tuesday of January 1999, and until his successor is appointed and qualified, vice Alice E. Atwater, State College, whose term expired.

THOMAS J. RIDGE
Governor

PHYSICIAN GENERAL

October 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, Dr. Wanda D. Filer, 510 Aqua Court, York 17403, York County, Twenty-eighth Senatorial District, for appointment as Physician General, to serve at the pleasure of the Governor, pursuant to Act 87, approved July 2, 1996.

THOMAS J. RIDGE
Governor

**MEMBER OF THE STATE BOARD OF EXAMINERS
IN SPEECH-LANGUAGE AND HEARING**

November 4, 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, F. Irene Graybill (Public Member), 48 Eisenhower Boulevard, Duncannon 17020, Perry County, Thirty-first Senatorial District, for appointment as a member of the State Board of Examiners in Speech-Language and Hearing, to serve for a term of three years and until her successor is appointed and qualified, but not longer than six months beyond that period, vice Reverend Joseph H. Irwin, Lock Haven, resigned.

THOMAS J. RIDGE
Governor

NOMINATIONS LAID ON THE TABLE

Senator LOEPER. Mr. President, I request that the nominations just read by the Clerk be laid on the table.

The PRESIDENT pro tempore. The nominations will be laid on the table.

EXECUTIVE NOMINATIONS

EXECUTIVE SESSION

Motion was made by Senator LOEPER,

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.

NOMINATION TAKEN FROM THE TABLE

Senator LOEPER. Mr. President, I ask for unanimous consent to call from the table a certain nomination and ask for its consideration.

The Clerk read the nomination as follows:

JUDGE, TRAFFIC COURT OF PHILADELPHIA

October 7, 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, Francis E. Kelly, 8242 Rockwell Avenue, Philadelphia 19111, Philadelphia County, Fourth Senatorial District, for appointment as Judge of the Traffic Court of Philadelphia, to serve until the first Monday of January 1998, vice The Honorable George Twardy, deceased.

THOMAS J. RIDGE
Governor

On the question,

Will the Senate advise and consent to the nomination?

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

YEAS—49

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

NAYS—0

A constitutional two-thirds majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Governor be informed accordingly.

NOMINATIONS TAKEN FROM THE TABLE

Senator LOEPER. Mr. President, I ask for unanimous consent to call from the table certain nominations and ask for their consideration.

The Clerk read the nominations as follows:

**MEMBER OF THE CHILDREN'S
TRUST FUND BOARD**

August 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, Elan W. Lewis, 150 McEvoy Road, Fenelton 16034, Butler County, Twenty-first Senatorial District, for appointment as a member of the Children's Trust Fund Board, to serve for a term of three years, and until her successor is appointed and qualified, vice Carmen A. Anderson, Pittsburgh, whose term expired.

THOMAS J. RIDGE
Governor

**MEMBER OF THE STATE
CONSERVATION COMMISSION**

November 8, 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, David W. Trimpey, R. D. 2, Box 83, Pittsfield 16340, Warren County, Twenty-fifth Senatorial District, for reappointment as a member of the State Conservation Commission, to serve until November 7, 2000, and until his successor is appointed and qualified, but not longer than six months beyond that period.

THOMAS J. RIDGE
Governor

MEMBER OF THE STATE BOARD OF COSMETOLOGY

October 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, Harold Cobb, 2917 Schoolhouse Road, Middletown 17057, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the State Board of Cosmetology, to serve for a term of three years and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Antonette J. Grygo, McKeesport, whose term expired.

THOMAS J. RIDGE Governor

MEMBER OF THE BOARD OF DIRECTORS OF THE PENNSYLVANIA ECONOMIC DEVELOPMENT FINANCING AUTHORITY

August 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, Jonathan H. Newman, Esquire, 1079 Baron Drive, Bryn Mawr 19010, Montgomery County, Seventeenth Senatorial District, for appointment as a member of the Board of Directors of the Pennsylvania Economic Development Financing Authority, to serve for a term of four years and until his successor is appointed and qualified, pursuant to Act 58, approved June 27, 1996.

THOMAS J. RIDGE Governor

MEMBER OF THE HEALTH POLICY BOARD

July 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, Dr. William G. Berger, 608 Woodland Avenue, Grove City 16127, Mercer County, Fiftieth Senatorial District, for appointment as a member of the Health Policy Board, to serve for a term of three years and until his successor is appointed and qualified, vice Robert W. Sorrell, Philadelphia, whose term expired.

THOMAS J. RIDGE Governor

MEMBER OF THE BOARD OF TRUSTEES OF LAURELTON CENTER

September 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, William W. Wilkinson, 10 Round Top Road, Williamsport 17701, Lycoming County, Twenty-third Senatorial District, for appointment as a member of the Board of Trustees of Laurelton Center, to serve until the third Tuesday of

January 1999, and until his successor is appointed and qualified, vice Alice E. Atwater, State College, whose term expired.

THOMAS J. RIDGE Governor

PHYSICIAN GENERAL

October 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, Dr. Wanda D. Filer, 510 Aqua Court, York 17403, York County, Twenty-eighth Senatorial District, for appointment as Physician General, to serve at the pleasure of the Governor, pursuant to Act 87, approved July 2, 1996.

THOMAS J. RIDGE Governor

MEMBER OF THE STATE BOARD OF EXAMINERS IN SPEECH-LANGUAGE AND HEARING

November 4, 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, F. Irene Graybill (Public Member), 48 Eisenhower Boulevard, Duncannon 17020, Perry County, Thirty-first Senatorial District, for appointment as a member of the State Board of Examiners in Speech-Language and Hearing, to serve for a term of three years and until her successor is appointed and qualified, but not longer than six months beyond that period, vice Reverend Joseph H. Irwin, Lock Haven, resigned.

THOMAS J. RIDGE Governor

On the question,

Will the Senate advise and consent to the nominations?

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

YEAS—49

Afflerbach	Greenleaf	Madigan	Shaffer
Andrezeski	Hart	Mellow	Stapleton
Armstrong	Heckler	Mowery	Stewart
Belan	Helfrick	Musto	Stout
Bell	Holl	O'Pake	Tartaglione
Bodack	Hughes	Peterson	Thompson
Brightbill	Jubelirer	Piccola	Tilghman
Corman	Kasunic	Porterfield	Tomlinson
Costa	Kitchen	Punt	Uliana
Delp	LaValle	Rhoades	Wagner
Fisher	Lemmond	Robbins	Wenger
Fumo	Loeper	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 Governor be informed accordingly.

EXECUTIVE SESSION RISES

Senator LOEPER. Mr. President, I move that the Executive Session do now rise.

The motion was agreed to.

**UNFINISHED BUSINESS
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 Mr. and Mrs. John Zellner and to Mr. and Mrs. Louis Schrenko by Senator Afflerbach.

Congratulations of the Senate were extended to Charlie Farrell by Senator Afflerbach and others.

Congratulations of the Senate were extended to Mr. and Mrs. John E. Mohler, Mr. and Mrs. Vincent Luta and to David Michael Weiss by Senator Armstrong.

Congratulations of the Senate were extended to the Knights of Columbus, Philadelphia Council No. 196, by Senator Furno.

Congratulations of the Senate were extended to Philip Anthony Tinari by Senator Greenleaf.

Congratulations of the Senate were extended to Mr. and Mrs. Thomas A. Abraham, Mr. and Mrs. Walter J. Bily, Mr. and Mrs. Stanley Stock, Mr. and Mrs. Glenn McCurdy, Mr. and Mrs. Alton Claypool, Mr. and Mrs. Alex Olszewski, Mr. and Mrs. Bernard Clover, Mr. and Mrs. Robert A. Heid and to Trevor Andrew Selling by Senator Hart.

Congratulations of the Senate were extended to Matthew J. Weldon, Timothy A. Davenport and to Andrew Carlyle Kane by Senator Heckler.

Congratulations of the Senate were extended to Mr. and Mrs. Benjamin C. Weaver, Mr. and Mrs. Fred B. Switzer, Mr. and Mrs. Jacob Janney, Mr. and Mrs. Charles C. Starr and to Anna Ladika by Senator Helfrick.

Congratulations of the Senate were extended to Mr. and Mrs. Glenn W. Reininger, Mr. and Mrs. John F. Klisiewicz, Mr. and Mrs. John Miller, Mr. and Mrs. Harry Christine, Mr. and Mrs. Dennis O. Shaffer and to Miranda Kay Gresko by Senator Jubelirer.

Congratulations of the Senate were extended to Mr. and Mrs. J. Harvey Snyder, Mr. and Mrs. Silas Parks, Reverend and Mrs. Edward D. Graboski, Mr. and Mrs. W. Wendle Taggart and to Mr. and Mrs. Kenneth L. Knecht by Senator Madigan.

Congratulations of the Senate were extended to Dr. Joseph M. Gnall by Senator Mellow.

Congratulations of the Senate were extended to Joshua Theuret, Eric Walters and to Jared McFetridge by Senator Peterson.

Congratulations of the Senate were extended to Betty Piccola Smith and to Lillian Hessler by Senator Piccola.

Congratulations of the Senate were extended to Paul R. Kopczynski by Senator Schwartz.

Congratulations of the Senate were extended to Mr. and Mrs. Stanley Soberl, Mr. and Mrs. Edward Kurek, Mr. and

Mrs. William J. White, Mr. and Mrs. Roy Mantia, Reverend and Mrs. Roy R. Wilson and to Mr. and Mrs. Howard Ferrell by Senator Stout.

Congratulations of the Senate were extended to Mr. and Mrs. Marshall Baugh, Rabbi Mordechai Liebling and to Benigno Moreno by Senator Tartaglione.

Congratulations of the Senate were extended to West Chester State University by Senators Thompson and Loeper.

Congratulations of the Senate were extended to Sarah Doherty Patterson by Senator Wagner.

Congratulations of the Senate were extended to Edwin Stricker by Senator Wenger.

POSTHUMOUS CITATIONS

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

A posthumous citation honoring the late Edward P. Kanai, Sr., was extended to the family by Senator Costa.

A posthumous citation honoring the late Bishop Charles K. Krause was extended to the family by Senator Kasunic.

A posthumous citation honoring the late Reverend William Provance was extended to the family by Senator Kasunic.

BILL ON FIRST CONSIDERATION

Senator HART. Mr. President, I move that the Senate do now proceed to consideration of the bill reported from committee for the first time at today's Session.

The motion was agreed to.

The bill was as follows:

HB 2046.

And said bill having been considered for the first time, Ordered, To be printed on the Calendar for second consideration.

HOUSE MESSAGES**SENATE BILLS RETURNED WITH AMENDMENTS**

The Clerk of the House of Representatives returned to the Senate **SB 31**, **SB 809** and **SB 1234**, with the information the House has passed the same with amendments in which the concurrence of the Senate is requested.

The PRESIDENT pro tempore. Pursuant to Senate Rule XIV, section 5, these bills will be referred to the Committee on Rules and Executive Nominations.

HOUSE BILLS FOR CONCURRENCE

The Clerk of the House of Representatives presented to the Senate the following bills for concurrence, which were referred to the committees indicated:

November 20, 1996

HB 2603 -- Committee on Judiciary.

HB 2610 and **2887** -- Committee on Local Government.

HB 2702 -- Committee on Agriculture and Rural Affairs.

HB 2703 -- Committee on Labor and Industry.

HB 2905 -- Committee on Game and Fisheries.

RECESS

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

Senator LOEPER. Mr. President, once again, for the information of the Members, I am going to make a request that the Senate do now stand in recess to the call of the President pro tempore, with the understanding that there will be no additional votes prior to 1 p.m. on Monday. At this time, Mr. President, I would make a formal request that the Senate stand in recess to the call of the President pro tempore.

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Cambria, Senator Stewart.

Senator STEWART. Mr. President, am I to understand there will be no votes between now and Monday?

Senator LOEPER. Mr. President, there will be no more votes taken between now and Monday at 1 o'clock. That is correct.

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

The PRESIDENT pro tempore. The Senate stands in recess to the call of the President pro tempore.

AFTER RECESS

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

SPECIAL ORDER OF BUSINESS ANNOUNCEMENT BY THE SECRETARY

The SECRETARY. Consent has been given for the Committee on Labor and Industry to meet during today's Session to consider House Bill No. 2703 and House Bill No. 2873.

RECESS

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

Senator LOEPER. Mr. President, I request a recess of the Senate at this time for the purpose of a meeting of the Committee on Labor and Industry to take place immediately in the Rules room at the rear of the Senate Chamber.

The PRESIDENT pro tempore. Senator Loeper requests that the Senate stand in recess for the purpose of a meeting of the Committee on Labor and Industry to take place immediately in the Rules room to the rear of the Senate Chamber, and for that purpose, the Senate will stand in recess.

AFTER RECESS

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

REPORTS FROM COMMITTEE

Senator ARMSTRONG, from the Committee on Labor and Industry, reported the following bills:

HB 2703 (Pr. No. 4285)

An Act amending the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment Compensation Law, further providing for definitions, for determination of contribution rates and for employer reserve accounts.

HB 2873 (Pr. No. 4291) (Amended)

An Act amending the act of January 17, 1968 (P.L.11, No.5), known as The Minimum Wage Act of 1968, further providing for the minimum wage of certain employees.

BILLS ON FIRST CONSIDERATION

Senator LOEPER. 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:

HB 2703 and HB 2873.

And said bills having been considered for the first time,
Ordered, To be printed on the Calendar for second consideration.

SB 1098 RECOMMENDED

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

Senator LOEPER. Mr. President, I request that we recommit to the Committee on Rules and Executive Nominations Senate Bill No. 1098, which was reported earlier from committee today. However, there is need for a technical amendment, and I would request that it be recommitted to the Committee on Rules and Executive Nominations.

The PRESIDENT pro tempore. Senator Loeper moves that Senate Bill No. 1098 be recommitted to the Committee on Rules and Executive Nominations.

On the question,
Will the Senate agree to the motion?
The motion was agreed to.

The PRESIDENT pro tempore. The bill is recommitted.

HOUSE MESSAGES

HOUSE CONCURS IN SENATE BILL

The Clerk of the House of Representatives returned to the Senate **SB 388**, with the information the House has passed the same without amendments.

SENATE BILL RETURNED WITH AMENDMENTS

The Clerk of the House of Representatives returned to the Senate **SB 2**, with the information the House has passed the same with amendments in which the concurrence of the Senate is requested.

The PRESIDENT pro tempore. Pursuant to Senate Rule XIV, section 5, this bill will be referred to the Committee on Rules and Executive Nominations.

**HOUSE CONCURS IN SENATE AMENDMENTS
TO HOUSE BILL**

The Clerk of the House of Representatives informed the Senate that the House has concurred in amendments made by the Senate to **HB 2210**.

BILLS SIGNED

The **PRESIDENT** pro tempore (Robert C. Jubelirer) in the presence of the Senate signed the following bills:

SB 388, HB 1782, HB 2210, HB 2511 and HB 2630.

ADJOURNMENT

Senator **LOEPER**. Mr. President, I move that the Senate do now adjourn until Monday, November 25, 1996, at 2:15 p.m., Eastern Standard Time.

The motion was agreed to.

The Senate adjourned at 11:59 p.m., Eastern Standard Time.