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WEDNESDAY DECEMBER 5, 2001

SESSION OF 2001 185TH OF THE GENERAL ASSEMBLY

No. 61

SENATE

WEDNESDAY December 5, 2001

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

The PRESIDENT (Lieutenant Governor Robert C. Jubelirer) in the Chair.

PRAYER

The Chaplain, Reverend LOU MANCARI, of Blessed Hope Church, Liverpool, offered the following prayer:

May we please bow our heads and hearts together in an attitude of prayer and a few moments of reflection.

Our sovereign and gracious God and sustaining loving Father, deliver us from any vain use of Thy name. Forgive us of our sins, both personal and corporate in nature. Usher us into Thy presence in spirit and in truth. We plead Your blessing upon our country, our President, our national leaders, our Governor, judges, and our men and women in armed services, especially those who are even now in harm's way upon foreign soil.

We also petition Thee on behalf of these men and women who are Your ministers for the good of Thy people of the Commonwealth of Pennsylvania. We are thankful for them and their faithful service to the citizens of our dear State. Protect them and their loved ones from any harm. Shield them from unjust and unkind criticism. Also, grant them strength and grace to receive legitimate scrutiny. As they carry out Your divine work within these stately halls or amongst their local constituents, may You be pleased to endow them with Your heavenly wisdom in full and sufficient measure. When they differ with each other, as they shall, guide them with common sense to seek the common ground for the common good of our Commonwealth.

May we humbly request that You visit their souls with holy and righteous vision for truth and equity. May their minds be enlightened by a broader knowledge and deeper understanding of the law and its purposes, and may Your love and compassion invade their hearts in such a fashion as to blind their eyes to color and deafen their ears to creed.

We pray Thee, dear Lord, heighten our sensitivities to those whom You, Lord Jesus, have called the least of these, our fellow citizens who are most in need of our common relief and care.

And finally, may You be pleased to quicken and revive each of our spirits to always and everywhere acknowledge our desperate need of and dependence upon You, O God, our Creator, our provider, and our only Savior. You alone are worthy, for Thine is the kingdom, and the power, and the glory forever and ever. Amen.

The PRESIDENT. The Chair thanks Reverend Mancari, who is the guest today of Senator Corman.

JOURNAL APPROVED

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of December 4, 2001.

The Clerk proceeded to read the Journal of the preceding Session, when, on motion of Senator BRIGHTBILL, and agreed to by voice vote, further reading was dispensed with and the Journal was approved.

HOUSE MESSAGE

SENATE BILL RETURNED WITH AMENDMENTS

The Clerk of the House of Representatives returned to the Senate SB 1109, 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, this bill will be referred to the Committee on Rules and Executive Nominations.

APPOINTMENT BY THE MINORITY LEADER

The PRESIDENT. The Chair wishes to announce the Minority Leader has made the following appointment:

Mr. James P. Cappucci as a member of the State Agricultural Land Preservation Board.

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

The SECRETARY. Consent has been given for the Committee on Rules and Executive Nominations to meet during today's Session to consider Senate Bill No. 372, and certain nominations.

REPORTS FROM COMMITTEES

Senator MOWERY, from the Committee on Public Health and Welfare, reported the following bill:

SB 955 (Pr. No. 1584) (Amended)

An Act providing for vaccination against meningococcal disease for students at institutions of higher education and for duties of the Department of Health.

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

SB 1200 (Pr. No. 1531) (Rereported)

An Act requiring publication of notice of the establishment of Congressional districts following the Federal decennial census.

LEGISLATIVE LEAVES

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

Senator BRIGHTBILL. Mr. President, I ask for legislative leaves for Senator Armstrong and Senator Bell, and a temporary Capitol leave for Senator Helfrick.

The PRESIDENT. Senator Brightbill requests legislative leaves for Senator Armstrong and Senator Bell, and a temporary Capitol leave for Senator Helfrick. Without objection, those leaves will be granted.

CALENDAR

SB 1169 CALLED UP OUT OF ORDER

SB 1169 (Pr. No. 1581) — Without objection, the bill was called up out of order, from page 4 of the Third Consideration Calendar, by Senator BRIGHTBILL, as a Special Order of Business.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 1169 (Pr. No. 1581) — The Senate proceeded to consideration of the bill, entitled:

An Act authorizing the Department of General Services, with the approval of the Governor, to grant and convey to Indiana County, certain lands situate in the Borough of Indiana, Indiana County; and to grant and convey to Collier Development Company, Inc., certain land situate in Collier Township, Allegheny County.

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:

YEA-50

Armstrong	Greenleaf	Mowery	Tartaglione
Bell	Helfrick	Murphy	Thompson
Bodack	Holl	Musto	Tomlinson
Boscola	Hughes	O'Pake	Wagner
Brightbill	Jubelirer	Orie	Waugh
Conti	Kasunic	Piccola	Wenger
Corman	Kitchen	Punt	White, Donald
Costa	Kukovich	Rhoades	White, Mary Jo
Dent	LaValle	Robbins	Williams, Anthony H.
Earll	Lemmond	Scarnati	Williams, Constance

Erickson	Logan	Schwartz	Wozniak
Fumo	Madigan	Stack	
Gerlach	Mellow	Stout	

NAY-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 present said bill to the House of Representatives for concurrence.

RECESS

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

Senator BRIGHTBILL. Mr. President, at this time I ask for a recess of the Senate, first for a meeting of the Committee on Rules and Executive Nominations, which will be held immediately, after which we would propose a Republican caucus to be held in the Rules room, and we also plan to have a meeting of the Committee on Local Government today, so we do hope to be back here on the floor in probably about an hour.

The PRESIDENT. Senator Mellow, any specific instructions? Do you wish to have a Democratic caucus?

Senator MELLOW. Yes, Mr. President.

The PRESIDENT. For purposes of a meeting of the Committee on Rules and Executive Nominations to meet immediately in the Rules room to the rear of the Senate Chamber, followed by a meeting of the Committee on Local Government, and then a Republican caucus in the Rules room and a Democratic caucus in the Minority Caucus Room, without objection, the Senate will stand in recess.

AFTER RECESS

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

The Chair corrects itself about the meeting of the Local Government Committee and recognizes the Secretary of the Senate for an announcement.

SPECIAL ORDER OF BUSINESS ANNOUNCEMENTS BY THE SECRETARY

The SECRETARY. Consent has been given for the Committee on Local Government to meet imminently in the Rules room to consider House Bill No. 1944.

RECESS

The PRESIDENT. Now that the permission has been given, there will be a meeting of the Committee on Local Government immediately after the meeting of the Committee on Rules and Executive Nominations in the Rules room, followed by the respective caucuses. Without objection, the Senate will stand in recess.

AFTER RECESS

The PRESIDING OFFICER (Senator M. J. White) in the Chair.

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

REPORT FROM COMMITTEE

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

SB 372 (Pr. No. 1578) (Rereported) (Concurrence)

An Act repealing, in part, a limitation on the complement of the Pennsylvania State Police.

LEGISLATIVE LEAVES

The PRESIDING OFFICER. The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Madam President, I ask for temporary Capitol leaves for Senator Murphy and Senator Jubelirer.

The PRESIDING OFFICER. Senator Brightbill requests temporary Capitol leaves for Senator Murphy and Senator Jubelirer. Without objection, those leaves are granted.

The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Madam President, I request temporary Capitol leaves for Senator Kukovich, Senator Musto, and Senator Schwartz.

The PRESIDING OFFICER. Senator Mellow requests temporary Capitol leaves for Senator Musto, Senator Schwartz, and Senator Kukovich. Without objection, those leaves are granted.

CONSIDERATION OF CALENDAR RESUMED

THIRD CONSIDERATION CALENDAR

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

SB 1213 (Pr. No. 1569) -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for the capital budget for the fiscal year 2001-2002, itemizing public improvement projects, furniture and equipment projects, transportation assistance projects, redevelopment assistance capital projects, flood control projects, Keystone Recreation, Park and Conservation Fund projects, Environmental Stewardship Fund projects, Pennsylvania Fish and Boat Commission projects, Motor License Fund projects and Manufacturer's Fund projects to be constructed or acquired or assisted by the Department of General Services, the Department of Community and Economic Development, the Department of Conservation and Natural Resources, the Department of Environmental Protection, the Pennsylvania Fish and Boat Commission and the Department of Transportation, together with their estimated financial costs; authorizing the incurring of debt without the approval of the electors for the purpose of financing the projects to be constructed or acquired or assisted by the Department of General Services, the Department of Community and Economic Development, the Department of Conservation and Natural Resources, the Department of Environmental Protection, the Department of Transportation or the Pennsylvania Fish and Boat Commission; stating the estimated useful life of the projects; making appropriations; and making repeals.

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:

YEA-50

Table with 4 columns of names: Armstrong, Bell, Bodack, Boscola, Brightbill, Conti, Corman, Costa, Dent, Earll, Erickson, Fumo, Gerlach, Greenleaf, Helfrick, Holl, Hughes, Jubelirer, Kasunic, Kitchen, Kukovich, LaValle, Lemmond, Logan, Madigan, Mellow, Mowery, Murphy, Musto, O'Pake, Orie, Piccola, Punt, Rhoades, Robbins, Scarnati, Schwartz, Stack, Stout, Tartaglione, Thompson, Tomlinson, Wagner, Waugh, Wenger, White, Donald, White, Mary Jo, Williams, Anthony H., Williams, Constance, Wozniak

NAY-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 present said bill to the House of Representatives for concurrence.

HB 1633 (Pr. No. 3001) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, further defining "occupational disease."

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:

YEA-50

Table with 4 columns of names: Armstrong, Bell, Bodack, Boscola, Brightbill, Conti, Corman, Costa, Dent, Earll, Erickson, Greenleaf, Helfrick, Holl, Hughes, Jubelirer, Kasunic, Kitchen, Kukovich, LaValle, Lemmond, Logan, Mowery, Murphy, Musto, O'Pake, Orie, Piccola, Punt, Rhoades, Robbins, Scarnati, Schwartz, Tartaglione, Thompson, Tomlinson, Wagner, Waugh, Wenger, White, Donald, White, Mary Jo, Williams, Anthony H., Williams, Constance, Wozniak

Fumo	Madigan	Stack
Gerlach	Mellow	Stout

NAY-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 OVER IN ORDER

HB 212 – Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 238 (Pr. No. 1579) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, adding definitions; further providing for suspension of operating privileges, for licensing of drivers, for driver's license violations, for chemical tests, for ignition interlock systems, for meeting or overtaking a school bus, for handicapped parking, for speed limits, for restriction on alcoholic beverages or controlled substances, for probationary license, for slow moving vehicle emblem, for traffic on the Pennsylvania Turnpike and for subsequent convictions of certain offenses; increasing certain penalties; and making repeals.

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 PRESIDING OFFICER. The Chair recognizes the gentleman from Bucks, Senator Tomlinson.

SPECIAL ORDER OF BUSINESS
GUEST OF SENATOR ROBERT M. TOMLINSON
PRESENTED TO THE SENATE

Senator TOMLINSON. Madam President, before we vote on Senate Bill No. 238, I want to thank my colleagues for their support and ask for their continued support on final passage.

Madam President, I would like to introduce a guest who has come to Harrisburg to witness the passage of this bill, and I ask that Judy Shreck, who is in the gallery today, please stand and be recognized by the Senate.

Judy is the mother of Mark Shreck, who was killed in a traffic accident on October 7, 1999, outside his local high school, Truman High School in Bristol Township. He was struck down by a truck driven by a woman who had her license suspended until the year 2024 and was under 40 violations. She was so out of control on alcohol and crack cocaine that her vehicle left the road

and struck and killed Mark and injured another young man who was outside the school and actually off the highway, where the truck had left the highway. Judy has been a great supporter of trying to toughen the Vehicle Code for drunk drivers and people who are driving under suspension and she has been a great moving force. In the memory of her son, Mark, she has helped us draft this legislation.

What we have done here is taken people who are repeat drunk driving offenders, people who are driving under suspension who have gotten nothing but a day before a district justice or traffic court and have gotten a slap on the wrist. What we have done now is toughened the penalties so that if you get caught driving under intoxication or driving under suspension and you have a blood alcohol of .02, that now for a second offense you will get 6 months in jail and a \$2,000 fine, and if that is not enough, the third time you will get 2 years in jail and a \$5,000 fine.

The accident that happened on October 7 did not have to happen and really was not an accident, it was a crime. What we are trying to do with this legislation, by toughening the Vehicle Code, is to prevent these things from happening, to get people who are habitual offenders and are drinking and driving and who have cross-addictions and other drugs in their bodies off the highways and show them we are serious about saving lives, saving lives of young people like Mark Shreck.

So, I would ask the Senate, before we take the vote on this, and I ask for your support on this bill, to recognize Judy Shreck, who has traveled from Levittown in Bristol Township to watch the passage of this bill.

Thank you, Madam President.

The PRESIDING OFFICER. We would like to welcome Senator Tomlinson's guest to the Senate. If his guest would please stand so we can give you our usual warm welcome.

(Applause.)

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:

YEA-48

Armstrong	Greenleaf	Mellow	Stack
Bell	Helfrick	Mowery	Stout
Bodack	Holl	Murphy	Tartaglione
Boscola	Hughes	Musto	Thompson
Brightbill	Jubelirer	O'Pake	Tomlinson
Conti	Kasunic	Orie	Wagner
Corman	Kitchen	Piccola	Waugh
Costa	Kukovich	Punt	Wenger
Dent	LaValle	Rhoades	White, Donald
Erickson	Lemmond	Robbins	Williams, Anthony H.
Fumo	Logan	Scarnati	Williams, Constance
Gerlach	Madigan	Schwartz	Wozniak

NAY-2

Earl White, Mary Jo

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

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

LEGISLATIVE LEAVE CANCELLED

The PRESIDING OFFICER. Senator Armstrong has returned, and his temporary Capitol leave will be cancelled.

LEGISLATIVE LEAVE

The PRESIDING OFFICER. The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Mr. President, I request a temporary Capitol leave for Senator Lemmond.

The PRESIDING OFFICER. Without objection, Senator Lemmond will be placed on temporary Capitol leave.

CONSIDERATION OF CALENDAR RESUMED

THIRD CONSIDERATION CALENDAR RESUMED

BILLS OVER IN ORDER

SB 391, SB 413, SB 415, HB 437 and HB 846 — Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

BILL AMENDED

SB 985 (Pr. No. 1196) — 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 expenses of elected county officers attending the annual meetings of their associations and for other meeting expenses paid by the counties.

On the question,

Will the Senate agree to the bill on third consideration?

Senator MELLOW, on behalf of Senator KASUNIC, offered the following amendment No. A4579:

Amend Title, page 1, line 9, by inserting after "for": classification of counties, for

Amend Bill, page 1, lines 14 through 16, by striking out all of said lines and inserting:

Section 1. Section 210 of the act of August 9, 1955 (P.L.323, No.130), known as The County Code, amended February 5, 1982 (P.L.7, No.3), is amended to read:

Section 210. Counties Divided Into Nine Classes.—For the purposes of legislation and the regulation of their affairs, counties of this Commonwealth, now in existence and those hereafter created, shall be divided into nine classes as follows:

(1) First Class Counties, those having a population of 1,500,000 inhabitants and over.

(2) Second Class Counties, those having a population of 800,000 and more but less than 1,500,000 inhabitants.

(2.1) Second Class A Counties, those having a population of 500,000 and more but less than 800,000 inhabitants.

(3) Third Class Counties, those having a population of [225,000] 210,000 and more but less than 500,000 inhabitants.

(4) Fourth Class Counties, those having a population of 150,000 and more but less than [225,000] 210,000 inhabitants.

(5) Fifth Class Counties, those having a population of 95,000 and more but less than 150,000 inhabitants.

(6) Sixth Class Counties, those having a population of 45,000 and more but less than 95,000 inhabitants and those having a population of 35,000 and more but less than 45,000 inhabitants which by ordinance or resolution of the Board of County Commissioners elect to be a county of the sixth class.

(7) Seventh Class Counties, those having a population of 20,000 or more but less than 45,000 inhabitants and those having a population of 35,000 and more but less than 45,000 inhabitants which have not elected to be a county of the sixth class.

(8) Eighth Class Counties, those having a population of less than 20,000 inhabitants.

Section 2. Section 443 of the act, amended November 23, 1994 (P.L.640, No.98), is amended to read:

Amend Sec. 2, page 3, line 10, by striking out "2" and inserting: 3
Amend Bill, page 4, by inserting between lines 6 and 7

Section 4. Any county whose classification upon enactment of this amendatory statute would be advanced from its classification during the preceding decade as a result of the enactment of this amendatory statute shall retain the classification of the county existing during the preceding decade unless the Board of County Commissioners of the county elects by ordinance or resolution to advance its classification.

Amend Sec. 3, page 4, line 7, by striking out "3" and inserting: 5

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 MELLOW, on behalf of Senator KASUNIC, offered the following amendment No. A4019:

Amend Title, page 1, line 9, by inserting after "for": classification of counties, for

Amend Bill, page 1, lines 14 through 16, by striking out all of said lines and inserting:

Section 1. Section 210 of the act of August 9, 1955 (P.L.323, No.130), known as The County Code, amended February 5, 1982 (P.L.7, No.3), is amended to read:

Section 210. Counties Divided Into Nine Classes.—For the purposes of legislation and the regulation of their affairs, counties of this Commonwealth, now in existence and those hereafter created, shall be divided into nine classes as follows:

(1) First Class Counties, those having a population of 1,500,000 inhabitants and over.

(2) Second Class Counties, those having a population of 800,000 and more but less than 1,500,000 inhabitants.

(2.1) Second Class A Counties, those having a population of 500,000 and more but less than 800,000 inhabitants.

(3) Third Class Counties, those having a population of 225,000 and more but less than 500,000 inhabitants.

(4) Fourth Class Counties, those having a population of [150,000] 145,000 and more but less than 225,000 inhabitants.

(5) Fifth Class Counties, those having a population of 95,000 and more but less than [150,000] 145,000 inhabitants.

(6) Sixth Class Counties, those having a population of 45,000 and more but less than 95,000 inhabitants and those having a population of 35,000 and more but less than 45,000 inhabitants which by ordinance or resolution of the Board of County Commissioners elect to be a county of the sixth class.

(7) Seventh Class Counties, those having a population of 20,000 or more but less than 45,000 inhabitants and those having a population of 35,000 and more but less than 45,000 inhabitants which have not elected to be a county of the sixth class.

(8) Eighth Class Counties, those having a population of less than 20,000 inhabitants.

Section 2. Section 443 of the act, amended November 23, 1994 (P.L.640, No.98), is amended to read:

Amend Sec. 2, page 3, line 10, by striking out "2" and inserting: 3
Amend Sec. 3, page 4, line 7, by striking out "3" and inserting: 4

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 BRIGHTBILL.

**BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE**

SB 1000 (Pr. No. 1580) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for the offenses of terrorism, soliciting or providing support for an act of terrorism and hindering prosecution for an act of terrorism; establishing a civil action to recover damages caused by terrorism; and providing for penalties.

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:

YEA-50

Armstrong	Greenleaf	Mowery	Tartaglione
Bell	Helfrick	Murphy	Thompson
Bodack	Holl	Musto	Tomlinson
Boscola	Hughes	O'Pake	Wagner
Brightbill	Jubelirer	Orie	Waugh
Conti	Kasunic	Piccola	Wenger
Corman	Kitchen	Punt	White, Donald
Costa	Kukovich	Rhoades	White, Mary Jo
Dent	LaValle	Robbins	Williams, Anthony H.
Earl	Lemmond	Scarnati	Williams, Constance
Erickson	Logan	Schwartz	Wozniak
Fumo	Madigan	Stack	
Gerlach	Mellow	Stout	

NAY-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 present said bill to the House of Representatives for concurrence.

BILLS OVER IN ORDER

SB 1017, SB 1074 and SB 1177 -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

**BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE**

SB 1215 (Pr. No. 1582) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, further providing for parking authority purposes and powers, bonds and facility transfers and for municipal authority definitions, method of incorporation, school district projects, purposes and powers, bonds, bondholders, governing bodies, contracting, property, termination and conveyances; and providing for continuation in office.

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:

YEA-50

Armstrong	Greenleaf	Mowery	Tartaglione
Bell	Helfrick	Murphy	Thompson
Bodack	Holl	Musto	Tomlinson
Boscola	Hughes	O'Pake	Wagner
Brightbill	Jubelirer	Orie	Waugh
Conti	Kasunic	Piccola	Wenger
Corman	Kitchen	Punt	White, Donald
Costa	Kukovich	Rhoades	White, Mary Jo
Dent	LaValle	Robbins	Williams, Anthony H.
Earl	Lemmond	Scarnati	Williams, Constance
Erickson	Logan	Schwartz	Wozniak
Fumo	Madigan	Stack	
Gerlach	Mellow	Stout	

NAY-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 present said bill to the House of Representatives for concurrence.

BILL OVER IN ORDER

HB 1408 -- Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

SECOND CONSIDERATION CALENDAR

**BILLS REREPORTED FROM COMMITTEE
AS AMENDED ON SECOND CONSIDERATION**

SB 369 (Pr. No. 1567) -- 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, authorizing police officers to record certain oral communications; and further providing for windshield obstructions and wipers.

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

HB 454 (Pr. No. 2967) -- The Senate proceeded to consideration of the bill, entitled:

An Act requiring the Department of Health to establish bloodborne pathogen standards for public employees.

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

SB 1106 (Pr. No. 1568) -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for a monument in honor of United Airlines Flight 93 victims; conferring powers and imposing duties on the Department of General Services; establishing the Flight 93 Victims Memorial Fund; and providing for solicitation of contributions.

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

BILLS OVER IN ORDER

SB 460 and SB 462 -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

BILL REREFERRED

HB 476 (Pr. No. 2189) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of August 6, 1941 (P.L.861, No.323), referred to as the Pennsylvania Board of Probation and Parole Law, further providing for membership of an advisory committee.

Upon motion of Senator BRIGHTBILL, and agreed to by voice vote, the bill was rereferred to the Committee on Appropriations.

BILLS OVER IN ORDER

SB 587 and SB 656 -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

BILL REREFERRED

SB 804 (Pr. No. 899) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade Practices and Consumer Protection Law, providing for protection for public sales.

Upon motion of Senator BRIGHTBILL, and agreed to by voice vote, the bill was rereferred to the Committee on Appropriations.

BILL ON SECOND CONSIDERATION

SB 965 (Pr. No. 1538) -- The Senate proceeded to consideration of the bill, entitled:

An Act relating to the implementation of plans for redistricting the General Assembly.

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

BILL OVER IN ORDER

SB 1001 -- Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

BILLS ON SECOND CONSIDERATION

SB 1011 (Pr. No. 1258) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of October 10, 1975 (P.L.383, No.110), known as the Physical Therapy Practice Act, adding a definition of "mobilization/manual therapy."

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

SB 1012 (Pr. No. 1259) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 16, 1986 (P.L.1646, No.188), known as the Chiropractic Practice Act, adding a definition of "manipulation/adjustment."

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

BILL OVER IN ORDER

SB 1075 -- Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

BILL ON SECOND CONSIDERATION

SB 1093 (Pr. No. 1524) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of April 8, 1868 (P.L.73, No.37), entitled, "An act to authorize the recorder of deeds in the several counties of this Commonwealth to record the discharges of all honorably discharged officers and soldiers," further providing for the recording of final discharges and reports of separation and similar forms.

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

BILL OVER IN ORDER

SB 1115 — Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

BILL ON SECOND CONSIDERATION

SB 1204 (Pr. No. 1547) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of May 9, 1949 (P.L.908, No.250), entitled, as amended, "An act relating to public records of political subdivisions other than cities and counties of the first class; authorizing the recording and copying of documents, plats, papers and instruments of writing by photostatic, photographic, microfilm or other mechanical process, and the admissibility thereof and enlargements thereof in evidence; providing for the storage of duplicates and sale of microfilm copies of official records and for the destruction of other records deemed valueless; and providing for the services of the Pennsylvania Historical and Museum Commission to political subdivisions," further providing for methods for the copying of certain records.

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

BILLS OVER IN ORDER

HB 1333 and HB 1806 — Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

BILL REREFERRED

HB 1830 (Pr. No. 2993) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of November 18, 1968 (P.L.1052, No.322), known as the Sewage Treatment Plant and Waterworks Operators' Certification Act, amending the title; further providing for definitions, for the State Board for Certification of Sewage Treatment Plant and Waterworks, for certification, for professional engineers, for special certificates, for reciprocity, for suspension and revocation, for administrative procedure and judicial review, for fees, for operation of plants, for penalties and enforcement, and for civil relief; establishing the Certification Program Advisory Committee; providing for continuing education and for interim program authorization; and making editorial changes.

Upon motion of Senator BRIGHTBILL, and agreed to by voice vote, the bill was rereferred to the Committee on Appropriations.

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

**BILL ON THIRD CONSIDERATION
 AND FINAL PASSAGE**

SB 985 (Pr. No. 1586) — 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 classification of counties, for expenses of elected county officers attending the annual meetings of their associations and for other meeting expenses paid by the counties.

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:

YEA-50

Armstrong	Greenleaf	Mowery	Tartaglione
Bell	Helfrick	Murphy	Thompson
Bodack	Holl	Musto	Tomlinson
Boscola	Hughes	O'Pake	Wagner
Brightbill	Jubelirer	Orie	Waugh
Conti	Kasunic	Piccola	Wenger
Corman	Kitchen	Punt	White, Donald
Costa	Kukovich	Rhoades	White, Mary Jo
Dent	LaValle	Robbins	Williams, Anthony H.
Earl	Lemmond	Scarnati	Williams, Constance
Erickson	Logan	Schwartz	Wozniak
Fumo	Madigan	Stack	
Gerlach	Mellow	Stout	

NAY-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 present said bill to the House of Representatives for concurrence.

**SPECIAL ORDER OF BUSINESS
 SUPPLEMENTAL CALENDAR No. 2**

SENATE CONCURS IN HOUSE AMENDMENTS

SB 372 (Pr. No. 1578) — The Senate proceeded to consideration of the bill, entitled:

An Act repealing, in part, a limitation on the complement of the Pennsylvania State Police.

On the question,
 Will the Senate concur in the amendments made by the House to Senate Bill No. 372?

Senator BRIGHTBILL. Mr. President, I move that the Senate do concur in the amendments made by the House to Senate Bill No. 372.

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

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

Senator WAGNER. Madam President, I just want to offer some brief remarks regarding Senate Bill No. 372. This is a piece of legislation that has been in front of the Senate now for several months, sponsored by Senator Thompson, which originally, I believe, raised the cap on the State Police, prior to September 11, by 100 officers. Since that time it was amended and the Senate finally passed legislation that had no cap, that in essence lifted the cap or eliminated the cap. This bill left the Senate, went to the House and is now back in front of us, Senate Bill No. 372, with another cap on the State Police, raising the cap, I believe, by 370 State Police officers.

Madam President, I am going to support this legislation. I believe everyone in this Chamber will because there is a need for more State Police officers. However, Madam President, it is bad public policy to set a cap on State Police, and I do not know if anyone in this Chamber or anyone in this building, as a matter of fact, knows the precise number of State Police officers. As a matter of fact, we could probably argue all day what that number could be or should be. And in fact, there should not be a cap, just as we originally passed it. I believe the Governor and the Commissioner of the State Police should have the discretion to know how many officers are needed and to be able to plan accordingly. Madam President, this is a personnel decision. We do not place caps on other departments in State government. For instance, the Department of Corrections, we do not say to them how many security officers they should have. We should not be doing the same for the State Police. And we all know that since September 11, more than 200 State Police officers have been called up to military duty.

In addition to that, Madam President, we all know many State Police officers have been assigned for security purposes at airports across the Commonwealth. In addition to the airports, we know that State Police have been assigned to security at nuclear power plants. On occasion we have had more State Police here at the Capitol building. The number really should not be 370, and I do not know why we are dealing with this legislation in this form today. There was an attempt in the Committee on Rules and Executive Nominations to amend that. Senator Mellow tried to amend it to make sure that there was no cap. That failed by party lines. I still believe very strongly that we should not be placing a cap, and therefore I believe this General Assembly should somehow correct this situation so that we do not have to keep coming back to this issue in the future. If we are going to make sure that this Commonwealth is secure, if we want to give the State Police the power that they want, that they need, to make sure that 12 million people in Pennsylvania are secure, we should not be stating to the State Police that you should have this many officers and this many officers only.

Madam President, I am going to support Senate Bill No. 372, but I hope at some point we come back and correct this problem. Thank you.

THE PRESIDING OFFICER. The Chair recognizes the gentleman from Chester, Senator Thompson.

Senator THOMPSON. Madam President, I, too, urge concurrence with the amendments made by the House in Senate Bill No. 374, and if I had my druthers, I would like to have no cap at all. I also know the practicalities of two things: one, getting legislation passed here in the Commonwealth, and I also know the practicalities of putting 100 or even 400 new State Troopers through the process. By lifting the cap by 400, that basically will take about 3 years to get those individuals trained and out on the street. Our capacity for training is limited by the size of the State Police Academy at Hershey, so that in practicality, we are moving quite well and we have the opportunity for the Governor and for the Commissioner to look at what needs are beyond that period of time.

So while everyone would like to get the perfect piece of legislation, it is not necessarily getting everything everybody wants, but more importantly, getting the necessary votes to pass it. The Governor needs the passage of this legislation. This legislation was offered before September 11, and it is needed even more now. When it was first proposed there was a need because since the cap was raised the last time, there have been 50 new legislative mandates provided by this body to the State Police. Since September 11, we all know the added efforts that the State Police have made in our protection against terrorists and suspected terrorists. We certainly can give the Governor what he has asked for now in this legislation and provide him with a cushion to increase that cap by four times what he had recommended, and at the same time give us the opportunity to look further at the whole problem and work with the administration to see what the ideal number should be. Hopefully, that will not take us 30 years to do it, so I urge concurrence on this legislation.

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

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

YEA-50

Armstrong	Greenleaf	Mowery	Tartaglione
Bell	Helfrick	Murphy	Thompson
Bodack	Holl	Musto	Tomlinson
Boscola	Hughes	O'Pake	Wagner
Brightbill	Jubelirer	Orie	Waugh
Conti	Kasunic	Piccola	Wenger
Corman	Kitchen	Punt	White, Donald
Costa	Kukovich	Rhoades	White, Mary Jo
Dent	LaValle	Robbins	Williams, Anthony H.
Earl	Lemmond	Scarnati	Williams, Constance
Erickson	Logan	Schwartz	Wozniak
Fumo	Madigan	Stack	
Gerlach	Mellow	Stout	

NAY-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 inform the House of Representatives accordingly.

**SPECIAL ORDER OF BUSINESS
SUPPLEMENTAL CALENDAR No. 3**

BILL ON SECOND CONSIDERATION

SB 1200 (Pr. No. 1531) – The Senate proceeded to consideration of the bill, entitled:

An Act requiring publication of notice of the establishment of Congressional districts following the Federal decennial census.

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

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

Senator **ROBBINS**, 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 COMMONWEALTH OF
PENNSYLVANIA COUNCIL ON THE ARTS**

October 5, 2001

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, Carol R. Brown 5029 Amberson Place, Pittsburgh 15232, Allegheny County, Forty-third Senatorial District, for appointment as a member of the Commonwealth of Pennsylvania Council on the Arts, to serve until July 1, 2004, and until her successor is appointed and qualified, vice Elaine Cassalia, Huntingdon Valley, whose term expired.

THOMAS J. RIDGE
Governor

**MEMBER OF THE STATE BOARD
OF BARBER EXAMINERS**

November 8, 2001

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, Gregory Stella, 13 Crescent Road, Plains 18705, Luzerne County, Fourteenth Senatorial District, for appointment as a member of the State Board of Barber Examiners, 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 Robert V. Vavro, Allegheny, whose term expired.

Mark S. Schweiker
Governor

**MEMBER OF THE PENNSYLVANIA CANCER
CONTROL, PREVENTION AND RESEARCH
ADVISORY BOARD**

November 8, 2001

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, Julia A. Bucher, RR # 3 Box 1576, Milton, 17847, Northumberland County, Twenty-seventh Senatorial District, for reappointment as a member of the Pennsylvania Cancer Control, Prevention and Research Advisory Board, to serve for a term of four years and until her successor is appointed and qualified.

Mark S. Schweiker
Governor

**MEMBER OF THE PENNSYLVANIA CANCER
CONTROL, PREVENTION AND RESEARCH
ADVISORY BOARD**

November 8, 2001

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, Diane M. Zilinskas, 302 Giffin Avenue, Pittsburgh 15210, Allegheny County, Forty-third Senatorial District, for reappointment as a member of the Pennsylvania Cancer Control, Prevention and Research Advisory Board, to serve for a term of four years and until her successor is appointed and qualified.

Mark S. Schweiker
Governor

**MEMBER OF THE STATE BOARD
OF CHIROPRACTIC**

October 24, 2001

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, Michael A. Phillips, D.C., 275 Stoney Lane, Northumberland 17857, Northumberland County, Twenty-seventh Senatorial District, for appointment as a member of the State Board of Chiropractic, to serve for a term of four years or until his successor is appointed and qualified, but not longer than six months beyond that period, vice Thomas R. Butler, D.C., Bellefonte, whose term expired.

Mark S. Schweiker
Governor

**MEMBER OF THE STATE BOARD
OF COSMETOLOGY**

November 2, 2001

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, Frank R. Gallo, 735 Wyndrise Drive, Blue Bell 19422, Montgomery County, Twenty-fourth Senatorial District, for appointment as a member of the State Board of Cosmetology, to serve for a term of three years or until his successor is appointed and qualified, but not longer than six months beyond that period, vice Caroline A. Novak, Coatesville, whose term expired.

Mark S. Schweiker
Governor

**MEMBER OF THE STATE BOARD
OF DENTISTRY**

October 24, 2001

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Susan E. Calderbank, D.M.D., 4 Eastwood Drive, Greenville 16125, Mercer County, Fiftieth Senatorial District, for reappointment as a member of the State Board of Dentistry, to serve for a term of six years or until her successor is appointed and qualified, but not longer than six months beyond that period.

Mark S. Schweiker
Governor

SECRETARY OF GENERAL SERVICES

August 7, 2001

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, Kelly Powell Logan, 700 Moores Mountain Road, Mechanicsburg 17055, York County, Thirty-First Senatorial District, for appointment as Secretary of General Services, to serve until the third Tuesday of January 2003 and until her successor is appointed and qualified, vice The Honorable Gary E. Crowell, Camp Hill, resigned.

THOMAS J. RIDGE
Governor

**BRIGADIER GENERAL, PENNSYLVANIA
NATIONAL GUARD**

October 22, 2001

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, Colonel Stanley J. Jaworski, 723 East Maple Street, Annville 17003, Lebanon County, Forty-eighth Senatorial District, for appointment as Brigadier General, with assignment as Chief of Staff, Headquarters, Pennsylvania Air National Guard, to serve until terminated.

Mark S. Schweiker
Governor

**BRIGADIER GENERAL, PENNSYLVANIA
NATIONAL GUARD**

October 22, 2001

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, Colonel Ronald L. Shultz, P.O. Box 37, Cashtown 17310, Adams County, Thirty-third Senatorial District, for appointment as Brigadier General, with assignment as Chief of Staff, Headquarters, Pennsylvania Air National Guard, to serve until terminated.

Mark S. Schweiker
Governor

**MEMBER OF THE STATE BOARD OF EXAMINERS
OF NURSING HOME ADMINISTRATORS**

November 2, 2001

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, A. Sidney Brookes, Jr., (Public Member) 2 Concord Way, Chadds Ford 19317, Chester County, Ninth Senatorial District, for appointment as a member of the State Board of Examiners of Nursing Home Administrators, to serve for a term of four years or until his successor is appointed and qualified, but not longer than six months beyond that period, vice Sara A. Sargent, Johnstown, whose term expired.

Mark S. Schweiker
Governor

**MEMBER OF THE STATE BOARD
OF NURSING**

October 30, 2001

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, Vincent A. Galko, (Public Member) 423 Walnut Street, Apt. 312, Harrisburg 17101, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the State Board of Nursing, to serve for a term of six years or until his successor is appointed and qualified, but not longer than six months beyond that period, vice Ellen J. B. Toker, Allegheny, whose term expired.

Mark S. Schweiker
Governor

**MEMBER OF THE STATE BOARD
OF OPTOMETRY**

November 2, 2001

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, Marc Berson, O.D., M.B.A., 31 South 9th Street, Allentown 18102, Lehigh County, Sixteenth Senatorial District, for appointment as a member of the State Board of Optometry, to serve for a term of four years and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Benson Y. Olenick, O.D., Easton, whose term expired.

Mark S. Schweiker
Governor

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

July 19, 2001

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Richard Hudic (Public Member), 4078 Rawleigh Street, Harrisburg 17109, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the State Registration Board for Professional Engineers, Land Surveyors and Geologist[sic], to serve for a term of six years or until his successor is appointed and qualified, but not longer than six months beyond that period, vice Margo P. Dinniman, Exton, whose term expired.

THOMAS J. RIDGE
Governor

**MEMBER OF THE STATE REAL
ESTATE COMMISSION**

November 14, 2001

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Joseph J. McGettigan, 237 Long Lane, Second Floor, Upper Darby 19082, Delaware County, Twenty-sixth Senatorial District, for reappointment as a member of the State Real Estate Commission, to serve for a term of five years or until his successor is appointed and qualified, but not longer than six months beyond that period.

Mark S. Schweiker
Governor

**MEMBER OF THE STATE
TRANSPORTATION COMMISSION**

September 25, 2001

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, Gene G. Smith, 822 Kocher Drive, Grove City 16127, Mercer County, Fiftieth Senatorial District, for reappointment as a member of the State Transportation Commission, to serve for a term of six years and until his successor is appointed and qualified, but not longer than six months beyond that period.

THOMAS J. RIDGE
Governor

**MEMBER OF THE STATE BOARD OF VEHICLE
MANUFACTURERS, DEALERS AND SALESPERSONS**

October 5, 2001

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Richard Cessar (Public Member), 4251 Chamberton Court, Allison Park 15101, Allegheny County, Fortieth Senatorial District, for reappointment as a member of the State Board of Vehicle Manufacturers, Dealers and Salespersons, to serve for a term of four years and until his successor is appointed and qualified, but not longer than six months beyond that period.

THOMAS J. RIDGE
Governor

**MEMBER OF THE FAYETTE COUNTY
BOARD OF ASSISTANCE**

October 29, 2001

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, Reverend Bernard W. Carl, (Republican), 31 Heritage Hills Road, Uniontown 15401, Fayette County, Thirty-second Senatorial District, for appointment as a member of the Fayette County Board of Assistance, to serve until December 31, 2001, and until his successor is appointed and qualified, vice Maureen Cook Coldren, Dunbar, resigned.

Mark S. Schweiker
Governor

NOMINATIONS LAID ON THE TABLE

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

The PRESIDING OFFICER. The nominations will be laid on the table.

**UNFINISHED BUSINESS
SENATE RESOLUTION ADOPTED**

Senators RHOADES, TOMLINSON, ERICKSON, EARLL, WHITE, HOLL, SCARNATI, JUBELIRER, MOWERY, D. WHITE, THOMPSON and ORIE, by unanimous consent, offered Senate Resolution No. 141, entitled:

A Resolution urging the President and Congress to increase funding for special education programs provided by the states to the level authorized by the Individuals with Disabilities Education Act.

On the question,
Will the Senate adopt the resolution?

The PRESIDING OFFICER. The Chair recognizes the gentleman from Schuylkill, Senator Rhoades.

Senator RHOADES. Madam President, I take the floor today to encourage my colleagues, number one, to sign on to this reso-

lution, and, number two, to join me in sending a message to the United States Congress. I am introducing this resolution attempting to put Congress on notice that Pennsylvania's special education students need the Federal funding that the 1974 Individuals with Disabilities Education Act promised the States.

Madam President, I think we are all aware that providing the costs of special education is one of the most difficult issues facing the General Assembly and the Commonwealth school districts. In recent years, Pennsylvania's appropriations for special education have increased by over 25 percent, and the number of special education instructors has increased by 14 percent, even though the number of special education students has only increased by 1 percent. There are two reasons for this rapid rise in costs: The responsibilities that the Federal IDEA mandates impose, and the Federal government's failure to pay for these costly directives or mandates. And even though the Commonwealth and its school districts must pay 100 percent of the IDEA mandates, the Federal government has provided only 12 percent of the total cost of special education. That is 30 percent of what Pennsylvania would have received if we had realized full Federal funding. Congress is presently undertaking a major rewrite of the Elementary and Secondary Education Act. A Senate-House conference committee on this bill continues to debate the inclusion of additional Federal funds for special education.

This resolution would show how concerned our General Assembly is about the high cost of special education by urging the Federal government to provide the Federal funds that Pennsylvania needs to implement IDEA's Federal mandates. Thanks in part to the leadership and persistence of governors and the State legislature, because we have done this before, Congress is engaging this issue with renewed interest. Now we must add our voices and make a call of the question to Congress. I would also say that anyone who is within hearing distance of my voice can also write to their Congressman or their U.S. Senator and ask them to include this. That is parents, not only special education parents but all parents, all students, all teachers, all school boards, all administrators, all taxpaying citizens, to have the Federal government put up their fair share. Providing students with special needs with the right to a free and appropriate public education is a watershed achievement in the history of public education and one of which we all should be proud. But that right carries responsibilities, responsibilities to fund the services, and programs that make the right a reality. The Senate needs to send this message to Congress, and I ask my colleagues to join me in sending that message to Congress in a very loud and clear manner.

Thank you, Madam President.

And the question recurring,
Will the Senate adopt the resolution?

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

CONGRATULATORY RESOLUTIONS

The PRESIDING OFFICER laid before the Senate the following resolutions, which were read, considered, and adopted by voice vote:

Congratulations of the Senate were extended to Mr. and Mrs. William Helman, Mr. and Mrs. Albert Green, Mr. and Mrs. Har-

old Cisney, Mr. and Mrs. G. Frederick Smith, Mr. and Mrs. John Conroy, Mr. and Mrs. Donald E. Campbell, Mr. and Mrs. G. Allen Eckert and to Mr. and Mrs. Jack Kohr by Senator Armstrong.

Congratulations of the Senate were extended to Christopher Weersing by Senator Bell.

Congratulations of the Senate were extended to Joseph F. Pagats by Senator Boscola.

Congratulations of the Senate were extended to Franis G. Jimenez, Joshua Negron, Jacqueline Torres and to Wanda Velazquez by Senators Boscola and Dent.

Congratulations of the Senate were extended to Wyomissing Junior Senior High School Girls' Cross Country Team, Wyomissing Junior Senior High School Girls' Tennis Team and to the Wilson High School Men's Water Polo Team of West Lawn by Senators Brightbill and O'Pake.

Congratulations of the Senate were extended to the Delaware River Greenway Partnership by Senator Conti.

Congratulations of the Senate were extended to Calvin G. Roberts and to Scott D. Roberts by Senator Gerlach.

Congratulations of the Senate were extended to William E. Kramer and to Elizabeth W. Graf by Senator Holl.

Congratulations of the Senate were extended to Mr. and Mrs. Glenn R. Houck by Senator Jubelirer.

Congratulations of the Senate were extended to the citizens of Hunlock Township by Senator Lemmond.

Congratulations of the Senate were extended to Patrick J. Solano by Senators Lemmond, Musto, and Mellow.

Congratulations of the Senate were extended to Ronald G. Harvey by Senator Logan.

Congratulations of the Senate were extended to Bradlee C. White by Senator Madigan.

Congratulations of the Senate were extended to August J. Piazza by Senator Musto.

Congratulations of the Senate were extended to John Lennon, Tim Goetz, Mike Papp, Chris Brungo, Tony Allis, Bradd Bartos, Tom Parks, Bill Lamb, Mark Farris, Daryl Zobb, Jim Rankin, Gillian Henker, Deborah Hessinger, Crock Hunter, Chris Graham and to St. Bonaventure School of Glenshaw by Senator Orie.

Congratulations of the Senate were extended to Mary R. Bloom by Senator Piccola.

Congratulations of the Senate were extended to Robert M. Udell and to John H. Spangler by Senator Thompson.

Congratulations of the Senate were extended to Sprint PCS by Senator Wagner.

Congratulations of the Senate were extended to Adam Wilson, Augusta S. Petron, Brandy Crumling and to the York County Solid Waste & Refuse Authority by Senator Waugh.

Congratulations of the Senate were extended to Mr. and Mrs. Gordon Rice, Mr. and Mrs. Sherley Gilbert, Mr. and Mrs. Philip Lucas, David R. Jungling, Brian L. Laughlin, Patty L. McCool and to Douglas C. Cariquist by Senator M. J. White.

CONDOLENCE RESOLUTION

The PRESIDING OFFICER laid before the Senate the following resolution, which was read, considered, and adopted by voice vote:

Condolences of the Senate were extended to the family of the late Frank Townsend by Senator Lemmond.

BILL ON FIRST CONSIDERATION

Senator ERICKSON. Madam 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 by voice vote.

The bill was as follows:

SB 955.

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

PETITIONS AND REMONSTRANCES

The PRESIDING OFFICER. The Chair recognizes the gentleman from Dauphin, Senator Piccola.

Senator PICCOLA. Madam President, earlier this Session, and I believe it was in March, this General Assembly created the Joint Select Committee on Election Issues, and that committee has been working very hard over the last 9 or 10 months on various issues facing our election process here in the Commonwealth of Pennsylvania. As a result of one of the interim reports of that Joint Select Committee, the General Assembly adopted Act 61 in June. Under the provisions of Act 61, the Secretary of the Commonwealth was directed to investigate the possibility and the procedure for implementing a statewide database or a statewide registry of registered voters throughout the Commonwealth, and as a part of that process, she was required to assemble an advisory committee made up of representatives of the various counties and other interested parties in order to render recommendations to the General Assembly by October 15 of this year concerning a statewide registry. The Secretary of the Commonwealth has performed under the provisions of Act 61 and has made her recommendations, and today Senator Lemmond and I are introducing Senate Bill No. 1240, which will, if enacted into law, create the Statewide Uniform Registry of Electors, or SURE for short.

Madam President, our Joint Select Committee found that with respect to the mechanics of voting here in Pennsylvania, we do not have the same kind of problems that other States, perhaps like Florida, have. We did not find any problems with anything called a butterfly ballot, we did not find any dimpled chads or problems with punchcards. But we did find, Madam President, that we have a problem, and it is with something called motor-voter. For example, in the year 2000, prior to the 2000 election, we found that 250,000 applications for registration to vote made through the PennDOT process were found to be invalid. We found that of the 900,000 applications processed through PennDOT in the year 2000 to change the address of an existing registered voter, only about 350,000 of those were valid.

The reason for the introduction of Senate Bill No. 1240 and the implementation of a SURE system is to make sure that we can correct most, if not all, of these problems with motor-voter. And how will we do that? If this bill is enacted into law, the

SURE system will connect each county voter registration office, not only with the Department of State, but with each other, so that they can more readily and rapidly, almost instantaneously, share information. The Department of Transportation will be connected to this system, thereby making a registration or a change of address almost instantaneous, not having to rely upon the mail and human error, which often is the case when it comes to directing these applications to the proper authority and the proper county.

This system will permit us to identify duplicate registrations, which will allow us to greatly reduce, if not completely eliminate, the opportunity for fraud, and probably as important, it will hopefully eliminate voter frustration that we have experienced on election day when voters find themselves either not registered when they did register, or registered in a county where they had moved from a number of months before.

Many States have already embarked on this path and a number of national commissions on election reform have recommended this, and it is about time that Pennsylvania begin this process, and we are going to do that today. It is important to remember, Madam President, that under this proposed new system of SURE, the counties will retain their present legal authority to determine the qualifications and the eligibility of each person who seeks to register and who seeks to cast a vote. The counties will still maintain all of the attendant services associated with voter registration, such as the maintenance of street lists, the maintenance of a registration list, the maintenance of poll workers, the maintenance of polling places. What we are proposing today, Madam President, is an electronic system not unlike what we have done in the criminal justice system with JNET and with the Pennsylvania Commission on Sentencing, where local authority is maintained, local discretion is maintained, and yet a statewide system, a network of information sharing, makes not only the local system but everybody else's local system more accurate and more up to date.

One of the side benefits of enacting this statute, I believe, will be a cost savings to our counties. Every one of our counties has a slightly different system, but I believe at least 54 of those counties have systems that are over 5 years old, and those 54 counties represent about 84 percent of the registered voters in this Commonwealth. By the Department of State coming in and providing the counties, particularly these 54 counties, with updated, more modern electronic and computer equipment and systems, it will save these counties not only time and expense when it comes to mailing and filing, but also will greatly reduce the number of errors that frustrate them and frustrate the voters they are intended to serve. The Department of State will provide the necessary computer technology to these counties, and the counties, therefore, will have upgraded systems which they can then use to add on the other attendant services that they provide for voter registration activity such as polling places, street lists, and the like, which I mentioned before.

It is important to note, Madam President, that this system will also be fully backed up in the case of a disaster, either natural or manmade, so that we will ensure the integrity and will safeguard the records that will be accumulated at the State level.

Madam President, I urge my colleagues to cosponsor this bill and urge that we pass this bill before we leave here for the holi-

day recess. It is important to begin the process of developing the system, getting the appropriate vendors online so that this system can be implemented as quickly as possible. The full implementation of the SURE system, Madam President, is a win-win-win for the Commonwealth of Pennsylvania. It is a win for the State because we will not have the reputation of being a State in which elections are uncertain, in which registration is uncertain, in which the validity of a voting outcome is uncertain. It is a win for the counties because it will upgrade their systems and allow them access to a voter registration list that is greatly reduced in size and virtually all duplications are eliminated, and it is a win for the counties because there is a potential cost savings for our counties when they embark on this system.

But finally, and most importantly, Madam President, it is a win for the people of Pennsylvania, the people who cast their votes in every election, because it will ensure that Pennsylvania will have an accurate and fair election process and election outcome, and that is the best interest of everyone here in Pennsylvania.

Thank you, Madam President.

The PRESIDING OFFICER. The Chair recognizes the gentleman from Northampton, Senator Boscola.

Senator BOSCOLA. Madam President, I have spoken on this Senate floor so many times in the past, and I usually do not steal lines from old movies, but, is there a doctor in the house? Madam President, we have an emergency on our hands. Pennsylvania's Lottery Fund is very, very sick. And if our Lottery Fund is not healthy, how will older Pennsylvanians be able to provide or afford the medicine that they need to stay healthy? You see, the health of so many of our senior citizens depends on the health of our Lottery Fund. For thousands and thousands of our seniors, PACE is just what the doctor ordered for their good health. Without the PACE program, 200,000 older Pennsylvanians would be sicker and dying more quickly because they could not afford to buy their medicine, and not even the newest, greatest miracle drug on the market can cure a single senior citizen who cannot afford to take it.

Madam President, over the past couple weeks here, the term "false hope" has been gaining a lot of popularity on the Senate floor these days. I think some people find it easy to characterize really good intentions as false hope when they really have no intention of doing good themselves. False hope is whistling past the graveyard and letting seniors worry if the Lottery Fund will be there for them. Ever since the Lottery Fund was established 30 years ago, it has been dedicated solely and entirely for older Pennsylvanians. Our senior citizens depend on these programs just as much as they depend on their Social Security checks. Today's senior citizens and tomorrow's older Pennsylvanians who worked hard all their lives and contributed their tax dollars to this Commonwealth should not have to worry that the Lottery Fund will be broke and bankrupt when they need help to afford their medications. The Lottery Fund is very sick, and we all know that, but it is our seniors who will be suffering unless major surgery can keep the Lottery alive.

I am not, I repeat, I am not a doctor, but there is not a tourniquet big enough to stop the Lottery Fund from bleeding red ink a few years from now. A healthy Lottery means healthy senior citizens, and I hope that we never forget that.

Thank you, Madam President.

The PRESIDING OFFICER. The Chair recognizes the gentleman from Dauphin, Senator Piccola.

Senator PICCOLA. Madam President, on the subject of prescription drugs, I would like to indicate that I agree with the lady from Northampton that the Pennsylvania Lottery system is not well. I think we can all agree on that. However, with respect to the so-called FAIRx plan, I would suggest, Madam President, that it is dead on arrival. There is mounting evidence to suggest that since a number of other States have attempted to adopt similar kinds of plans, and for the record, Madam President, I would like to read into the record a portion of an article that appeared in the Wall Street Journal yesterday. The story is about various lawsuits that have been filed in various States, States that have adopted plans somewhat similar to the so-called FAIRx plan.

With respect to Michigan, which adopted a plan a couple of months ago, it was interesting to note in this article, and I quote, "...six big drug companies refused to offer Michigan any price concessions, even at the risk of losing market share to competitors that are willing to slash prices. The sheer number of drugs made by the companies—including two of the world's largest—Pfizer Inc., New York, and Merck & Co., Whitehouse Station, N.J.—could pressure Michigan to back away from its plan...."

Now, Madam President, that is what I was talking about when I talked about false hope and what FAIRx is offering. Clearly, it is false hope; in fact, it is counterproductive hope, to offer a plan that could actually result in certain drugs, in certain prescriptions being unavailable at any price for the people who are in need of those prescriptions. That is exactly what is potentially happening in the State of Michigan.

So, Madam President, I suggest that rather than rail at one another about the prescription drug crisis in Pennsylvania, which is serious and important to deal with, that we work together in a realistic and rational way that will result in real relief, not false hope to the people of Pennsylvania.

Thank you, Madam President.

The PRESIDING OFFICER. The Chair recognizes the gentleman from York, Senator Waugh.

Senator WAUGH. Madam President, earlier today we voted on and passed Senate Bill No. 238, and if the Members will recall, Senator Tomlinson, the gentleman from Bucks County, introduced a constituent of his, Mrs. Shreck, and outlined the reasons for his proposal. I would, first of all, like to commend the gentleman from Bucks for the initiative and also recognize the family that he had here today, Mr. and Mrs. Shreck, and how important that proposal was to them and the reasons why.

I did not want to speak at the time because I felt it was important, given that it was Senator Tomlinson's proposal and the fact that he had his guests here today, I felt it was appropriate to allow the bill to pass. But I also am compelled, during this portion of our proceedings, to rise and make just a brief comment for the record about another section of Senate Bill No. 238 that the gentleman from Bucks was kind enough to allow me to amend into the bill prior to passage, and that was section 2. Section 2 of the bill that we passed increases the period of license suspension for those who are convicted of homicide by vehicle and homicide by vehicle while driving under the influence. Currently, there is a

1-year suspension period. My proposal would simply make that a 3-year suspension period. It is based on a legislative proposal that I prime-sponsored during the last legislative Session, which was Senate Bill No. 1486. The length of time for license suspension is, currently today at least, I believe not enough at 1 year. But I believe a 3-year suspension is fair and I believe it is the appropriate thing that we could do. Obviously, the Senate agreed today. They had agreed in the past, and unfortunately, through what I will call legislative dysfunction, the bill was held up for one reason or another and never made it out of the House.

But I think it is appropriate and maybe a bit ironic that today we passed this proposal again. For, Madam President, tomorrow marks the second anniversary of a tragic event in York County, similar to the one Senator Tomlinson talked about in his district, which caused me to introduce this part of the legislation. On December 6, 1999, a 17-year-old young lady, Alisha K. Diehl, died in a car accident in York County. She was a victim of homicide by vehicle. Shortly after her terrible accident, Mary Kay Sidesinger, her mom, began a grassroots movement in response to the tragedy in an attempt to educate young people about reckless driving, and another part of her mission was to stiffen penalties associated with homicide by vehicle. The increased license suspension language included in Senate Bill No. 238 today would not have been possible if not for the hard work and dedicated concern of Mary Kay Sidesinger on behalf of her daughter, Alisha. Mary Kay deserves our recognition and appreciation for her efforts in keeping this initiative fresh in our minds. She has been in touch with me over the last 2 years on a regular basis, and she is, as is Mrs. Shreck, a prime example of how one citizen can make a real difference in the lives of so many others.

I am hopeful, Madam President, that this time legislative function will occur and this bill will be able to make its way to the Governor for his signature.

Thank you very much.

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

Senator WAGNER. Madam President, I would like to respond to the gentleman from Dauphin in regard to the comment that FAIRx offers false hope and is dead on arrival. Quite frankly, it does not offer false hope. That is an excuse for not permitting the bill to be voted on in the full Senate and for final passage by this General Assembly.

Madam President, if we are quoting from articles, I would like to quote from one just recently in The Patriot-News in Harrisburg on December 4, it is a brief article, and the title is, "Bad Medicine." *(Reading:)*

"A recent survey of 1,010 adults by Harris Interactive found that 22 percent didn't fill at least one prescription in the last year because of the cost."—One out of five people do not fill their prescriptions. Madam President, that does not include those that do not get prescriptions because they do not have a health plan or they do not have a plan to pay for the prescription drugs. And I will go on in this brief article.

"Although that's a minority of those polled, many people still are not getting the prescriptions they need, posing a serious health problem, said the Rochester, N.Y.-based market research and consulting firm." Further, they state, "Fourteen percent said during the past year, they had taken a drug in smaller doses than prescribed to cut costs, and 16 percent said they had taken a drug less frequently to save money. The Harris survey also found that people living in low-income households were more likely to alter their doses than others."

The fact remains, Madam President, that people today in the society in which we live, in this country called America, do not have access to prescription drugs the way they should. Now, there has been a dream in this country for quite some time to have health care for all Americans, and quite frankly, Madam President, this country has not fulfilled that dream for literally millions of Americans, tens of millions of Americans. The Senate Democrats on this side of the aisle have a dream that is less than that, Madam President, and that is for all Pennsylvanians who need prescription drugs—I did not say health care, I just said prescription drugs—for them to have access to those prescription drugs. Quite frankly, Madam President, we are not going to give up that dream and we are not going to offer excuses and we are not going to say plans are dead on arrival, because, quite frankly, they are not dead on arrival. They may be dead on arrival in the mind of the previous speaker, but they are not dead on arrival in my mind, in my colleagues' minds.

It is not a dream. We think it is a reality. We think it is achievable, and we know in the minds of the people of Pennsylvania, it is their top pursuit of government responding to their needs, and we are going to continue to reach and meet that need, and we are going to continue to put proposals forth, even though those proposals will not be permitted to be voted on. I am not going to stand here, Madam President, and listen to speakers say that plans are dead on arrival and they do not work when they have never even been considered, when, in fact, I know there are parts of that plan that will work, and I can assure you parts of it will work. There are other groups throughout Pennsylvania in other articles, and I can quote articles all day, Madam President.

As a matter of fact, Alisa Simon, of the Citizens for Consumer Justice, an advocacy group in Philadelphia that has been lobbying for pharmaceutical reform, believes very strongly that by bringing together the purchases of pharmaceutical drugs they can be purchased at a lesser price, precisely what Senator Costa's bill proposes to do. And any economist in this country who understands Economics 101 knows that if you buy in bulk, you will buy for less, and if you buy for less, more people will qualify. In this situation, more people will have pharmaceutical drugs available to them so that they do not have to cut the pill in half, so they do not have to go a day without having it, or they, in fact, will not even go to the doctor to get the prescription because they know they cannot fill the prescription.

We all know that is reality and we all know it is going on in this country and we all know it is going on in Pennsylvania. It is a pursuit of this Caucus, and the pursuit is not going to stop, and my colleagues stand shoulder-to-shoulder in that pursuit, to fulfill that commitment of providing pharmaceutical drugs to those who need them in Pennsylvania. It is that simple. And it is our hope that the other side of the aisle will join in that pursuit.

Thank you, Madam President.

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

Senator COSTA. Madam President, I, too, want to rise in response to the comments that were made by my colleague from Dauphin County. Like my colleague from Allegheny County, Senator Wagner, I am very disturbed to hear that side of the aisle has determined for all of Pennsylvania that the FAIRx proposal is dead on arrival. I might add, Madam President, that if that, in

fact, is the case, today is day one, day one when we begin to look to see what the Republican Party will put forward for a prescription drug plan. In fact, if FAIRx is dead, as my colleague has stated, we will now begin the watch, as Senator Wagner said, arm-in-arm in pursuit of prescription drug coverage. The ball is now in their court, and let us see where they go with it. This is day one, and we continue to move forward and press on until such time as we have a responsible and reasonable prescription drug plan on the table that Senate Democrats, Senate Republicans, House Democrats, House Republicans, and the Governor can sign on board to provide prescription drug coverage to senior citizens of Pennsylvania at an affordable price.

But I want to take a moment to address the issue about the article that appeared in the Wall Street Journal, and I want to thank the Chair for circulating this letter earlier today, or it may have been yesterday, in fact. But I want to thank the Chair because I had the opportunity to read it before I came to Session, and while I was downstairs in my office listening to what was said about this particular issue, I find it very interesting that the parts that were conveyed about this particular article, in fact, have no bearing in all whatsoever and are not similar in any way to the FAIRx proposal that has been presented. To imply that what is taking place in Michigan is similar to what we are proposing in Pennsylvania is simply not accurate, and I would like to read into the record the relevant portions of that and also offer into the record the full article, so when times goes on folks will know what was actually stated in this particular article.

It makes reference to Michigan legislation, and says, "On Friday, the industry's trade association filed suit seeking to block that state's widely watched effort to compel companies to cut prices in order to get their products placed on a list of preferred drugs that doctors can prescribe."

Madam President, that is not the case with respect to FAIRx. We are not telling pharmacies what to charge. We are not creating lists of particular drugs to be on a particular list that doctors can prescribe. That is not clear with respect to this particular article, but that is what was implied, that the FAIRx proposal would do that. We say it does not. In fact, it does not.

The second part of the article I would like to read is, "Under the program, a consulting firm organized drugs into therapeutic categories, such [as] those used to treat high blood pressure. Then a small group of doctors and pharmacists appointed by the state chose a few 'best in class' drugs in each category as the core of the preferred list."

We are not doing that with FAIRx. To imply otherwise is improper. What we are trying to do is provide fair prescription drug medication to our senior population. We do it in a way that looks to the pharmaceutical companies to be part of the solution. And why we cannot get folks in this Chamber to make them be part of the solution, we are not going anywhere. FAIRx could be dead on arrival, and that is fine, but then you have the obligation at this point in time to put a proposal on the table and do something about prescription drug coverage. Our plan will look to the pharmaceutical companies to be part of the solution provided by some \$127 million in rebates, and they do rebates today with the PACE program and they have no problem doing it now and they will not leave Pennsylvania. They need to do it now with respect to this crisis that we are experiencing.

Secondly, what we do by doing that, we roll all the PACENET people into the PACE program, which is 80,000 more folks who will be part of the PACE program. They will be able to purchase their prescription drugs at no expense to the PACE program, at no expense to the Lottery Fund, at no expense to the General Fund budget. They will be able to access prescription drugs at an affordable cost of \$6 for a copayment. And, Madam President, that is only part of what FAIRx does.

What the other part of it does is it allows anyone over the age of 65 who is eligible for Medicare to walk into a pharmacy and get their prescription drugs at the same price that Pennsylvania currently reimburses the PACE pharmacists. That is a reasonable price, and it is a reasonable fee to the PACE participating pharmacists. They have never complained in the past about the amount of money they have received from the PACE program, and I am sure, as Senator Wagner noted, approximately 22 percent of the people out there already do not fill one of their prescriptions. We believe they will fill that one prescription, or a large majority of that 22 percent will. As a result, we are bringing more people into the pharmacy to purchase prescription drugs.

Madam President, we believe that the FAIRx proposal is a very good plan, it is a very fair plan, but as my colleague from Philadelphia County said yesterday, if you have a better plan, put it on the table. We have no pride of authorship with respect to this issue. We have 1 week of Session left before the end of this year. It will be another year where we have not adequately addressed the prescription drug crisis in Pennsylvania, and to stand here and refute twisted interpretations of articles and imply that they apply to our FAIRx proposal is simply misleading the public about what our proposal is really about.

I want to thank the Chair for circulating this article, and more importantly, thank the Chair for allowing me to address this issue at this time.

Thank you, Madam President.

(The following editorial from the Wall Street Journal was made a part of the record at the request of the gentleman from Allegheny, Senator COSTA:)

Industry Suit to Block Michigan's Plan On Price Cuts for Drugs May Send Message

LANSING, Mich. - Pharmaceuticals companies appear to be making Michigan a major battleground as they try to fight off states' attempts to rein in rising drug costs for Medicaid and other health programs.

On Friday, the industry's trade association filed suit seeking to block that state's widely watched effort to compel companies to cut prices in order to get their products placed on a list of preferred drugs that doctors can prescribe. The list could be released as early as this week.

On a second front, six big drug companies refused to offer Michigan any price concessions, even at the risk of losing market share to competitors that are willing to slash prices. The sheer number of drugs made by the companies—including two of the world's largest—Pfizer Inc., New York, and Merck & Co., Whitehouse Station, N. J.—could pressure Michigan to back away from its plan, possibly curbing other states' enthusiasm to try similar approaches.

The drug companies' strategy may be, "let's nip this in the bud," to prevent the Michigan approach from being copied by other states and potentially by private health-insurance plans, said David Kreling, a professor at the University of Wisconsin School of Pharmacy.

Like other states that have tried to force or encourage drug companies to lower prices, Michigan approved its program last month in the

face of extreme budget pressure. The program is expected to generate savings of \$42 million and "could go significantly higher," according to budget estimates. The Michigan plan goes a step further than other states in that the list of preferred drugs will cover Medicaid recipients as well as seniors in a drug-assistance program and other state-funded programs—about 1.6 million state residents in all.

Under the program, a consulting firm organized drugs into therapeutic categories, such [as] those used to treat high blood pressure. Then a small group of doctors and pharmacists appointed by the state chose a few "best in class" drugs in each category as the core of the preferred list. Companies then were told they needed to lower their prices to match the lowest "best in class" price for any of their drugs not given that designation. Doctors can prescribe drugs not on the list, but must justify their decision in a telephone call to a phone bank of pharmacy technicians—a requirement expected to discourage use of those drugs.

The Michigan lawsuit is the latest brought by the Pharmaceutical Research and Manufacturers of America, the Washington, D. C., industry association known as PhRMA, against other recent state efforts to contain costs. The industry won one suit against Vermont this summer and lost another against Maine, pending a review before the U. S. Supreme Court. A third against Florida has yet to be heard by a federal judge.

The lawsuit sends a message to other states considering similar price-cutting legislation that PhRMA is ready to challenge these laws in court. The Michigan lawsuit, however, may have limited legal precedent elsewhere, as it was brought in a state court and charges that the program was developed in violation of the state constitution and state statutes.

"We don't like suing states," said Jan Falks, PhRMA's assistant general counsel.

But she added the industry group challenged the Michigan program because it "causes patients to suffer and lose access to the smartest drugs in the world." State officials hadn't seen a copy of the suit Friday, but said state lawyers believe the law will withstand a legal challenge.

Meanwhile, state officials said six companies have indicated they won't cut their prices: Eli Lilly & Co., Indianapolis; Johnson & Johnson, New Brunswick, N. J.; Merck, Pfizer, Pharmacia Corp., Peapack, N. J.; and Wyeth-Ayerst Laboratories, the prescription drug unit of American Home Products Corp., Madison, N. J.

The boycotting firms make widely prescribed drugs that dominate several of the biggest treatment classes. Merck, for example, makes the arthritis drug Vioxx and Zocor, the second-best selling cholesterol fighter. Pfizer makes leading cholesterol drug, Lipitor, and co-markets Pharmacia's Celebrex, the only alternative to Vioxx in the hot category of Cox-2 pain relievers. If these drugs weren't placed on the preferred list as "best in class," Medicaid recipients would have access to them only if doctors received the law's required authorization.

Joseph Scodari, group chairman for Johnson & Johnson's pharmaceuticals business in North America, said the company decided not to participate because of the "very onerous" curbs it puts on physicians' ability to choose drugs, which in turn could diminish the quality of patient care.

A Pfizer spokesman said the company has "urged Michigan officials to consider effective, cost-saving alternatives" such as so-called disease management, which teaches patients with chronic illnesses how to manage their health through better diets and adhering to their treatment regimen. In Florida, Pfizer and Bristol-Myers Squibb Co., of New York, are operating disease-management programs in return for getting their drugs on that state's preferred list of drugs without price cuts. Michigan officials have refused to entertain similar offers.

REPORT FROM COMMITTEE

Senator GERLACH, from the Committee on Local Government, reported the following bill:

HB 1944 (Pr. No. 2796)

An Act amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, authorizing municipalities to deny issu-

ing permits, variances, licenses or other approvals to persons who are delinquent in tax payments or are in violation of certain codes, statutes or regulations.

BILL ON FIRST CONSIDERATION

Senator PICCOLA. 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 1944.

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

RECESS

The PRESIDING OFFICER. The Chair recognizes the gentleman from Dauphin, Senator Piccola.

Senator PICCOLA. Madam President, I move that the Senate do now recess to the call of the President pro tempore. I make that motion with the expectation that the Senate will be reconvening next Monday, December 10, 2001, at 2 p.m., Eastern Standard Time.

The PRESIDING OFFICER. Senator Piccola has called for a recess to the call of the President pro tempore, with an expectation that we will reconvene on December 10, 2001, at 2 p.m.

The motion was agreed to by voice vote.

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

AFTER RECESS

The PRESIDENT (Lieutenant Governor Robert C. Jubelirer) in the Chair.

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

COMMUNICATIONS FROM THE GOVERNOR

NOMINATIONS REFERRED TO COMMITTEE

The PRESIDENT laid before the Senate the following communications in writing from His Excellency, the Governor of the Commonwealth, which were read as follows and referred to the Committee on Rules and Executive Nominations:

MEMBER OF THE STATE CHARTER SCHOOL APPEAL BOARD

December 5, 2001

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, Valerie Smith, 7723 Farmdale Avenue, Harrisburg 17112, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the State Charter School Appeal Board,

to serve for a term of four years or until her successor is appointed and qualified, vice Darryl F. Williams, Verona, resigned.

Mark S. Schweiker
Governor

**MEMBER OF THE PENNSYLVANIA PUBLIC
TELEVISION NETWORK COMMISSION**

December 5, 2001

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, Penelope M. Gerber, 5 Regency Circle, Penllyn 19422, Montgomery County, Twelfth Senatorial District, for reappointment as a member of the Pennsylvania Public Television Network Commission, to serve for a term of six years or until her successor is appointed and qualified, but not longer than six months beyond that period.

Mark S. Schweiker
Governor

**CORRECTIONS TO NOMINATIONS
REFERRED TO COMMITTEE**

The PRESIDENT laid before the Senate the following communications in writing from His Excellency, the Governor of the Commonwealth, which were read as follows and referred to the Committee on Rules and Executive Nominations:

**MEMBER OF THE COUNCIL OF TRUSTEES
OF CHEYNEY UNIVERSITY OF
PENNSYLVANIA OF THE STATE SYSTEM
OF HIGHER EDUCATION**

December 5, 2001

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

Please note the correction dated November 27, 2001 which reads:

Please note the nomination dated November 21, 2001 for the appointment of Charles M. Green, 7024 Marion Lane, Philadelphia 19119, Philadelphia County, Fourth Senatorial District, for reappointment as a member of the Council of Trustees of Cheyney University of Pennsylvania of the State System of Higher Education, to serve until the third Tuesday of January 2005 and until his successor is appointed and qualified, should be corrected to read:

Charles M. Greene, 7024 Marion Lane, Philadelphia 19119, Philadelphia County, Fourth Senatorial District, for reappointment as a member of the Council of Trustees of Cheyney University of Pennsylvania of the State System of Higher Education, to serve until the third Tuesday of January 2005 and until his successor is appointed and qualified.

**MEMBER OF THE COUNCIL OF TRUSTEES
OF CHEYNEY UNIVERSITY OF
PENNSYLVANIA OF THE STATE SYSTEM
OF HIGHER EDUCATION**

December 5, 2001

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

Please note the nomination dated November 21, 2001 for the appointment of Robert L. Traynham, II, 713 Yeadon Avenue, Yeadon 19050, Delaware County, Eighth Senatorial District, for appointment as a member of the Council of Trustees of Cheyney University of Pennsylvania of the State System of Higher Education, to serve until the third Tuesday of January 2007 and until his successor is appointed and qualified, vice Marc D. Kramer, Downingtown, whose term expired, should be corrected to read:

Robert L. Traynham, II, 713 Yeadon Avenue, Yeadon 19050, Delaware County, Eighth Senatorial District, for appointment as a member of the Council of Trustees of Cheyney University of Pennsylvania of the State System of Higher Education, to serve until the third Tuesday of January 2007 and until his successor is appointed and qualified, vice Marc D. Kramer, Downingtown, whose term expired.

HOUSE MESSAGE

SENATE BILL RETURNED WITH AMENDMENTS

The Clerk of the House of Representatives returned to the Senate SB 216, 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, this bill will be referred to the Committee on Rules and Executive Nominations.

BILL SIGNED

The PRESIDENT (Lieutenant Governor Robert C. Jubelirer) in the presence of the Senate signed the following bill:

SB 372.

ADJOURNMENT

The PRESIDENT. The Chair recognizes the gentlewoman from Venango, Senator M. J. White.

Senator M. J. WHITE. Mr. President, I move that the Senate do now adjourn until Monday, December 10, 2001, at 2 p.m. Eastern Standard Time.

The motion was agreed to by voice vote.

The Senate adjourned at 5:03 p.m., Eastern Standard Time.