

COMMONWEALTH OF PENNSYLVANIA
Legislative Journal

TUESDAY, JUNE 29, 2004

SESSION OF 2004 188TH OF THE GENERAL ASSEMBLY

No. 43

SENATE

TUESDAY, June 29, 2004

The Senate met at 3:05 p.m., Eastern Daylight Saving Time.

The PRESIDENT (Lieutenant Governor Catherine Baker Knoll) in the Chair.

PRAYER

The Chaplain, Reverend PAUL A. LAUCHLE, of Colonial Park United Methodist Church, Harrisburg, offered the following prayer:

The Psalmist wrote, blessed is the nation whose God is the Lord.

Let us pray.

Eternal God, stir within our minds and stimulate our hearts with the highest sense of patriotism as this week we approach the 4th of July. May all that this day symbolizes renew our faith in freedom, our devotion to democracy, and redouble our efforts to keep a government of the people, by the people, and for the people truly alive in this Commonwealth, nation, and in our world.

Pour within us a high resolve to dedicate ourselves anew to the task of ushering in an era where goodwill exists across aisles and shall also live in the hearts of a free people, where justice shall be a light to guide the decisions of this Senate regarding a financial plan for our State and the proper moral resources of it, and where peace shall be the goal of humankind to the glory of Your holy name and the good of our nation and Commonwealth, as well as for all humankind.

So, this day give us Your presence, Your power, Your peace so to open our hearts in love to each other. Awaken in us a desire to see Your way of serving in this time and to be faithful, humble, and obedient in our response. Let us not be found wanting. Let us live with no regrets, and let us give ourselves away in Your service.

We lift before You the leaders of this nation, President Bush, Vice President Cheney, the Members of Congress, the Justices of the Supreme Court. Intercede for our Governor, Edward Rendell, our Lieutenant Governor, Catherine Baker Knoll, the Members of the House of Representatives, our judicial justices, and especially I pray today for the Members of this Senate. Truly lead each one, so that they may acknowledge Your wisdom and knowledge. Help them to seek Your words, seek after Your will, and to see it and do it with passion.

May You, God, bless the United States of America, especially in our time of war and our struggle with the existence of evil in this world. Please be a protective presence in the lives of our service women and men who are fighting in the defense of liberty. Bless this Commonwealth of Pennsylvania and these Senators as we lift this prayer in the name of the One who created us, redeemed us, and now empowers us for all the tasks and responsibilities before us this day. May Your grace rain down on us and grant us Your patience. May we remain one nation, under God. Amen.

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

PLEDGE OF ALLEGIANCE

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

JOURNAL APPROVED

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of June 28, 2004.

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.

COMMUNICATIONS FROM THE GOVERNOR

APPROVAL OF SENATE BILLS

The PRESIDENT laid before the Senate communications in writing from His Excellency, the Governor of the Commonwealth, advising that the following Senate Bills had been approved and signed by the Governor:

SB 427, 815 and 1059.

HOUSE MESSAGE

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

The Clerk of the House of Representatives informed the Senate that the House has concurred in amendments made by the Senate to HB 2042.

GENERAL COMMUNICATION

ANNUAL REPORTS ON DRUG AND ALCOHOL PROGRAMS

The PRESIDENT laid before the Senate the following communication, which was read by the Clerk as follows:

COMMONWEALTH OF PENNSYLVANIA
 Department of Health
 Post Office Box 90
 Harrisburg, PA 17108

June 24, 2004

Mr. Mark R. Corrigan
 Secretary of the Senate
 462 Capitol Bldg.
 Harrisburg, Pennsylvania 17120

Dear Mr. Corrigan:

I am pleased to submit the Pennsylvania State Plan for the Control, Prevention, Intervention, Treatment, Rehabilitation, Research, Education and Training Aspects of Drug and Alcohol Abuse and Dependence Problems for State Fiscal Year 2004-05, and the Annual Report covering the period July 2002 through June 2003, required by the Pennsylvania Drug and Alcohol Abuse Control Act (71 P.S. § 1690.101-1690.114). Also included is the Women and Children's Report, required by Act 65 of 1993. I hope you find each of these reports informative.

If you have any questions, please contact Mike Yantis, Jr., Acting Director of Legislative Affairs, at 783-3985.

Sincerely,

CALVIN B. JOHNSON, M.D.
 Secretary

The PRESIDENT. This report will be filed in the Library.

LEGISLATIVE LEAVES

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

Senator BRIGHTBILL. Madam President, I ask for a legislative leave for Senator Punt.

The PRESIDENT. Senator Brightbill requests a legislative leave for Senator Punt. Without objection, the leave will be granted.

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

Senator O'PAKE. Madam President, I request a legislative leave for Senator Tartaglione.

The PRESIDENT. Senator O'Pake requests a legislative leave for Senator Tartaglione. Without objection, the leave will be granted.

CALENDAR

SB 1160 CALLED UP OUT OF ORDER

SB 1160 (Pr. No. 1696) -- 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 1160 (Pr. No. 1696) -- The Senate proceeded to consideration of the bill, entitled:

An Act designating the Roaring Creek Tract of the Wyoming State Forest in Northumberland County and Columbia County as the Senator Edward W. Helfrick Area of the Wyoming State Forest.

Considered the third time and agreed to,

On the question,
 Shall the bill pass finally?

The PRESIDENT. The Chair recognizes the gentleman from Columbia, Senator Gordner.

Senator GORDNER. Madam President, I just wanted to take a moment to thank the Members of the Senate for supporting Senate Bill No. 1160. This names a tract of land for Senator Edward W. Helfrick, who was a colleague of all of us here in the Senate. For 27 years he served in the House of Representatives and Senate, and during that time period, he was involved with many projects in his district, and yet when he left the Senate last year, there was not one building, one park, anything that bore his name, because he was the type of person who shied away from this sort of thing, even though he often would write a check out of his own account to help a worthy project or a needy person. One of the last things that he was able to do was to get 9,000 acres of land that had previously been privately owned into a beautiful State forest. That opened last fall, and there have been thousands of hunters, thousands of hikers who have enjoyed that State forest in the less than 12 months it has been opened.

I just appreciated the bipartisan support, the cosponsors, and the encouragement in regard to this bill. I saw Senator Helfrick this past week, and he is very honored and proud that this would bear his name. So, I just wanted to thank my colleagues in the Senate for their support on this legislation.

Thank you.

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-50

| | | | |
|------------|-----------|-------------|----------------------|
| Armstrong | Hughes | Orie | Thompson |
| Boscola | Jubelirer | Piccola | Tomlinson |
| Brightbill | Kasunic | Pileggi | Wagner |
| Conti | Kitchen | Pippy | Waugh |
| Corman | Kukovich | Punt | Wenger |
| Costa | LaValle | Rafferty | White, Donald |
| Dent | Lemmond | Rhoades | White, Mary Jo |
| Earll | Logan | Robbins | Williams, Anthony H. |
| Erickson | Madigan | Scarnati | Williams, Constance |
| Ferlo | Mellow | Schwartz | Wonderling |
| Fumo | Mowery | Stack | Wozniak |
| Gordner | Musto | Stout | |
| Greenleaf | O'Pake | Tartaglione | |

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
GUESTS OF SENATOR ANTHONY H.
WILLIAMS PRESENTED TO THE SENATE**

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Anthony Williams.

Senator A.H. WILLIAMS. Madam President, I ask that young Larry Carroll, Jr., please stand. We are joined today by Larry, who is 15 years old and will be in the 10th grade at Cumberland Valley High School in Mechanicsburg, Pennsylvania, which is located in Cumberland County. Larry played soccer for the Hampden, Middlesex, Monroe, Silver Spring Soccer Association for 10 years, where he also volunteered to assist with registration and tournaments. He is a certified soccer referee and works that job on weekends. He has also played ice hockey for the Cumberland Valley Eagles Ice Hockey Club for 4 years, and will be playing football for the Cumberland Valley High School Football Team in the fall. He is an avid athlete who runs and lifts weights regularly.

Larry is exploring a variety of career choices as he finishes high school. He is working as a guest Page today to get a sense of what a legislative job may offer. I also would like the body to know that Larry Carroll is the humble offspring and grandson of proud grandmother Linda Sanders, who works for me in Harrisburg. I would like us all to warmly greet him today.

The PRESIDENT. Please give Larry a nice round of applause. (Applause.)

**GUESTS OF SENATOR ROBERT J.
THOMPSON PRESENTED TO THE SENATE**

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

Senator THOMPSON. Madam President, it is my pleasure today to welcome two student Pages to the floor of the Senate today, Sarah and Hannah Bartling from Malvern in the 19th district. They are here were with their mother, Marie. Marie's sister happens to be Anne Knapp, who will be retiring at the beginning of next month with 24 years of dedicated service to the Senate, I think almost entirely in Senator Jubelirer's office.

So, it is a real pleasure to welcome Sarah and Hannah. Sarah is 12 years old, attends Notre Dame Academy and is in the seventh grade. Hannah is 10 years old, attends Villa Maria Academy in Malvern and is in the fifth grade. I ask the Senate to please offer its warm welcome to these two Pages.

The PRESIDENT. Would the guests please rise. (Applause.)

**GUESTS OF SENATOR DOMINIC F.
PILEGGI PRESENTED TO THE SENATE**

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

Senator PILEGGI. Madam President, it is my pleasure today to introduce two summer interns working in my district who are

in Harrisburg today, Ashley Bram-Johnson and Lauren Windsor. They are seated in the gallery.

Ashley is a sophomore at the University of Delaware with a double major in anthropology and art history. She is in the university's honors program, active on the Keshet Board at the University's Hillel, and with the University of Delaware Young Republicans. She is a native of West Grove in Chester County, and is the daughter of Harold Bram and Carol Johnson.

Lauren is a sophomore at Towson University in Towson, Maryland. She attends Towson on a soccer scholarship and plans to earn a degree in nursing. She is a forward on the women's varsity soccer team. She is from Wallingford in Delaware County, and is the daughter of George and Connie Windsor.

Madam President, I ask that we extend our traditional warm welcome to Ashley Bram-Johnson and Lauren Windsor.

The PRESIDENT. Would Ashley and Lauren please stand. (Applause.)

RECESS

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

Senator BRIGHTBILL. Madam President, at this time I ask for a recess of the Senate for the purpose of several committee meetings, first for a meeting of the Committee on Transportation, which will be held in the Rules room, to be immediately followed by a meeting of the Committee on Law and Justice. I know that we have other committee meetings planned during the recess, but I am not sure that they will occur immediately. Those two meetings will occur during the recess, after which we will have a Republican caucus to begin about 3:40, and I expect it to last about an hour.

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

Senator O'PAKE. Madam President, I ask the Democratic Members of the Senate to report to the Democratic caucus room about 3:40, after the committee meetings are completed.

The PRESIDENT. For purposes of a meeting of the Committee on Transportation and a meeting of the Committee on Law and Justice, to be followed by Republican and Democratic caucuses, without objection, the Senate stands in recess.

AFTER RECESS

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

CONSIDERATION OF CALENDAR RESUMED

THIRD CONSIDERATION CALENDAR

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

HB 2524 (Pr. No. 4196) -- The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation from the State Employees' Retirement Fund to provide for expenses of the State Employees' Retirement Board for the fiscal year July 1, 2004, to June 30, 2005, and for the

payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2004.

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 | Hughes | Orie | Thompson |
| Boscola | Jubelirer | Piccola | Tomlinson |
| Brightbill | Kasunic | Pileggi | Wagner |
| Conti | Kitchen | Pippy | Waugh |
| Corman | Kukovich | Punt | Wenger |
| Costa | LaValle | Rafferty | White, Donald |
| Dent | Lemmond | Rhoades | White, Mary Jo |
| Earll | Logan | Robbins | Williams, Anthony H. |
| Erickson | Madigan | Scarnati | Williams, Constance |
| Ferlo | Mellow | Schwartz | Wonderling |
| Fumo | Mowery | Stack | Wozniak |
| Gordner | Musto | Stout | |
| Greenleaf | O'Pake | Tartaglione | |

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.

HB 2527 (Pr. No. 4197) -- The Senate proceeded to consideration of the bill, entitled:

An Act making appropriations from the Workmen's Compensation Administration Fund to the Department of Labor and Industry and the Department of Community and Economic Development to provide for the expenses of administering the Workers' Compensation Act, The Pennsylvania Occupational Disease Act and the Office of Small Business Advocate for the fiscal year July 1, 2004, to June 30, 2005, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2004.

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 | Hughes | Orie | Thompson |
| Boscola | Jubelirer | Piccola | Tomlinson |
| Brightbill | Kasunic | Pileggi | Wagner |
| Conti | Kitchen | Pippy | Waugh |

| | | | |
|-----------|----------|-------------|----------------------|
| Corman | Kukovich | Punt | Wenger |
| Costa | LaValle | Rafferty | White, Donald |
| Dent | Lemmond | Rhoades | White, Mary Jo |
| Earll | Logan | Robbins | Williams, Anthony H. |
| Erickson | Madigan | Scarnati | Williams, Constance |
| Ferlo | Mellow | Schwartz | Wonderling |
| Fumo | Mowery | Stack | Wozniak |
| Gordner | Musto | Stout | |
| Greenleaf | O'Pake | Tartaglione | |

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 REREPORTED FROM COMMITTEE AS AMENDED ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 1099 (Pr. No. 1739) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for the number of judges of the courts of common pleas of certain judicial districts.

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-49

| | | | |
|------------|-----------|-------------|----------------------|
| Armstrong | Jubelirer | Piccola | Tomlinson |
| Boscola | Kasunic | Pileggi | Wagner |
| Brightbill | Kitchen | Pippy | Waugh |
| Conti | Kukovich | Punt | Wenger |
| Corman | LaValle | Rafferty | White, Donald |
| Costa | Lemmond | Rhoades | White, Mary Jo |
| Dent | Logan | Robbins | Williams, Anthony H. |
| Earll | Madigan | Scarnati | Williams, Constance |
| Erickson | Mellow | Schwartz | Wonderling |
| Fumo | Mowery | Stack | Wozniak |
| Gordner | Musto | Stout | |
| Greenleaf | O'Pake | Tartaglione | |
| Hughes | Orie | Thompson | |

NAY-1

Ferlo

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 REREPORTED FROM COMMITTEE AS AMENDED OVER IN ORDER

SB 1158 -- Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

PREFERRED APPROPRIATION BILL OVER IN ORDER

SB 1126 -- Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

PREFERRED APPROPRIATION BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 2522 (Pr. No. 3665) -- The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation from a restricted revenue account within the General Fund to the Office of Consumer Advocate in the Office of Attorney General.

Considered the third time and agreed to,

On the question, Shall the bill pass finally?

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

YEA-50

Table listing names of senators who voted 'YEA' for HB 2522, including Armstrong, Hughes, Orie, Thompson, etc.

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 without amendments.

HB 2523 (Pr. No. 3666) -- The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation from a restricted revenue account within the General Fund to the Office of Small Business Advocate in the Department of Community and Economic Development.

Considered the third time and agreed to,

On the question, Shall the bill pass finally?

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

YEA-50

Table listing names of senators who voted 'YEA' for SB 1158, including Armstrong, Hughes, Orie, Thompson, etc.

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 without amendments.

HB 2525 (Pr. No. 3668) -- The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation from the Public School Employees' Retirement Fund to provide for expenses of the Public School Employees' Retirement Board for the fiscal year July 1, 2004, to June 30, 2005, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2004.

Considered the third time and agreed to,

On the question, Shall the bill pass finally?

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

YEA-50

Table listing names of senators who voted 'YEA' for HB 2525, including Armstrong, Hughes, Orie, Thompson, etc.

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 without amendments.

HB 2526 (Pr. No. 3669) -- The Senate proceeded to consideration of the bill, entitled:

An Act making appropriations from the Professional Licensure Augmentation Account and from restricted revenue accounts within the General Fund to the Department of State for use by the Bureau of Professional and Occupational Affairs in support of the professional licensure boards assigned thereto.

Considered the third time and agreed to,

On the question,
Shall the bill pass finally?

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

YEA-50

| | | | |
|------------|-----------|-------------|----------------------|
| Armstrong | Hughes | Orie | Thompson |
| Boscola | Jubelirer | Piccola | Tomlinson |
| Brightbill | Kasunic | Pileggi | Wagner |
| Conti | Kitchen | Pippy | Waugh |
| Corman | Kukovich | Punt | Wenger |
| Costa | LaValle | Rafferty | White, Donald |
| Dent | Lemmond | Rhoades | White, Mary Jo |
| Earll | Logan | Robbins | Williams, Anthony H. |
| Erickson | Madigan | Scarnati | Williams, Constance |
| Ferlo | Mellow | Schwartz | Wonderling |
| Fumo | Mowery | Stack | Wozniak |
| Gordner | Musto | Stout | |
| Greenleaf | O'Pake | Tartaglione | |

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 without amendments.

BILLS ON THIRD CONSIDERATION
AND FINAL PASSAGE

HB 445 (Pr. No. 4198) -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for State registration of individuals providing sign language interpreting and transliterating services to individuals who are deaf or hard of hearing; and imposing duties on the office for the deaf and hard of hearing in the Department of Labor and Industry.

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 | Hughes | Orie | Thompson |
| Boscola | Jubelirer | Piccola | Tomlinson |
| Brightbill | Kasunic | Pileggi | Wagner |
| Conti | Kitchen | Pippy | Waugh |
| Corman | Kukovich | Punt | Wenger |
| Costa | LaValle | Rafferty | White, Donald |
| Dent | Lemmond | Rhoades | White, Mary Jo |
| Earll | Logan | Robbins | Williams, Anthony H. |
| Erickson | Madigan | Scarnati | Williams, Constance |
| Ferlo | Mellow | Schwartz | Wonderling |
| Fumo | Mowery | Stack | Wozniak |
| Gordner | Musto | Stout | |
| Greenleaf | O'Pake | Tartaglione | |

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.

SB 1095 (Pr. No. 1565) -- The Senate proceeded to consideration of the bill, entitled:

An Act designating Exit 182 on Interstate 81 in Lackawanna County as the Chuck Mattei Interchange.

Considered the third time and agreed to,

On the question,
Shall the bill pass finally?

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

YEA-50

| | | | |
|------------|-----------|-------------|----------------------|
| Armstrong | Hughes | Orie | Thompson |
| Boscola | Jubelirer | Piccola | Tomlinson |
| Brightbill | Kasunic | Pileggi | Wagner |
| Conti | Kitchen | Pippy | Waugh |
| Corman | Kukovich | Punt | Wenger |
| Costa | LaValle | Rafferty | White, Donald |
| Dent | Lemmond | Rhoades | White, Mary Jo |
| Earll | Logan | Robbins | Williams, Anthony H. |
| Erickson | Madigan | Scarnati | Williams, Constance |
| Ferlo | Mellow | Schwartz | Wonderling |
| Fumo | Mowery | Stack | Wozniak |
| Gordner | Musto | Stout | |
| Greenleaf | O'Pake | Tartaglione | |

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 without amendments.

BILLS OVER IN ORDER

SB 1096, SB 1097 and SB 1147 -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

BILLS ON THIRD CONSIDERATION
AND FINAL PASSAGE

SB 1155 (Pr. No. 1682) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, further providing for imposition of the capital stock and franchise tax.

Considered the third time and agreed to,

On the question,
Shall the bill pass finally?

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

Senator MELLOW. Madam President, I would like to briefly speak on Senate Bill No. 1155, which is the capital stock and franchise tax elimination legislation. Madam President, this bill was considered yesterday in the Committee on Appropriations, and what it basically does in this current budget is reduces the capital stock and franchise millage from 5.90 mills to 5.50 mills, and then next year it further reduces the millage from 5.50 mills down to 4.00 mills.

Madam President, just from a historical observance, the capital stock and franchise proposal was something that was advocated by the Democratic Caucus back in 1991 at a convention that was held by the Pennsylvania Chamber of Commerce in Johnstown, and that convocation was referred to as the Johnstown Principles. Those of us who were there that day, Madam President, the four respective leaders of the General Assembly were asked to speak, and we said the most egregious tax against business in the Commonwealth was not the corporate net income tax, but in fact was the capital stock and franchise tax, and because of the exclusion on a manufacturer's exemption, this is the tax we should do away with. My only concern about doing away with it right now, Madam President, is the fact that we have been in a downturn in the national economy, which has caused devastating problems to the economy right here in Pennsylvania, and perhaps this is a proposal that should be considered when we are finally doing our budget.

Hopefully, before the end of the week, we will be able to finalize a budget for the next fiscal year, beginning on Thursday, July 1, and going through June 30, 2005, and in doing so, if there is a tax consideration going to be given for tax reduction, it should be given as part of that appropriation. My concern with Senate Bill No. 1155 is that unless there is an agreement by the House of Representatives, and unless that is part of the budgetary consideration, then all we are doing here on the floor of the Senate tonight or late this afternoon is going through an exercise that publicly will demonstrate to the Members of this body that we are in favor of getting rid of the capital stock and franchise tax

when, in fact, there may be no agreement whatsoever as far as the individuals who are finally negotiating the budget and hopefully will have it together within the next day or two. So, I am just mentioning that, Madam President, as a point of concern that we have.

I request that every Member of this Senate vote in favor of Senate Bill No. 1155, the elimination of the capital stock and franchise tax. It is long overdue, Madam President, as far as a tax that is an egregious tax against business. It is a regressive tax because it is a tax that is based on assets and not a tax based on profit.

For those reasons, Madam President, I ask for an affirmative vote on the elimination of this tax, but I would also strongly impress that it is important that during this budget negotiation period of time, and before we conclude the budget, that Senate Bill No. 1155 should not only be window dressing here in the Senate, but more importantly, it should be part of the final passage of the budget so we can deliver the proper type of message, that on a bipartisan basis, we in the Senate are in favor of the elimination of the capital stock and franchise tax.

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-50

| | | | |
|------------|-----------|-------------|----------------------|
| Armstrong | Hughes | Orie | Thompson |
| Boscola | Jubelirer | Piccola | Tomlinson |
| Brightbill | Kasunic | Pileggi | Wagner |
| Conti | Kitchen | Pippy | Waugh |
| Corman | Kukovich | Punt | Wenger |
| Costa | LaValle | Rafferty | White, Donald |
| Dent | Lemmond | Rhoades | White, Mary Jo |
| Earll | Logan | Robbins | Williams, Anthony H. |
| Erickson | Madigan | Scarnati | Williams, Constance |
| Ferlo | Mellow | Schwartz | Wonderling |
| Fumo | Mowery | Stack | Wozniak |
| Gordner | Musto | Stout | |
| Greenleaf | O'Pake | Tartaglione | |

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.

SB 1184 (Pr. No. 1734) -- The Senate proceeded to consideration of the bill, entitled:

An Act authorizing the release of Project 70 restrictions imposed on certain lands owned by the City of Scranton, Lackawanna County, being conveyed by the city in return for the imposition of Project 70 restrictions on certain lands being conveyed to the city.

Considered the third time and agreed to,

On the question,
Shall the bill pass finally?

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

YEA-50

| | | | |
|------------|-----------|-------------|----------------------|
| Armstrong | Hughes | Orie | Thompson |
| Boscola | Jubelirer | Piccola | Tomlinson |
| Brightbill | Kasunic | Pileggi | Wagner |
| Conti | Kitchen | Pippy | Waugh |
| Corman | Kukovich | Punt | Wenger |
| Costa | LaValle | Rafferty | White, Donald |
| Dent | Lemmond | Rhoades | White, Mary Jo |
| Earll | Logan | Robbins | Williams, Anthony H. |
| Erickson | Madigan | Scarnati | Williams, Constance |
| Ferlo | Mellow | Schwartz | Wonderling |
| Fumo | Mowery | Stack | Wozniak |
| Gordner | Musto | Stout | |
| Greenleaf | O'Pake | Tartaglione | |

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

HB 1487 and **HB 1912** -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 1937 (Pr. No. 2533) -- The Senate proceeded to consideration of the bill, entitled:

An Act redesignating the bridge known as the Napoleon Street Bridge, in the City of Johnstown, Cambria County, as the Edward A. Silk Memorial Bridge.

Considered the third time and agreed to,

On the question,
Shall the bill pass finally?

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

YEA-50

| | | | |
|------------|-----------|-------------|----------------------|
| Armstrong | Hughes | Orie | Thompson |
| Boscola | Jubelirer | Piccola | Tomlinson |
| Brightbill | Kasunic | Pileggi | Wagner |
| Conti | Kitchen | Pippy | Waugh |
| Corman | Kukovich | Punt | Wenger |
| Costa | LaValle | Rafferty | White, Donald |
| Dent | Lemmond | Rhoades | White, Mary Jo |
| Earll | Logan | Robbins | Williams, Anthony H. |
| Erickson | Madigan | Scarnati | Williams, Constance |
| Ferlo | Mellow | Schwartz | Wonderling |
| Fumo | Mowery | Stack | Wozniak |
| Gordner | Musto | Stout | |
| Greenleaf | O'Pake | Tartaglione | |

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 without amendments.

BILL OVER IN ORDER TEMPORARILY

HB 2105 -- Without objection, the bill was passed over in its order temporarily at the request of Senator BRIGHTBILL.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 2378 (Pr. No. 3356) -- The Senate proceeded to consideration of the bill, entitled:

An Act designating a portion of State Route 4013 in Blair County as the Jack E. Kuhn Memorial Highway.

Considered the third time and agreed to,

On the question,
Shall the bill pass finally?

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

The PRESIDENT pro tempore. Madam President, I certainly strongly support House Bill No. 2378. This is not just an ordinary change in name. The change from the Veterans Highway to the Jack E. Kuhn Memorial Highway is named after, frankly, a real hero of mine. Jack Kuhn was part of the greatest generation and was at Normandy, and if anyone saw "Saving Private Ryan," as probably many have, Jack Kuhn was an airborne ranger who climbed the mountain into the machine gun nest, faced enemy fire, and one of the very, very few who survived. He received two Silver Stars, the Bronze Star, the Purple Heart, the French Fouragere, the Combat Infantry Badge, the Presidential Unit Citation, the European-African Middle Eastern Campaign Medal, and the British Medal of Valor. In 1994, he was inducted into the Ranger Hall of Fame. So when I say he is a hero of mine, he is a true American hero who represented the very best of the greatest generation.

Jack Kuhn came back to his hometown of Altoona, joined the Altoona City Police Department, and eventually became the chief of police in the city of Altoona. After his retirement, he gave much of his time to volunteer work, helping those who needed help.

It is not only a great honor to stand up here and support this, but it is a labor of love. It is the right thing to do. It is time we honor our heroes in a true way, and I just cannot say enough about someone who as a young lawyer, when he was a city detective, took me under his wing after he beat me in court and said, Bob, I just want to tell you, you did a great job, and I want to tell you some of the things that you might think about in the future. So, he was not only a hero, he was a bit of a mentor, somebody I admired and respected, and I just believe that he is in a better place now, but this highway will recognize and immortalize him in a way that is appropriate and proper.

So, Madam President, I am sure that we will have a unanimous vote on this, but I wanted these remarks on the record for a very, very special human being.

Thank you, Madam President.

And the question recurring,
Shall the bill pass finally?

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

YEA-50

| | | | |
|------------|-----------|-------------|----------------------|
| Armstrong | Hughes | Orie | Thompson |
| Boscola | Jubelirer | Piccola | Tomlinson |
| Brightbill | Kasunic | Pileggi | Wagner |
| Conti | Kitchen | Pippy | Waugh |
| Corman | Kukovich | Punt | Wenger |
| Costa | LaValle | Rafferty | White, Donald |
| Dent | Lemmond | Rhoades | White, Mary Jo |
| Earll | Logan | Robbins | Williams, Anthony H. |
| Erickson | Madigan | Scarnati | Williams, Constance |
| Ferlo | Mellow | Schwartz | Wonderling |
| Fumo | Mowery | Stack | Wozniak |
| Gordner | Musto | Stout | |
| Greenleaf | O'Pake | Tartaglione | |

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 without amendments.

BILLS OVER IN ORDER

HB 2405 and HB 2433 -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 2649 (Pr. No. 3944) -- The Senate proceeded to consideration of the bill, entitled:

An Act designating a portion of State Route 405 from Clinton Township to Montgomery Borough, Lycoming County, Pennsylvania, as the Dr. Charles F. Taylor Memorial Highway; and designating a bridge over the West Branch of the Susquehanna River on State Route 405 between Muncy Creek Township and Clinton Township, Lycoming County, Pennsylvania, as the The Last Raft Memorial Bridge.

Considered the third time and agreed to,

On the question,
Shall the bill pass finally?

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

YEA-50

| | | | |
|------------|-----------|-------------|----------------------|
| Armstrong | Hughes | Orie | Thompson |
| Boscola | Jubelirer | Piccola | Tomlinson |
| Brightbill | Kasunic | Pileggi | Wagner |
| Conti | Kitchen | Pippy | Waugh |
| Corman | Kukovich | Punt | Wenger |
| Costa | LaValle | Rafferty | White, Donald |
| Dent | Lemmond | Rhoades | White, Mary Jo |
| Earll | Logan | Robbins | Williams, Anthony H. |
| Erickson | Madigan | Scarnati | Williams, Constance |
| Ferlo | Mellow | Schwartz | Wonderling |
| Fumo | Mowery | Stack | Wozniak |
| Gordner | Musto | Stout | |
| Greenleaf | O'Pake | Tartaglione | |

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 without amendments.

SECOND CONSIDERATION CALENDAR

BILLS OVER IN ORDER

HB 309 and SB 357 -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

BILL REREFERRED

SB 765 (Pr. No. 1735) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, further providing for exclusions from sales and use tax.

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

BILL OVER IN ORDER

HB 835 -- Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

BILL REREFERRED

SB 844 (Pr. No. 1025) -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for the highway capital budget project itemization for the fiscal year 2003-2004.

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

BILLS OVER IN ORDER

HB 994, SB 1002, SB 1027, SB 1111, HB 1117, SB 1140, SB 1161, HB 1329, HB 1330 and HB 1331 -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

BILLS REREFERRED

HB 1424 (Pr. No. 4145) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, imposing a criminal justice technology enhancement fee for convictions; and establishing the Criminal Justice Technology Enhancement Fund.

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

HB 1801 (Pr. No. 2341) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 25, 1931 (P.L.1352, No.332), referred to as the Delaware River Joint Toll Bridge Compact, further providing for powers and duties and for audits.

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

BILLS OVER IN ORDER

HB 1860 and HB 1861 -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

BILL ON SECOND CONSIDERATION

HB 1965 (Pr. No. 2564) -- The Senate proceeded to consideration of the bill, entitled:

An Act repealing the act of June 4, 1945 (P.L.1191, No.413), entitled "An act to authorize the Pennsylvania Post-War Planning Commission under certain conditions to enter into agreements with political subdivisions of this Commonwealth for the financing of plans and specifications for public works; and making an appropriation."

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

BILLS OVER IN ORDER

HB 2224 and HB 2230 -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

BILL ON SECOND CONSIDERATION

HB 2268 (Pr. No. 3119) -- The Senate proceeded to consideration of the bill, entitled:

An Act repealing provisions relating to a permanent centennial exposition building in Philadelphia.

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

BILLS ON SECOND CONSIDERATION
AND REREFERRED

HB 2351 (Pr. No. 3279) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of February 1, 1966 (1965 P.L.1656, No.581), known as The Borough Code, providing for retirement benefits of employees transferred to wastewater authorities.

Considered the second time and agreed to,
Ordered, To be printed for third consideration.
Upon motion of Senator BRIGHTBILL, and agreed to by voice vote, the bill just considered was rereferred to the Committee on Appropriations.

HB 2654 (Pr. No. 4195) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, reenacting and amending provisions relating to parking authorities and relating to taxicabs and limousines in cities of the first class; further providing for parking authority purposes and powers and special provisions in cities of the first class; providing for restrictions on parking authorities in cities of the first class; further providing for contract bids for parking authorities; further defining "limousine service"; making legislative findings as to taxicabs in cities of the first class; further providing, as to taxicabs in cities of the first class, for rates, for contested complaints, for driver certification, for budgets and fees, for certificates and medallions, for contested complaints, for wages, for regulations and for budget and fees; further providing, as to limousines in cities of the first class, for certificates of public convenience and for regulations; and making repeals related to allocation assessments against public utilities for regulatory expenses, to certificates of public convenience for taxicabs and to taxicabs in cities of the first class.

Considered the second time and agreed to,
Ordered, To be printed for third consideration.
Upon motion of Senator BRIGHTBILL, and agreed to by voice vote, the bill just considered was rereferred to the Committee on Appropriations.

RECONSIDERATION OF SB 1155

BILL ON FINAL PASSAGE

SB 1155 (Pr. No. 1682) -- Senator MELLOW. Madam President, I move that the Senate reconsider the vote by which Senate Bill No. 1155, Printer's No. 1682, passed finally.

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

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 | Hughes | O'Pake | Stout |
| Boscola | Jubelirer | Orie | Thompson |
| Brightbill | Kasunic | Piccola | Tomlinson |
| Conti | Kitchen | Pileggi | Wagner |
| Corman | Kukovich | Pippy | Waugh |
| Costa | LaValle | Punt | Wenger |
| Dent | Lemmond | Rafferty | White, Donald |
| Earll | Logan | Rhoades | White, Mary Jo |
| Erickson | Madigan | Robbins | Williams, Anthony H. |
| Ferlo | Mellow | Scarnati | Williams, Constance |
| Gordner | Mowery | Schwartz | Wonderling |
| Greenleaf | Musto | Stack | Wozniak |

NAY-2

| | |
|------|-------------|
| Fumo | Tartaglione |
|------|-------------|

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 2105 CALLED UP

HB 2105 (Pr. No. 4072) -- Without objection, the bill, which previously went over in its order temporarily, was called up, from page 5 of the Third Consideration Calendar, by Senator BRIGHTBILL.

BILL OVER IN ORDER

HB 2105 (Pr. No. 4072) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, further defining "public venue"; further providing for unlawful acts relative to liquor, malt and brewed beverages and licensees; and providing for distilleries.

On the question,

Will the Senate agree to the bill on third consideration?

Senator GORDNER offered the following amendment No. A2886:

Amend Title, page 1, line 17, by inserting after "for": general powers of the Pennsylvania Liquor Control Board, for sales by Pennsylvania liquor stores, for

Amend Title, page 1, line 19, by inserting after "licensees": and for limited wineries

Amend Bill, page 3, by inserting between lines 17 and 18:

Section 2. Section 207(a) of the act, amended December 30, 2003 (P.L.423, No.59), is amended to read:

Section 207. General Powers of Board.—Under this act, the board shall have the power and its duty shall be:

(a) To buy, import or have in its possession for sale and sell liquor, alcohol, corkscrews, wine and liquor accessories, trade publications, candles and wine glasses in the manner set forth in this act: Provided, however, That all purchases shall be made subject to the approval of the State Treasurer, or his designated deputy. The board shall buy liquor and alcohol at the lowest price and in the greatest variety reasonably obtainable.

Section 3. Section 305(h) of the act, amended July 17, 2003 (P.L.63, No.15), is amended to read:

Section 305. Sales by Pennsylvania Liquor Stores.—***

(h) Every Pennsylvania Liquor Store shall sell gift certificates which may be redeemed for liquor. In addition, the board may sell corkscrews, wine and liquor accessories, candles, trade publications and wine sleeves at Pennsylvania Liquor Stores.

Amend Sec. 2, page 3, line 18, by striking out "2" and inserting: 4 Amend Bill, page 4, by inserting between lines 28 and 29:

Section 5. Section 505.2 of the act, amended November 10, 1999 (P.L.514, No.47), December 9, 2002 (P.L.1653, No.212), December 16, 2002 (P.L.1806, No.221) and July 17, 2003 (P.L.63, No.15), is amended to read:

Section 505.2. Limited Wineries.—(a) In the interest of promoting tourism and recreational development in Pennsylvania, holders of a limited winery license may:

(1) Produce alcoholic ciders, wines and wine coolers, subject to the exceptions provided under this section, only from fruits grown in Pennsylvania.

(2) Sell alcoholic cider, wine and wine coolers produced by the limited winery or purchased in bulk in bond from another Pennsylvania limited winery on the licensed premises, under such conditions and regulations as the board may enforce, to the board, to individuals and to brewery, hotel, restaurant, club and public service liquor licensees, and to Pennsylvania winery licensees: Provided, That a limited winery shall not, in any calendar year, purchase alcoholic cider or wine produced by other limited wineries in an amount in excess of fifty per centum of the alcoholic cider or wine produced by the purchasing limited winery in the preceding calendar year. In addition, the holder of a limited winery license may purchase wine in bottles from another Pennsylvania limited winery if these wines undergo a second fermentation process. Such wine may be sold in bottles bearing the purchasing limited winery's label or the producing limited winery's label. Such wines, if sold by the board, may be sold by the producing limited winery to the purchasing limited winery at a price lower than the price charged by the board.

(3) Separately or in conjunction with other limited wineries, sell alcoholic cider, wine and wine coolers produced by the limited winery on no more than five (5) board-approved locations other than the licensed premises, with no bottling or production requirement at those additional board-approved locations and under such conditions and regulations as the board may enforce, to the board, to individuals and to brewery, hotel, restaurant, club and public service liquor licensees. If two or more limited wineries apply to operate an additional board-approved location in conjunction with each other, the wineries need only have one board-approved manager for the location, need only pay one application fee and need not designate specific or distinct areas for each winery's licensed area. Each limited winery must file an application for such an additional board-approved location, and such location shall count as one of the five permitted for each limited winery. Each limited winery is responsible for keeping only its own complete records. A limited winery may be cited for a violation of the recordkeeping requirements of sections 512 and 513 pertaining to its own records only.

(4) At the discretion of the board, obtain a special permit to participate in alcoholic cider, wine and food expositions off the licensed premises. A special permit shall be issued upon proper application and payment of a fee of thirty dollars (\$30) per day for each day of permitted use, not to exceed five (5) consecutive days. The total number of days for all the special permits may not exceed forty (40) days in any calendar year. A special permit shall entitle the holder to engage in the sale of alcoholic cider or wine produced by the bottle or in case lots by the permittee under the authority of a limited winery license. Holders of

special permits may provide tasting samples of wines in individual portions not to exceed one fluid ounce. Samples at alcoholic cider, wine and food expositions may be sold or offered free of charge. Except as provided herein, limited wineries utilizing special permits shall be governed by all applicable provisions of this act as well as by all applicable regulations or conditions adopted by the board.

For the purposes of this clause, "alcoholic cider, wine and food expositions" are defined as affairs held indoors or outdoors with the primary intent of educating those in attendance of the availability, nature and quality of Pennsylvania-produced alcoholic ciders and wines in conjunction with suitable food displays, demonstrations and sales. Alcoholic cider, wine and food expositions may also include activities other than alcoholic cider, wine and food displays, including arts and crafts, musical activities, cultural exhibits, agricultural exhibits and similar activities.

(5) Apply for and hold a hotel liquor license, a restaurant liquor license or a malt and brewed beverages retail license to sell for consumption at the restaurant or limited winery on the licensed winery premises, liquor, wine and malt or brewed beverages regardless of the place of manufacture under the same conditions and regulations as any other hotel liquor license, restaurant liquor license or malt and brewed beverages retail license.

(6) (i) Secure a permit from the board to allow the holder of a limited winery license to use up to twenty-five per centum permitted fruit, not wine, in the current year's production. Each permit is valid only for the calendar year in which it is issued.

(ii) The fee for a permit to import and use permitted fruit shall be in an amount to be determined by the board.

(iii) The purpose of this section is to increase the productivity of limited wineries while at the same time protecting the integrity and unique characteristics of wine produced from fruit primarily grown in this Commonwealth. Prevailing climatic conditions have a significant impact on the character of the fruit. Accordingly, "permitted fruit" shall mean fruit grown or juice derived from fruit grown within three hundred fifty (350) miles of the winery.

(iv) The department is authorized to promulgate regulations requiring the filing of periodic reports by limited wineries to ensure compliance with the provisions of this section.

(v) This clause shall expire on December 31, 2004.

(6.1) Sell candles acquired or produced by the limited winery.

[(7)] (b) The total production of alcoholic ciders, wine and wine coolers by a limited winery may not exceed two hundred thousand (200,000) gallons per year.

Amend Sec. 3, page 4, line 29, by striking out "3" and inserting: 6

Amend Sec. 4, page 5, line 9, by striking out "4" and inserting: 7

On the question,

Will the Senate agree to the amendment?

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

Senator MELLOW. Madam President, can we be at ease?

The PRESIDENT. Without objection, the Senate will be at ease.

(The Senate was at ease.)

Senator BRIGHTBILL. Madam President, I ask that House Bill No. 2105 go over in its order.

The PRESIDENT. Without objection, the bill will go over in its order.

ANNOUNCEMENT BY MAJORITY LEADER

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

Senator BRIGHTBILL. Madam President, could we stand at ease for a quick caucus with the Members at the podium? I expect it will take us about 2 minutes.

The PRESIDENT. Without objection, the Senate will be at ease.

(The Senate was at ease.)

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

**SENATE CONCURS IN HOUSE AMENDMENTS
AS AMENDED**

SB 157 (Pr. No. 1766) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, further providing for firefighter and emergency service training as creditable high school courses; reenacting provisions relating to education empowerment districts and for temporary aid for school districts affected by reductions in assessed value of real estate; reenacting provisions for powers and duties of the State Board of Education; and providing for regulation of credit card marketing on a college or university campus.

On the question,

Will the Senate concur in the amendments made by the House, as further amended by the Senate, to Senate Bill No. 157?

Senator PICCOLA. Madam President, I move that the Senate do concur in the amendments made by the House, as further amended by the Senate, to Senate Bill No. 157.

On the question,

Will the Senate agree to the motion?

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

YEA-50

| | | | |
|------------|-----------|-------------|----------------------|
| Armstrong | Hughes | Orie | Thompson |
| Boscola | Jubelirer | Piccola | Tomlinson |
| Brightbill | Kasunic | Pileggi | Wagner |
| Conti | Kitchen | Pippy | Waugh |
| Corman | Kukovich | Punt | Wenger |
| Costa | LaValle | Rafferty | White, Donald |
| Dent | Lemmond | Rhoades | White, Mary Jo |
| Earll | Logan | Robbins | Williams, Anthony H. |
| Erickson | Madigan | Scarnati | Williams, Constance |
| Ferlo | Mellow | Schwartz | Wonderling |
| Fumo | Mowery | Stack | Wozniak |
| Gordner | Musto | Stout | |
| Greenleaf | O'Pake | Tartaglione | |

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.

**SENATE CONCURS IN HOUSE AMENDMENTS
AS AMENDED**

SB 200 (Pr. No. 1765) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 24 (Education) of the Pennsylvania Consolidated Statutes, further providing for termination of annuities.

On the question,

Will the Senate concur in the amendments made by the House, as further amended by the Senate, to Senate Bill No. 200?

Senator PICCOLA. Madam President, I move that the Senate do concur in the amendments made by the House, as further amended by the Senate, to Senate Bill 200.

On the question,

Will the Senate agree to the motion?

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

YEA-50

| | | | |
|------------|-----------|-------------|----------------------|
| Armstrong | Hughes | Orie | Thompson |
| Boscola | Jubelirer | Piccola | Tomlinson |
| Brightbill | Kasunic | Pileggi | Wagner |
| Conti | Kitchen | Pippy | Waugh |
| Corman | Kukovich | Punt | Wenger |
| Costa | LaValle | Rafferty | White, Donald |
| Dent | Lemmond | Rhoades | White, Mary Jo |
| Earll | Logan | Robbins | Williams, Anthony H. |
| Erickson | Madigan | Scarnati | Williams, Constance |
| Ferlo | Mellow | Schwartz | Wonderling |
| Fumo | Mowery | Stack | Wozniak |
| Gordner | Musto | Stout | |
| Greenleaf | O'Pake | Tartaglione | |

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.

SENATE CONCURS IN HOUSE AMENDMENTS

SB 319 (Pr. No. 1030) -- The Senate proceeded to consideration of the bill, entitled:

An Act authorizing the Commonwealth of Pennsylvania to join the Interstate Compact for Juveniles; providing for the form of the compact; imposing additional powers and duties on the Governor, the Secretary of the Commonwealth and the Compact; establishing the State Council for Interstate Juvenile Supervision; and making a repeal.

On the question,

Will the Senate concur in the amendments made by the House to Senate Bill No. 319?

Senator PICCOLA. Madam President, I move that the Senate do concur in the amendments made by the House to Senate Bill No. 319.

On the question,

Will the Senate agree to the motion?

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

YEA-50

| | | | |
|------------|-----------|-------------|----------------------|
| Armstrong | Hughes | Orie | Thompson |
| Boscola | Jubelirer | Piccola | Tomlinson |
| Brightbill | Kasunic | Pileggi | Wagner |
| Conti | Kitchen | Pippy | Waugh |
| Corman | Kukovich | Punt | Wenger |
| Costa | LaValle | Rafferty | White, Donald |
| Dent | Lemmond | Rhoades | White, Mary Jo |
| Earll | Logan | Robbins | Williams, Anthony H. |
| Erickson | Madigan | Scarnati | Williams, Constance |
| Ferlo | Mellow | Schwartz | Wonderling |
| Fumo | Mowery | Stack | Wozniak |
| Gordner | Musto | Stout | |
| Greenleaf | O'Pake | Tartaglione | |

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.

SENATE CONCURS IN HOUSE AMENDMENTS

SB 751 (Pr. No. 1432) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, further providing for respiratory care practitioners; and providing for continuing respiratory care education.

On the question,

Will the Senate concur in the amendments made by the House to Senate Bill No. 751?

Senator PICCOLA. Madam President, I move that the Senate do concur in the amendments made by the House to Senate Bill No. 751.

On the question,

Will the Senate agree to the motion?

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

YEA-50

| | | | |
|------------|-----------|-------------|----------------------|
| Armstrong | Hughes | Orie | Thompson |
| Boscola | Jubelirer | Piccola | Tomlinson |
| Brightbill | Kasunic | Pileggi | Wagner |
| Conti | Kitchen | Pippy | Waugh |
| Corman | Kukovich | Punt | Wenger |
| Costa | LaValle | Rafferty | White, Donald |
| Dent | Lemmond | Rhoades | White, Mary Jo |
| Earll | Logan | Robbins | Williams, Anthony H. |
| Erickson | Madigan | Scarnati | Williams, Constance |
| Ferlo | Mellow | Schwartz | Wonderling |
| Fumo | Mowery | Stack | Wozniak |
| Gordner | Musto | Stout | |
| Greenleaf | O'Pake | Tartaglione | |

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.

SENATE CONCURS IN HOUSE AMENDMENTS

SB 752 (Pr. No. 1545) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, further providing for definitions, for licensing of physician assistants and for temporary respiratory care permits; and providing for continuing education.

On the question,
Will the Senate concur in the amendments made by the House to Senate Bill No. 752?

Senator PICCOLA. Madam President, I move that the Senate do concur in the amendments made by the House to Senate Bill No. 752.

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

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

YEA-50

| | | | |
|------------|-----------|-------------|----------------------|
| Armstrong | Hughes | Orie | Thompson |
| Boscola | Jubelirer | Piccola | Tomlinson |
| Brightbill | Kasunic | Pileggi | Wagner |
| Conti | Kitchen | Pippy | Waugh |
| Corman | Kukovich | Punt | Wenger |
| Costa | LaValle | Rafferty | White, Donald |
| Dent | Lemmond | Rhoades | White, Mary Jo |
| Earll | Logan | Robbins | Williams, Anthony H. |
| Erickson | Madigan | Scarnati | Williams, Constance |
| Ferlo | Mellow | Schwartz | Wonderling |
| Fumo | Mowery | Stack | Wozniak |
| Gordner | Musto | Stout | |
| Greenleaf | O'Pake | Tartaglione | |

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.

SECOND CONSIDERATION CALENDAR

BILL ON SECOND CONSIDERATION

HB 2512 (Pr. No. 4229) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of July 6, 1984 (P.L.652, No.136), known as the Milk Producers' Security Act, further providing for definitions; providing for passage of title to milk; further providing for security

bonds, for bonds, for the security fund and for new licenses; providing for review of security; and further providing for trusteeship, for prohibitions and violations and for penalties.

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

RECESS

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

Senator PICCOLA. Madam President, I request an immediate recess of the Senate, first for the purpose of a meeting of the Committee on Health and Welfare in the Rules room, to be immediately followed by a meeting of the Committee on Appropriations in the Rules room.

The PRESIDENT. Senator Piccola requests an immediate recess for the purpose of a meeting of the Committee on Public Health and Welfare, followed by a meeting of the Committee on Appropriations. Without objection, the Senate stands in recess.

AFTER RECESS

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

**UNFINISHED BUSINESS
SENATE RESOLUTIONS ADOPTED**

Senators RHOADES, THOMPSON, PICCOLA, DENT, ERICKSON, STOUT, KITCHEN, KASUNIC, KUKOVICH, WAGNER, CONTI, C. WILLIAMS, CORMAN, FERLO, MELLOW, RAFFERTY, TARTAGLIONE, STACK, COSTA, O'PAKE, LaVALLE, MOWERY, LOGAN, ORIE, LEMMOND, WONDERLING, SCARNATI, PIPPY, TOMLINSON, ARMSTRONG, GREENLEAF, SCHWARTZ, EARLL, FUMO and BRIGHTBILL, by unanimous consent, offered **Senate Resolution No. 289**, entitled:

A Resolution designating September 26, 2004, as "Unity Day" in Pennsylvania.

On the question,
Will the Senate adopt the resolution?

The PRESIDENT. The Chair recognizes the gentleman from Schuylkill, Senator Rhoades.

Senator RHOADES. Madam President, on behalf of myself and 34 cosponsors, Article I, Section 1, of the Constitution of Pennsylvania states that "All men are born equally free and independent, and have certain inherent and inalienable rights...." Madam President, the Commonwealth should recognize the rights of Pennsylvania's citizens to be free from discrimination based on race. This resolution designates a day to demonstrate and celebrate Pennsylvania's desire for a community of respect, harmony, and justice, and to show that racism is a betrayal of the most fundamental values of our religious and constitutional heritage.

This resolution would designate September 26, 2004, as "Unity Day" in Pennsylvania, for the purpose of recognizing the

need to eliminate racism and to foster relations based on community respect, harmony, and justice in this Commonwealth. I ask my colleagues to give their unanimous support to this important resolution.

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.

Senators GREENLEAF, BRIGHTBILL, MUSTO, THOMPSON, KUKOVICH, ORIE, LOGAN, ERICKSON, CONTI, STACK, BOSCOLA, COSTA, C. WILLIAMS, CORMAN, LEMMOND, RHOADES, TOMLINSON and RAFFERTY, by unanimous consent, offered **Senate Resolution No. 290**, entitled:

A Resolution recognizing the week of September 27 through October 3, 2004, as "Equal Parents' Week" in Pennsylvania.

On the question,
Will the Senate adopt the resolution?

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

Senator GREENLEAF. Madam President, I appreciate the opportunity to offer this resolution designating Equal Parents' Week, September 27 through October 3 of this year. I appreciate the consideration of the Senate on this resolution.

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

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

Senators GREENLEAF, BRIGHTBILL, WENGER, FUMO, THOMPSON, MUSTO, CONTI, WAGNER, MOWERY, KUKOVICH, COSTA, KITCHEN, FERLO, HUGHES, LaVALLE, CORMAN, GORDNER, PILEGGI, EARLL, PIPPY, LOGAN, TOMLINSON, LEMMOND, DENT, ERICKSON, KASUNIC, C. WILLIAMS, ORIE, SCHWARTZ, RAFFERTY and ARMSTRONG by unanimous consent, offered **Senate Resolution No. 291**, entitled:

A Resolution designating the month of September 2004 as "Prostate Cancer Awareness Month" in Pennsylvania.

Which was read, considered, and adopted by voice vote.

Senator CORMAN, by unanimous consent, offered **Senate Resolution No. 292**, entitled:

A Resolution recognizing August 17 through 19, 2004, as "Ag Progress Days" in Pennsylvania.

Which was read, considered, and adopted by voice vote.

BILLS REPORTED FROM COMMITTEES

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

SB 1112 (Pr. No. 1605)

An Act establishing the Board of Directors of the Rouse Estate; and making repeals.

HB 1039 (Pr. No. 4230) (Amended)

An Act amending the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, providing for Medicaid managed care organization assessments, for intermediate care facilities for the mentally retarded persons assessments, for administration of assessments by the Department of Public Welfare, for enforcement and for a report on certain pharmaceutical programs.

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

HB 2081 (Pr. No. 3424) (Rereported)

An Act amending Title 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, providing for early termination of housing rental agreement; and providing penalties.

HB 2467 (Pr. No. 3519) (Rereported)

An Act amending the act of December 18, 1984 (P.L.1005, No.205), known as the Municipal Pension Plan Funding Standard and Recovery Act, further providing for contents of actuarial valuation report.

Senator MADIGAN, from the Committee on Transportation, reported the following bills:

SB 946 (Pr. No. 1767) (Amended)

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, providing for spilled cargo and for accident scene clearance; and further providing for removal of vehicles and spilled cargo from roadway.

SB 1186 (Pr. No. 1760)

An Act designating a portion of State Route 1014 in Cumberland County as the Senator John D. Hopper Memorial Bypass.

Senator CONTI, from the Committee on Law and Justice, reported the following bill:

HB 2330 (Pr. No. 3251) (Rereported)

An Act providing for the duties of the Pennsylvania State Police regarding criminal history background reports for persons participating in harness or horse racing.

CONGRATULATORY RESOLUTIONS

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

Congratulations of the Senate were extended to the Borough of Delaware Water Gap by Senator Boscola.

Congratulations of the Senate were extended to Mr. and Mrs. Luther Varner and to Mr. and Mrs. Roly L. Fisher by Senator Corman.

Congratulations of the Senate were extended to Mr. and Mrs. William Boughter, Mr. and Mrs. Richard E. Neuffer, Right Reverend Mitred Archbishop-Prelate Stephen A. Chomko and to Don W. Swartz by Senator Gordner.

Congratulations of the Senate were extended to The Lenape Nation of eastern Pennsylvania by Senator Greenleaf.

Congratulations of the Senate were extended to Mr. and Mrs. Earl McClain by Senator Jubelirer.

Congratulations of the Senate were extended to Mr. and Mrs. Kenneth Guthrie by Senator Madigan.

Congratulations of the Senate were extended to Daniel William Berkowitz and to Dunmore Candy Kitchen by Senator Mellow.

Congratulations of the Senate were extended to James M. Mead by Senator Mowery.

Congratulations of the Senate were extended to Robert J. Yatsko by Senator Orié.

Congratulations of the Senate were extended to Robert J. Monahan, Sr., by Senator Punt.

Congratulations of the Senate were extended to Mr. and Mrs. Joseph Burda by Senator Rhoades.

Congratulations of the Senate were extended to Raymond Harris, Jr., by Senator Tartaglione.

Congratulations of the Senate were extended to John Chatley III by Senator Thompson.

Congratulations of the Senate were extended to William L. and Lucille Irene Wilson Banks by Senator A.H. Williams.

Congratulations of the Senate were extended to Thomas Buonocore, Douglas C. Snyder and to Charles M. Velesaris by Senator Wonderling.

BILLS ON FIRST CONSIDERATION

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

The motion was agreed to by voice vote.

The bills were as follows:

SB 946, SB 1112, SB 1186 and HB 1039.

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

PETITIONS AND REMONSTRANCES

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

Senator WONDERLING. Madam President, I just rise briefly to applaud Senator Mellow today for advancing Senate Bill No. 1095, which designates an exit on Interstate 81 in Lackawanna County as the Chuck Mattei Interchange.

Madam President, I served 4 years with Chuck when I was the Deputy Secretary at the Department of Transportation and Chuck served as the district engineer for that part of this Commonwealth. In a word, he truly was a treasure and was a tireless and committed public servant who never, ever gave up. Tragically, we lost Chuck way too early in this life and on this earth, but

again, I do applaud Senator Mellow and others in recognition of this portion of Interstate 81 as the Chuck Mattei Interchange.

Thank you, Madam President.

HOUSE MESSAGES

HOUSE BILLS FOR CONCURRENCE

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

June 29, 2004

HB 2371 -- Committee on Public Health and Welfare.

HB 2521 -- Committee on Appropriations.

HB 2690 -- Committee on Environmental Resources and Energy.

HB 2713 -- Committee on State Government.

HB 2758 -- Committee on Urban Affairs and Housing.

BILLS INTRODUCED AND REFERRED

The PRESIDENT laid before the Senate the following Senate Bills numbered, entitled, and referred as follows, which were read by the Clerk:

June 29, 2004

Senators JUBELIRER, MELLOW, PIPPY, GORDNER, PUNT, BRIGHTBILL, PICCOLA, THOMPSON, STOUT, RHOADES, FERLO, RAFFERTY, PILEGGI, MUSTO, D. WHITE, DENT, ERICKSON, WAGNER, ARMSTRONG, BOSCOLA, MADIGAN, MOWERY, O'PAKE, KUKOVICH, WENGER, WAUGH, ORIE, LEMMOND, EARLL, LOGAN, COSTA, TARTAGLIONE, SCARNATI, STACK, ROBBINS, TOMLINSON, M. WHITE, SCHWARTZ, C. WILLIAMS, WONDERLING, WOZNIAK and CONTI presented to the Chair **SB 1**, entitled:

An Act providing for lobbying registration, regulation and disclosure; conferring powers and imposing duties on the Department of State, the Office of Attorney General and the State Ethics Commission; imposing penalties; establishing the Lobbying Accountability Fund; and making a related repeal.

Which was committed to the Committee on STATE GOVERNMENT, June 29, 2004.

Senators PIPPY, BRIGHTBILL, COSTA, KITCHEN, DENT, ORIE, STACK, WONDERLING, PUNT, LEMMOND, O'PAKE, BOSCOLA, CORMAN, KASUNIC, FERLO, TOMLINSON, RAFFERTY and ARMSTRONG presented to the Chair **SB 1190**, entitled:

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, extending the employment incentive tax credit.

Which was committed to the Committee on FINANCE, June 29, 2004.

Senators KUKOVICH, MUSTO, LAVALLE, WAUGH, GORDNER, BOSCOLA, COSTA, LOGAN, WOZNAK, SCHWARTZ, STOUT, TARTAGLIONE, STACK and C. WILLIAMS presented to the Chair **SB 1191**, entitled:

An Act providing incentives for the use of waste, coal bed methane, and coal mine methane for the production of electricity; establishing the Coal Waste Fund; providing for a tax credit; and prohibiting certain surface disposal of coal waste.

Which was committed to the Committee on ENVIRONMENTAL RESOURCES AND ENERGY, June 29, 2004.

Senators PIPPY, BRIGHTBILL, RHOADES, LOGAN, COSTA, BOSCOLA, WAGNER, CORMAN, LEMMOND, FERLO, SCHWARTZ and ARMSTRONG presented to the Chair **SB 1192**, entitled:

An Act amending the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, further providing for investment of moneys of the Commonwealth; and making a related repeal.

Which was committed to the Committee on FINANCE, June 29, 2004.

Senators M. WHITE, PUNT, STOUT, PIPPY, PILEGGI, WONDERLING, LEMMOND, COSTA, RHOADES, WOZNAK, RAFFERTY, FERLO, MOWERY, THOMPSON, EARLL and GREENLEAF presented to the Chair **SB 1193**, entitled:

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, further providing for tuition charges for pupils of other districts.

Which was committed to the Committee on EDUCATION, June 29, 2004.

Senator KASUNIC presented to the Chair **SB 1194**, entitled:

An Act amending Title 74 (Transportation) of the Pennsylvania Consolidated Statutes, further providing for distribution of funding.

Which was committed to the Committee on TRANSPORTATION, June 29, 2004.

GENERAL COMMUNICATION

STATE SYSTEM OF HIGHER EDUCATION PROPERTY REQUEST No. 1 OF 2004

The PRESIDENT laid before the Senate the following communication, which was read by the Clerk as follows:

STATE SYSTEM OF HIGHER EDUCATION
Office of the Chancellor
Dixon University Center
2986 North Second Street
Harrisburg, PA 17110

June 29, 2004

Mr. Mark R. Corrigan
Secretary of the Senate
Room 462, Main Capitol
Harrisburg, PA 17120

Dear Mr. Corrigan:

Please accept this request for a resolution to authorize extinguishment of an easement for access to property owned by East Stroudsburg University of Pennsylvania. On April 8, 2004, the Board of Governors of the Pennsylvania State System of Higher Education approved a request from East Stroudsburg University, subject to approval by the General Assembly, to extinguish an easement as requested by Aventis Pasteur, Inc., owner of the property on which the easement exists. Following is additional information on the property:

East Stroudsburg University owns property adjacent to property owned by Aventis Pasteur, Inc. At the time of acquisition of the property, the University also was conveyed an easement for access across the property currently owned by Aventis Pasteur. Since the University prefers to use other available access points, the easement is no longer required. The University has never used the access easement, anticipates no future use, and sees no value in continuing its existence. The easement currently restricts desired development of the Aventis Pasteur property, and they have requested that the easement be extinguished. The easement measures approximately 1,700 feet long by 20 feet wide.

The property description is contained in the Agreement dated the 19th day of October 1970, and recorded on November 19, 1970, at the Recorder of Deeds Office of Monroe County, Pennsylvania, in Deed Book Volume 394 at Page 283 between Mary Louise McDowell (the "Executrix"), individually and as the executrix and devisee of the Estate of Alexander Byrd McDowell, also known as A. Byrd McDowell, and William A. Niering and Catherine M. Niering, his wife.

As required by Act 188 of 1982, this office requests that the required resolution to remove the easement be drafted and placed on the calendar for consideration by the General Assembly at the next opportunity. Your assistance in this matter is greatly appreciated. Questions concerning this request should be addressed to Dr. Edward J. Nolan at (717) 720-4020.

Sincerely,

JUDY G. HAMPLE
Chancellor

The PRESIDENT. This will appear on the Calendar as State System of Higher Education Property Request No. 1 of 2004.

BILLS SIGNED

The PRESIDENT (Lieutenant Governor Catherine Baker Knoll) in the presence of the Senate signed the following bills:

HB 1488 and HB 2042.

BILL REREFERRED

Upon motion of Senator PICCOLA, and agreed to by voice vote, the following bill was rereferred to the Committee on Appropriations:

HB 1039.

ANNOUNCEMENTS BY THE SECRETARY

The following announcements were read by the Secretary of the Senate:

SENATE OF PENNSYLVANIA

COMMITTEE MEETINGS

WEDNESDAY, JUNE 30, 2004

| | | |
|-------------------------------|---|--------------------------|
| Off the Floor | APPROPRIATIONS (to consider House Bills No. 176, 1039, 1152, 2351, 2521 and 2654) | Rules Com. Conf. Room |
| Off the Floor | FINANCE (to consider Senate Bills No. 1149, 1190 and 1192; and House Bills No. 1321, 2288 and 2472) | Rules Com. Conf. Room |
| Off the Floor | RULES AND EXECUTIVE NOMINATIONS (to consider Senate Bill No. 769; and certain executive nominations) | Rules Com. Conf. Room |
| Off the Floor | URBAN AFFAIRS AND HOUSING (to consider House Bill No. 2758) | Rules Com. Conf. Room |
| <u>THURSDAY, JULY 1, 2004</u> | | |
| Off the Floor | APPROPRIATIONS (to consider House Bills No. 176 and 1152) | Rules Com. Conf. Room |
| Off the Floor | URBAN AFFAIRS AND HOUSING (to consider Senate Bill No. 1189; and any other business that may come before the Committee) | Rules Com. Conf. Room |
| Off the Floor | RULES AND EXECUTIVE NOMINATIONS (to consider Senate Bills No. 92 and 769 and executive nominations) | Rules Com. Conf. Room |

RECESS

The PRESIDENT. 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.

The PRESIDENT. Senator Piccola moves that the Senate recess to the call of the President pro tempore.

The motion was agreed to by voice vote.

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

AFTER RECESS

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

RECESS

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

Senator BRIGHTBILL. Madam President, I ask for a recess of the Senate for a meeting of the Committee on Rules and Executive Nominations to be held in the Rules room. We expect to return in about 5 or 10 minutes.

The PRESIDENT. Senator Brightbill requests a meeting of the Committee on Rules and Executive Nominations to be held in the Rules 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.

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 STATE FARM PRODUCTS SHOW COMMISSION

April 2, 2004

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, Carl T. Shaffer, P.O. Box 2, West Third Street, Miiflinville 18631, Columbia County, Twenty-seventh Senatorial District, for appointment as a member of the State Farm Products Show Commission, to serve for a term of four years and until his successor has been appointed and qualified, vice Harry H. Bachman, Annville, whose term expired.

EDWARD G. RENDELL
Governor

MEMBER OF THE STATE FARM PRODUCTS SHOW COMMISSION

April 2, 2004

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, Elizabeth M. Shorb, 1140 Woodland Drive, York 17403, York County, Twenty-eighth Senatorial District, for appointment as a member of the State Farm Products Show Commission, to serve for a term of four years and until her successor has been appointed and qualified, vice Beverly K. Gruber, New Tripoli, whose term expired.

EDWARD G. RENDELL
Governor

JUDGE, COURT OF COMMON PLEAS, PERRY/JUNIATA COUNTIES

June 9, 2004

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, Kathy A. Morrow, Esquire, 409 Mountain Road, Millerstown 17062, Pery County, Thirty-Fourth Senatorial District, for appointment as Judge of the Court of Common Pleas of Perry/Juniata Counties, to serve until the first Monday of January 2006, vice The Honorable Keith B. Quigley, resigned.

EDWARD G. RENDELL
Governor

JUDGE, COURT OF COMMON PLEAS,
PHILADELPHIA MUNICIPAL COURT

June 9, 2004

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, Walter J. Olszewski, Esquire, 2513 South 19th Street, Philadelphia, 19145, Philadelphia County, First Senatorial District, for appointment as Judge of the Court of Common Pleas of Philadelphia County, to serve until the first Monday of January 2006, vice The Honorable Abram F. Reynolds, resigned.

EDWARD G. RENDELL
Governor

JUDGE, PHILADELPHIA MUNICIPAL COURT

June 9, 2004

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, Nazario Jimenez, Jr., Esquire, 100 E. Roosevelt Boulevard, Philadelphia 19120, Philadelphia County, Second Senatorial District, for appointment as Judge of the Philadelphia Municipal Court, to serve until the first Monday of January 2006, vice The Honorable Seamus P. McCaffery, resigned.

EDWARD G. RENDELL
Governor

MEMBER OF THE STATE PLANNING BOARD

May 10, 2004

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Ronald Bailey, 1754 Wilderness Road, Lancaster 17603, Lancaster County, Thirteenth Senatorial District, for appointment as a member of the State Planning Board, to serve for a term of four years and until his successor is appointed and qualified, vice Graysha K. Harris, Tunkhannock, whose term expired.

EDWARD G. RENDELL
Governor

MEMBER OF THE BERKS COUNTY
BOARD OF ASSISTANCE

June 4, 2004

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, Claudia P. Najera, (Democrat), 353 North Eighth Street, Reading 19606, Berks County, Eleventh Senatorial District, for appointment as a member of the Berks County Board of Assistance, to serve until December 31, 2004, and until her successor is appointed and qualified, vice Linda M. Matthews, Birdsboro, resigned.

EDWARD G. RENDELL
Governor

MEMBER OF THE BERKS COUNTY
BOARD OF ASSISTANCE

June 4, 2004

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, Elaine Swavely, (Democrat), 316 Port Clinton Avenue, Hamburg 19526, Berks County, Twenty-ninth Senatorial District, for appointment as a member of the Berks County Board of Assistance, to serve until December 31, 2005, and until her successor is appointed and qualified, vice Carol Meredith, Leesport, resigned.

EDWARD G. RENDELL
Governor

NOMINATIONS LAID ON THE TABLE

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

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

EXECUTIVE NOMINATIONS

EXECUTIVE SESSION

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

Which was agreed to by voice vote.

NOMINATIONS TAKEN FROM THE TABLE

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

The Clerk read the nominations as follows:

MEMBER OF THE STATE FARM
PRODUCTS SHOW COMMISSION

April 2, 2004

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, Carl T. Shaffer, P.O. Box 2, West Third Street, Mifflinville 18631, Columbia County, Twenty-seventh Senatorial District, for appointment as a member of the State Farm Products Show Commission, to serve for a term of four years and until his successor has been appointed and qualified, vice Harry H. Bachman, Annville, whose term expired.

EDWARD G. RENDELL
Governor

MEMBER OF THE STATE FARM
PRODUCTS SHOW COMMISSION

April 2, 2004

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, Elizabeth M. Shorb, 1140 Woodland Drive, York 17403, York County, Twenty-eighth Senatorial District, for appointment as a member of the State Farm Products Show Commission, to serve for a term of four years and until her successor has been appointed and qualified, vice Beverly K. Gruber, New Tripoli, whose term expired.

EDWARD G. RENDELL
Governor

MEMBER OF THE STATE PLANNING BOARD

May 10, 2004

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Ronald Bailey, 1754 Wilderness Road, Lancaster 17603, Lancaster County, Thirteenth Senatorial District, for appointment as a member of the State Planning Board, to serve for a term of four years and until his successor is appointed and qualified, vice Graysha K. Harris, Tunkhannock, whose term expired.

EDWARD G. RENDELL
Governor

MEMBER OF THE BERKS COUNTY
BOARD OF ASSISTANCE

June 4, 2004

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, Claudia P. Najera, (Democrat), 353 North Eighth Street, Reading 19606, Berks County, Eleventh Senatorial District, for appointment as a member of the Berks County Board of Assistance, to serve until December 31, 2004, and until her successor is appointed and qualified, vice Linda M. Matthews, Birdsboro, resigned.

EDWARD G. RENDELL
Governor

MEMBER OF THE BERKS COUNTY
BOARD OF ASSISTANCE

June 4, 2004

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, Elaine Swavely, (Democrat), 316 Port Clinton Avenue, Hamburg 19526, Berks County, Twenty-ninth Senatorial District, for appointment as a member of the Berks County Board of Assistance, to serve until December 31, 2005, and until her successor is appointed and qualified, vice Carol Meredith, Leesport, resigned.

EDWARD G. RENDELL
Governor

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

ANNOUNCEMENT BY MINORITY LEADER

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

Senator MELLOW. Madam President, we have someone with us who has not been here in a while, and I think we should give her our very warm greeting.
(Applause.)

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. The Chair recognizes Senator Tartaglione, and her legislative leave is cancelled for today.
(Applause.)

PERMISSION TO ADDRESS

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

Senator TARTAGLIONE. Madam President, 10 months ago I was told that I would be paralyzed from the waist down and never have any feeling. That is a pretty hard order to take, and I had a great surgeon. I had three operations in 8 days, and it is now 10 months since my accident. As you can see, I can move my legs, I can move and bend. The only thing I cannot do is move my heels and toes. So, eventually, as my feet and legs get stronger, hopefully, I will be able to walk in here in September.

I want to really thank each and every Senator for their thoughts, their kind words, their support, their friendship. It has meant a lot to me, it really has, and I want to thank all the staff from every office. I have gotten cards, letters, and flowers, so I want to say thank you to everybody, and it feels great to be back.

Thanks.
(Applause.)

And the question recurring,
Will the Senate advise and consent to the nominations?

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

YEA-50

| | | | |
|------------|-----------|-------------|----------------------|
| Armstrong | Hughes | Oric | Thompson |
| Boscola | Jubelirer | Piccola | Tomlinson |
| Brightbill | Kasunic | Pileggi | Wagner |
| Conti | Kitchen | Pippy | Waugh |
| Corman | Kukovich | Punt | Wenger |
| Costa | LaValle | Rafferty | White, Donald |
| Dent | Lemmond | Rhoades | White, Mary Jo |
| Earll | Logan | Robbins | Williams, Anthony H. |
| Erickson | Madigan | Scarnati | Williams, Constance |
| Ferlo | Mellow | Schwartz | Wonderling |
| Fumo | Mowery | Stack | Wozniak |
| Gordner | Musto | Stout | |
| Greenleaf | O'Pake | Tartaglione | |

NAY-0

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

NOMINATIONS TAKEN FROM THE TABLE

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

The Clerk read the nominations as follows:

JUDGE, COURT OF COMMON PLEAS,
PERRY/JUNIATA COUNTIES

June 9, 2004

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, Kathy A. Morrow, Esquire, 409 Mountain Road, Millerstown 17062, Perry County, Thirty-Fourth Senatorial District, for appointment as Judge of the Court of Common Pleas of Perry/Juniata Counties, to serve until the first Monday of January 2006, vice The Honorable Keith B. Quigley, resigned.

EDWARD G. RENDELL
Governor

JUDGE, COURT OF COMMON PLEAS,
PHILADELPHIA MUNICIPAL COURT

June 9, 2004

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, Walter J. Olszewski, Esquire, 2513 South 19th Street, Philadelphia, 19145, Philadelphia County, First Senatorial District, for appointment as Judge of the Court of Common Pleas of Philadelphia County, to serve until the first Monday of January 2006, vice The Honorable Abram F. Reynolds, resigned.

EDWARD G. RENDELL
Governor

JUDGE, PHILADELPHIA MUNICIPAL COURT

June 9, 2004

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, Nazario Jimenez, Jr., Esquire, 100 E. Roosevelt Boulevard, Philadelphia 19120, Philadelphia County, Second Senatorial District, for appointment as Judge of the Philadelphia Municipal Court, to serve until the first Monday of January 2006, vice The Honorable Seamus P. McCaffery, resigned.

EDWARD G. RENDELL
Governor

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

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

YEA-50

| | | | |
|------------|-----------|---------|-----------|
| Armstrong | Hughes | Orie | Thompson |
| Boscola | Jubelirer | Piccola | Tomlinson |
| Brightbill | Kasunic | Pileggi | Wagner |
| Conti | Kitchen | Pippy | Waugh |

| | | | |
|-----------|----------|-------------|----------------------|
| Corman | Kukovich | Punt | Wenger |
| Costa | LaValle | Rafferty | White, Donald |
| Dent | Lemmond | Rhoades | White, Mary Jo |
| Earll | Logan | Robbins | Williams, Anthony H. |
| Erickson | Madigan | Scarnati | Williams, Constance |
| Ferlo | Mellow | Schwartz | Wonderling |
| Fumo | Mowery | Stack | Wozniak |
| Gordner | Musto | Stout | |
| Greenleaf | O'Pake | Tartaglione | |

NAY-0

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

EXECUTIVE SESSION RISES

Senator ROBBINS. Madam President, I move that the Executive Session do now rise.

The motion was agreed to by voice vote.

LEGISLATIVE LEAVE CANCELLED

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

**SPECIAL ORDER OF BUSINESS
GUESTS OF SENATOR MICHAEL A. O'PAKE
PRESENTED TO THE SENATE**

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

Senator O'PAKE. Madam President, we have two guest Pages here today who were fortunate enough to witness this very special day, and I would like the Chair to recognize them. They are both entering their senior year at Kutztown High School.

Kip Davis Knauer is very active in musical groups, the pop group, the jazz band ensemble, the chorus, the Key Club, and the National Honor Society. With him is his classmate, Michael E. Mauro, who also is active in the musical department at the school with the jazz band and chorus. He is in track and field and races at the Lehigh Valley Velodrome, and I would like the Senate to extend its usual warm welcome to Kip Davis Knauer and Michael E. Mauro of Kutztown.

Thank you.

The PRESIDENT. Will Kip and Michael please rise so we can give you a nice warm welcome.

(Applause.)

ADJOURNMENT

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

Senator BRIGHTBILL. Madam President, I move that the Senate do now adjourn until Wednesday, June 30, 2004, at 3:10 p.m., Eastern Daylight Saving Time.

The motion was agreed to by voice vote.

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