

COMMONWEALTH OF PENNSYLVANIA
Legislative Journal

TUESDAY, SEPTEMBER 27, 2005

SESSION OF 2005 189TH OF THE GENERAL ASSEMBLY

No. 55

SENATE

TUESDAY, September 27, 2005

The Senate met at 1 p.m., Eastern Daylight Saving Time.

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

PRAYER

The Chaplain, Reverend ROBERT E. HINSON, of Spring Valley Church of God, Temple, offered the following prayer:

Shall we pray.

Our gracious and eternal Heavenly Father, to You we lift up our voice in thanksgiving for the bounty of Your grace, for Your goodness, and for Your kindness that You have shown to us. We come beseeching You for Your mercies, beseeching You for wisdom, knowledge, and understanding.

I pray that You would bless this body and the business that comes before it, for what this body does touches every person in the State of Pennsylvania. So may we as individuals walk before You with humility, and may we understand that we are servants of the most high God and stewards, who will give an account to You on that day. As Solomon came before You when he was elevated to be the King of Israel and he realized the great burden that rested upon his shoulders and he knew that he could not do it within himself, he said, God, give me wisdom and understanding and knowledge, that I may go in and come out among Your people.

Heavenly Father, on this day we remember those along the gulf coast who have been devastated by Katrina and Rita. We thank You, Lord, for what the State of Pennsylvania is doing to help alleviate their suffering. You have told us that when one suffers, we all suffer, and when one rejoices, we all rejoice. You have also said that when we do this to the least of our brothers in meeting their needs, then we have done it unto You. We do not understand why we have been spared, but we are grateful. May our hearts be touched with the compassion to reach out and to minister to others.

Now, Lord, to You who reigns seated upon the throne, who governs the hearts of all men and all women, to You be praise and glory and honor, both now and forever. Amen.

The PRESIDENT. The Chair thanks Reverend Hinson, who is the guest today of Senator O'Pake.

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 September 26, 2005.

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

HOUSE MESSAGES

**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 875**.

**HOUSE CONCURS IN SENATE
CONCURRENT RESOLUTION**

The Clerk of the House of Representatives informed the Senate that the House has concurred in the resolution from the Senate, entitled:

Weekly recess.

GENERAL COMMUNICATION

**ANNUAL MACHINERY AND
EQUIPMENT LOAN FUND REPORT**

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

COMMONWEALTH OF PENNSYLVANIA
Department of Community and Economic Development
Harrisburg, PA 17120

September 22, 2005

Mr. Mark R. Corrigan
Secretary/Parliamentarian of the Senate
Room 462 Capitol Building
Senate Room 203053
Harrisburg, PA 17120-3053

Mr. Brian Preski
Chief Clerk of the House, Acting
139 Main Capitol Building
Harrisburg, PA 17120-2020

**RE: ANNUAL MACHINERY AND EQUIPMENT
LOAN FUND REPORT**

Dear Mr. Corrigan and Mr. Preski:

Enclosed herewith is the Annual Machinery and Equipment Loan Fund Report covering Fiscal Year 2004-2005, as required by Title 12 of the Pennsylvania Consolidated Statute.

The Department continually refines and improves upon the tools available to help businesses prosper and we appreciate your support in helping us achieve our economic development goals.

Please do not hesitate to contact me or Ronald Boston in DCED's Legislative Affairs Office at 717-783-1886 should you have any questions regarding this document.

Sincerely,

DENNIS YABLONSKY
Secretary

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

BILL SIGNED

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

HB 875.

BILLS REPORTED FROM COMMITTEES

Senator PILEGGI, from the Committee on Urban Affairs and Housing, reported the following bill:

SB 656 (Pr. No. 1147) (Amended)

An Act providing for dispute resolution procedures relating to residential construction defects between contractors and homeowners or members of associations.

Senator ORIE, from the Committee on Aging and Youth, reported the following bill:

HB 1579 (Pr. No. 2737) (Amended)

An Act providing for certain responsibilities of county and private agencies regarding resource families.

Senator TOMLINSON, from the Committee on Consumer Protection and Professional Licensure, reported the following bills:

SB 202 (Pr. No. 1148) (Amended)

An Act amending the act of March 28, 1984 (P.L.150, No.28), known as the Automobile Lemon Law, further providing for short title and for definitions; and expanding the scope of the act to include boats.

SB 235 (Pr. No. 1149) (Amended)

An Act amending the act of May 22, 1951 (P.L.317, No.69), known as The Professional Nursing Law, providing for continuing nursing education.

Senator RAFFERTY, from the Committee on Law and Justice, reported the following bills:

HB 111 (Pr. No. 2742) (Amended)

An Act amending the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, further defining "case" and "eligible entity"; providing for extension of existing license to cover additional area; and further providing for breweries, for unlawful acts relative to malt or brewed beverages and licensees, for hours of operation relative to manufacturers, importing distributors and distributors and for unlawful acts relative to liquor, malt and brewed beverages and licensees.

HB 1525 (Pr. No. 2743) (Amended)

An Act amending the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, further providing for limiting the number of retail licenses to be issued in each county.

RESOLUTION REPORTED FROM COMMITTEE

Senator ORIE, from the Committee on Aging and Youth, reported the following resolution:

HR 357 (Pr. No. 2246)

A Concurrent Resolution establishing the Katie Elise Lambert Commission on Child Safety in this Commonwealth.

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

LEGISLATIVE LEAVES

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

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

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

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

Senator O'PAKE. Madam President, I request legislative leaves for Senator Ferlo and Senator Stout.

The PRESIDENT. Senator O'PAKE requests legislative leaves for Senator Ferlo and Senator Stout.

Without objection, the leaves will be granted.

LEAVES OF ABSENCE

Senator BRIGHTBILL asked and obtained a leave of absence for Senator MADIGAN, for today's Session, for personal reasons.

Senator O'PAKE asked and obtained a leave of absence for Senator KITCHEN, for today's Session, for personal reasons.

CALENDAR

SENATE CONCURRENT RESOLUTION No. 158
CALLED UP OUT OF ORDER, ADOPTED

Senator BRIGHTBILL, without objection, called up from page 3 of the Calendar, as a Special Order of Business, **Senate Concurrent Resolution No. 158**, entitled:

A Concurrent Resolution establishing a task force to study the current system for providing services to indigent criminal defendants, to review how other states provide these services and to make recommendations to the General Assembly.

On the question,
Will the Senate adopt the resolution?

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

YEA-48

Armstrong	Gordner	Piccola	Thompson
Boscola	Greenleaf	Pileggi	Tomlinson
Brightbill	Hughes	Pippy	Vance
Browne	Jubelirer	Punt	Washington
Conti	Kasunic	Rafferty	Waugh
Corman	LaValle	Regola	Wenger
Costa	Lemmond	Rhoades	White, Donald
Earll	Logan	Robbins	White, Mary Jo
Erickson	Mellow	Scarnati	Williams, Anthony H.
Ferlo	Musto	Stack	Williams, Constance
Fontana	O'Pake	Stout	Wonderling
Fumo	Orie	Tartaglione	Wozniak

NAY-0

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

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

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, in addition to recognizing and thanking Pastor Robert E. Hinson, the Senior Pastor at the Spring Valley Church of God in Muhlenberg Township, Berks County, for serving as the Senate's guest Chaplain today, it is my privilege to introduce some very special guests who are members of Pastor Hinson's church who, along with several other members of that church, recently returned from the hurricane-ravaged gulf coast where they delivered two busloads of food, water, and hope to the victims of the first storm, Hurricane Katrina.

Madam President, these outstanding Berks Countians, Joe Sclafani, who is also a pastor at Spring Valley Church of God, Cynthia Miller, the Director of Christian Education, and Melyssa Gilmore, the Director of Little Angels Day Care, represent the unsung heroes in our communities. Instead of just sitting on their hands watching national television in frustration as the govern-

mental bureaucracies stumbled in the immediate aftermath of Katrina, these folks went to work and volunteered their time to come to the aid of their fellow citizens in need, and off they went on a 3,200-mile round trip to several towns where beach-front properties were demolished, and I have photos, and many other properties were flooded. They went to help in any way they could. Along the way they met a man who identified himself to the media only as Hurricane Dave, a 52-year-old computer technician who lost his house and job in Biloxi, Mississippi. He was heading north but had no means of transportation. They gave him a lift to Reading and then helped him to get to friends in Atlantic City. Here is what Dave said to a columnist of the Reading Eagle. "These are my saviors," he said, his eyes filling with tears. "I can't say it enough. I was waiting for FEMA to get me this far, but these people saved me."

Madam President, as I said, it is a distinct privilege to introduce today Spring Valley Church of God members, Pastor Joe Sclafani, Cynthia Miller, and Melyssa Gilmore. These folks and several others from their church have done more than just talk, and they are going back on October 5 with 12 skilled laborers to rebuild. I ask the Senate to extend its warm welcome and thanks to these unsung heroes, these volunteers who responded in a very, very gracious and helpful way.

The PRESIDENT. Would the Pastor, Reverend Joe, Cynthia, and Melyssa please rise so we can thank you for all your good work.

(Applause.)

The PRESIDENT. Thank you for all your good work with the Katrina victims. We really appreciate it, and we are very proud that Pennsylvanians were there to help. Thank you.

CONSIDERATION OF CALENDAR RESUMED

THIRD CONSIDERATION CALENDAR

BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE

SB 711 (Pr. No. 1110) -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for the protection of consumers from having spyware deceptively installed on their computers and for criminal and civil enforcement.

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

On the question,
Shall the bill pass finally?

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

Senator GORDNER. Madam President, I thank the Members for giving me just 1 or 2 minutes to speak in regard to this legislation. This is good consumer protection legislation. Certainly, people in households all across this State, from the youngest kids to the oldest adults, have access to the Internet. Whether they are

5- or 7- or 8-year-olds, who are often more adept at using the Internet than their parents, or whether they are 60- or 70- or 80-year-olds, like my father-in-law who got his first computer about 4 years ago and uses it to e-mail friends in Florida or access information on issues he is concerned about, the number one issue now facing Internet providers for home computers is spyware. All of the Internet providers are being faced with this issue, and they are looking for help on their behalf, but more importantly, for the users of those Internet devices.

Basically what is happening is that, through mechanisms without your knowledge, entities are going into your computer, adding programs, sometimes hijacking your Internet service. Sometimes they are just filling up your computer and slowing it down, but other times they are involved in identity theft. They add a program far beneath the normal top levels of your computer system, and when you use your Social Security number or your date of birth or your credit card number, that entity then has access to that information and they can use it for criminal purposes.

What this legislation does is basically two things. It criminalizes those offenses and allows the Attorney General to pursue them with criminal offenses and high fines. It also allows the Internet service providers themselves to follow with civil actions in order to try to stop this activity.

I want to thank the chairman, Senator Wonderling, the Democratic chairperson, Senator Connie Williams, and our staffs for helping us to move this legislation along. It is a good consumer protection piece, and I look forward to these tools being used to take away this nefarious device.

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-48

Armstrong	Gordner	Piccola	Thompson
Boscola	Greenleaf	Pileggi	Tomlinson
Brightbill	Hughes	Pippy	Vance
Browne	Jubelirer	Punt	Washington
Conti	Kasunic	Rafferty	Waugh
Corman	LaValle	Regola	Wenger
Costa	Lemmond	Rhoades	White, Donald
Earll	Logan	Robbins	White, Mary Jo
Erickson	Mellow	Scarnati	Williams, Anthony H.
Ferlo	Musto	Stack	Williams, Constance
Fontana	O'Pake	Stout	Wonderling
Fumo	Orie	Tartaglione	Wozniak

NAY-0

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

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

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 a Republican caucus, which will begin immediately in the Majority Caucus Room.

For the information of the Members, I expect that we will return in approximately 30 minutes.

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

Senator O'PAKE. Madam President, we have already discussed the proposed legislation. There will be no need for the Democrats to caucus today.

The PRESIDENT. There will be a half-hour Republican caucus. 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 RESUMED

BILL OVER IN ORDER

SB 869 -- Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

**BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE**

HB 1261 (Pr. No. 1487) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, further providing for deferred motor vehicle insurance coverage.

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-48

Armstrong	Gordner	Piccola	Thompson
Boscola	Greenleaf	Pileggi	Tomlinson
Brightbill	Hughes	Pippy	Vance
Browne	Jubelirer	Punt	Washington
Conti	Kasunic	Rafferty	Waugh
Corman	LaValle	Regola	Wenger
Costa	Lemmond	Rhoades	White, Donald
Earll	Logan	Robbins	White, Mary Jo
Erickson	Mellow	Scarnati	Williams, Anthony H.
Ferlo	Musto	Stack	Williams, Constance
Fontana	O'Pake	Stout	Wonderling
Fumo	Orie	Tartaglione	Wozniak

NAY-0

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

Ordered, That the Secretary of the Senate return said bill to the House of Representatives with information that the Senate has passed the same without amendments.

SECOND CONSIDERATION CALENDAR

BILL REREPORTED FROM COMMITTEE AS AMENDED ON SECOND CONSIDERATION

SB 358 (Pr. No. 1141) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, defining "combat zone;" and further providing for limitations in educational assistance program.

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

BILL REREPORTED FROM COMMITTEE AS AMENDED OVER IN ORDER

SB 601 -- Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

BILLS REREPORTED FROM COMMITTEE AS AMENDED ON SECOND CONSIDERATION

SB 682 (Pr. No. 1143) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, providing for eligibility for subsidized child day care.

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

HB 1069 (Pr. No. 2683) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, further providing for leaves of absence for certain government employees; and making a repeal relating to military leaves of absence.

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

BILL AMENDED

SB 74 (Pr. No. 1108) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Titles 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for child custody.

On the question,
Will the Senate agree to the bill on second consideration?
Senator GREENLEAF offered the following amendment No. A2906:

Amend Title, page 1, line 2, by inserting after "for": contempt for noncompliance with visitation or partial custody order and for Amend Sec. 1, page 1, lines 5 and 6, by striking out all of said lines and inserting:

Section 1. Section 4346, Chapter 53 and Subchapter A headings and sections 5301, 5302, 5303, 5304, 5305, 5306, 5307, 5308, 5309, 5310, 5311, 5312, 5313 and 5314 of Title 23 of the Pennsylvania Consolidated Statutes are amended to read:

[§ 4346. Contempt for noncompliance with visitation or partial custody order.

(a) General rule.—A party who willfully fails to comply with any visitation or partial custody order may, as prescribed by general rule, be adjudged in contempt. Contempt shall be punishable by any one or more of the following:

(1) Imprisonment for a period not to exceed six months.

(2) A fine not to exceed \$500.

(3) Probation for a period not to exceed six months.

(4) An order for nonrenewal, suspension or denial of operating privilege pursuant to section 4355 (relating to denial or suspension of licenses).

(b) Condition for release.—An order committing a person to jail under this section shall specify the condition which, when fulfilled, will result in the release of the obligor.

CHAPTER 53

CUSTODY

SUBCHAPTER A

GENERAL PROVISIONS

§ 5301. Declaration of policy.

The General Assembly declares that it is the public policy of this Commonwealth, when in the best interest of the child, to assure a reasonable and continuing contact of the child with both parents after a separation or dissolution of the marriage and the sharing of the rights and responsibilities of child rearing by both parents and continuing contact of the child or children with grandparents when a parent is deceased, divorced or separated.

§ 5302. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Child." Any unemancipated person under 18 years of age.

"Legal custody." The legal right to make major decisions affecting the best interest of a minor child, including, but not limited to, medical, religious and educational decisions.

"Partial custody." The right to take possession of a child away from the custodial parent for a certain period of time.

"Physical custody." The actual physical possession and control of a child.

"Shared custody." An order awarding shared legal or shared physical custody, or both, of a child in such a way as to assure the child of frequent and continuing contact with and physical access to both parents.

"Visitation." The right to visit a child. The term does not include the right to remove a child from the custodial parent's control.

§ 5303. Award of custody, partial custody or visitation.

(a) General rule.—

(1) In making an order for custody or partial custody, the court shall consider the preference of the child as well as any other factor which legitimately impacts the child's physical, intellectual and emotional well-being.

(2) In making an order for custody, partial custody or visitation to either parent, the court shall consider, among other factors, which parent is more likely to encourage, permit and allow frequent and continuing contact and physical access between the noncustodial parent and the child.

(3) The court shall consider each parent and adult household member's present and past violent or abusive conduct which may

include, but is not limited to, abusive conduct as defined under the act of October 7, 1976 (P.L.1090, No.218), known as the Protection From Abuse Act.

(b) Consideration of criminal conviction.—If a parent has been convicted of or has pleaded guilty or no contest to an offense as set forth below, the court shall consider such criminal conduct and shall determine that the parent does not pose a threat of harm to the child before making an order of custody, partial custody or visitation to that parent:

- (1) 18 Pa.C.S. Ch. 25 (relating to criminal homicide);
- (2) 18 Pa.C.S. § 2901 (relating to kidnapping);
- (3) 18 Pa.C.S. § 2902 (relating to unlawful restraint);
- (4) 18 Pa.C.S. § 3121 (relating to rape);
- (5) 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault);
- (6) 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse);
- (7) 18 Pa.C.S. § 3124.1 (relating to sexual assault);
- (8) 18 Pa.C.S. § 3125 (relating to aggravated indecent assault);
- (9) 18 Pa.C.S. § 3126 (relating to indecent assault);
- (10) 18 Pa.C.S. § 3127 (relating to indecent exposure);
- (11) 18 Pa.C.S. § 4302 (relating to incest);
- (12) 18 Pa.C.S. § 4304 (relating to endangering welfare of children);
- (13) 18 Pa.C.S. § 5902(b) (relating to prostitution and related offenses); or
- (14) 18 Pa.C.S. § 6312 (relating to sexual abuse of children).

(b.1) Consideration of criminal charge.—

(1) A parent who has obtained information under 42 Pa.C.S. § 1904 (relating to availability of criminal charge information in child custody proceedings) of the charge filed against the other parent for an offense listed in paragraph (2) may move for a temporary custody order or to modify an existing custody, partial custody or visitation order. The temporary custody or modification hearing shall be scheduled expeditiously.

(2) In evaluating any request for temporary custody or modification of a custody, partial custody or visitation order, the court shall consider whether the parent who is or has been charged with an offense listed below poses a risk of harm to the child:

- (i) 18 Pa.C.S. Ch. 25;
- (ii) 18 Pa.C.S. § 2702 (relating to aggravated assault);
- (iii) 18 Pa.C.S. § 2706 (relating to terroristic threats);
- (iv) 18 Pa.C.S. § 2709.1 (relating to stalking);
- (v) 18 Pa.C.S. § 2901;
- (vi) 18 Pa.C.S. § 2902;
- (vii) 18 Pa.C.S. § 2903 (relating to false imprisonment);
- (viii) 18 Pa.C.S. § 3121;
- (ix) 18 Pa.C.S. § 3122.1;
- (x) 18 Pa.C.S. § 3123;
- (xi) 18 Pa.C.S. § 3124.1;
- (xii) 18 Pa.C.S. § 3125;
- (xiii) 18 Pa.C.S. § 3126;
- (xiv) 18 Pa.C.S. § 3127;
- (xv) 18 Pa.C.S. § 3301 (relating to arson and related offenses);
- (xvi) 18 Pa.C.S. § 4302;
- (xvii) 18 Pa.C.S. § 4304;
- (xviii) 18 Pa.C.S. § 6312; and
- (xix) 23 Pa.C.S. § 6114 (relating to contempt for violation of order or agreement).

(3) Failure to apply for information under 42 Pa.C.S. § 1904 or to act under this subsection shall not prejudice any parent in a custody or visitation proceeding.

(b.2) Parent convicted of murder.—No court shall award custody, partial custody or visitation to a parent who has been convicted of murder under 18 Pa.C.S. § 2502(a) (relating to murder of the first degree) of the other parent of the child who is the subject of the order, unless the child is of suitable age and consents to the order.

(c) Counseling.—In making a determination to award custody, partial custody or visitation pursuant to subsection (b), the court shall appoint a qualified professional to provide counseling to an offending parent described in subsection (b) and shall take testimony from that

professional regarding the provision of such counseling prior to issuing any order of custody, partial custody or visitation. Counseling, required in accordance with this subsection, shall include a program of treatment or individual therapy designed to rehabilitate a parent which addresses, but is not limited to, issues regarding physical and sexual abuse, domestic violence, the psychology of the offender and the effects of abuse on the victim. If the court awards custody, partial custody or visitation to an offending parent described in subsection (b), the court may require subsequent periodic counseling and reports on the rehabilitation of the offending parent and the well-being of the child following an order relating to custody, partial custody or visitation. If, upon review of a subsequent report or reports, the court determines that the offending parent poses a threat of harm to the child, the court may schedule a hearing and modify the order of custody or visitation to protect the well-being of the child.

(d) Sole custody.—The court shall award sole custody when it is in the best interest of the child.

§ 5304. Award of shared custody.

An order for shared custody may be awarded by the court when it is in the best interest of the child:

- (1) upon application of one or both parents;
- (2) when the parties have agreed to an award of shared custody; or
- (3) in the discretion of the court.

§ 5305. Counseling.

(a) General rule.—The court may require the parents to attend counseling sessions and may consider the recommendations of the counselors prior to awarding sole or shared custody. These counseling sessions may include, but shall not be limited to, discussions of the responsibilities and decisionmaking arrangements involved in both sole and shared custody and the suitability of each arrangement to the capabilities of each parent or both parents.

(b) Temporary custody.—The court may temporarily award custody to either parent or both parents pending resolution of any counseling.

(c) Report.—The court may require the counselor to submit a report if the court desires and within such reasonable time as the court determines.

§ 5306. Plan for implementation of custody order.

The court, in its discretion, may require the parents to submit to the court a plan for the implementation of any custody order made under this subchapter. Upon the request of either parent or the court, the domestic relations section of the court or other party or agency approved by the court shall assist in the formulation and implementation of the plan.

§ 5307. Denial of custody under agreement or plan.

When the court declines to enter an order awarding custody either as agreed to by the parents or under the plan developed by the parents, the court shall state its reasons for denial on the record.

§ 5308. Removal of party or child from jurisdiction.

If either party intends to or does remove himself or the child from this Commonwealth after a custody order has been made, the court, on its own motion or upon motion of either party, may review the existing custody order.

§ 5309. Access to records and information.

(a) General rule.—Except as provided in subsections (b) and (c), each parent shall be provided access to all the medical, dental, religious or school records of the child, the residence address of the child and of the other parent and any other information that the court deems necessary.

(b) Court determination not to release information.—The court, in its discretion, may determine not to release any part or parts of the information in this section but in doing so must state its reason for denial on the record.

(c) Nondisclosure of confidential information.—The court shall not order that the address of a shelter for battered spouses and their dependent children or otherwise confidential information of a domestic violence counselor be disclosed to the defendant or his counsel or any party to the proceedings.

§ 5310. Modification of existing custody orders.

Any order for the custody of the child of a marriage entered by a court in this Commonwealth or any state may, subject to the jurisdictional requirements set forth in Chapter 54 (relating to uniform child

custody jurisdiction and enforcement), be modified at any time to an order of shared custody in accordance with this subchapter.

§ 5311. When parent deceased.

If a parent of an unmarried child is deceased, the parents or grandparents of the deceased parent may be granted reasonable partial custody or visitation rights, or both, to the unmarried child by the court upon a finding that partial custody or visitation rights, or both, would be in the best interest of the child and would not interfere with the parent-child relationship. The court shall consider the amount of personal contact between the parents or grandparents of the deceased parent and the child prior to the application.

§ 5312. When parents' marriage is dissolved or parents are separated.

In all proceedings for dissolution, subsequent to the commencement of the proceeding and continuing thereafter or when parents have been separated for six months or more, the court may, upon application of the parent or grandparent of a party, grant reasonable partial custody or visitation rights, or both, to the unmarried child if it finds that visitation rights or partial custody, or both, would be in the best interest of the child and would not interfere with the parent-child relationship. The court shall consider the amount of personal contact between the parents or grandparents of the party and the child prior to the application.

§ 5313. When grandparents may petition.

(a) Partial custody and visitation.—If an unmarried child has resided with his grandparents or great-grandparents for a period of 12 months or more and is subsequently removed from the home by his parents, the grandparents or great-grandparents may petition the court for an order granting them reasonable partial custody or visitation rights, or both, to the child. The court shall grant the petition if it finds that visitation rights would be in the best interest of the child and would not interfere with the parent-child relationship.

(b) Physical and legal custody.—A grandparent has standing to bring a petition for physical and legal custody of a grandchild. If it is in the best interest of the child not to be in the custody of either parent and if it is in the best interest of the child to be in the custody of the grandparent, the court may award physical and legal custody to the grandparent. This subsection applies to a grandparent:

(1) who has genuine care and concern for the child;

(2) whose relationship with the child began with the consent of a parent of the child or pursuant to an order of court; and

(3) who for 12 months has assumed the role and responsibilities of the child's parent, providing for the physical, emotional and social needs of the child, or who assumes the responsibility for a child who has been determined to be a dependent child pursuant to 42 Pa.C.S. Ch. 63 (relating to juvenile matters) or who assumes or deems it necessary to assume responsibility for a child who is substantially at risk due to parental abuse, neglect, drug or alcohol abuse or mental illness. The court may issue a temporary order pursuant to this section.

§ 5314. Exception for adopted children.

Sections 5311 (relating to when parent deceased), 5312 (relating to when parents' marriage is dissolved or parents are separated) and 5313 (relating to when child has resided with grandparents) shall not apply if the child has been adopted by a person other than a stepparent or grandparent. Any visitation rights granted pursuant to this section prior to the adoption of the child shall be automatically terminated upon such adoption.]

On the question,

Will the Senate agree to the amendment?

It was agreed to.

On the question,

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

Senator PICCOLA offered the following amendment No. A2941:

Amend Title, page 1, line 1, by striking out "Title" and inserting: Titles

Amend Title, page 1, line 1, by inserting after "Relations)": and 42 (Judiciary and Judicial Procedure)

Amend Title, page 1, line 2, by removing the period after "custody" and inserting: ; and making conforming amendments.

Amend Sec. 2 (Sec. 5329), page 10, lines 13 through 30; page 11, lines 1 through 3, by striking out all of said lines on said pages and inserting:

(8) 18 Pa.C.S. § 2910 (relating to luring a child into a motor vehicle).

(9) 18 Pa.C.S. § 3121 (relating to rape).

(10) 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).

(11) 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).

(12) 18 Pa.C.S. § 3124.1 (relating to sexual assault).

(13) 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

(14) 18 Pa.C.S. § 3126 (relating to indecent assault).

(15) 18 Pa.C.S. § 3127 (relating to indecent exposure).

(16) 18 Pa.C.S. § 3129 (relating to sexual intercourse with animal).

(17) 18 Pa.C.S. § 3301 (relating to arson and related offenses).

(18) 18 Pa.C.S. § 4302 (relating to incest).

(19) 18 Pa.C.S. § 4303 (relating to concealing death of child).

(20) 18 Pa.C.S. § 4304 (relating to endangering welfare of children).

(21) 18 Pa.C.S. § 4305 (relating to dealing in infant children).

(22) 18 Pa.C.S. § 5902(b) (relating to prostitution and related offenses).

(23) 18 Pa.C.S. § 5903(c) or (d) (relating to obscene and other sexual materials and performances).

(24) 18 Pa.C.S. § 6301 (relating to corruption of minors).

(25) 18 Pa.C.S. § 6312 (relating to sexual abuse of children).

(26) 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).

(27) 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

(28) 23 Pa.C.S. § 6114 (relating to contempt for violation of order or agreement).

Amend Sec. 2 (Sec. 5329), page 11, line 4, by striking out "(21)" and inserting: (29)

Amend Sec. 2 (Sec. 5329), page 11, line 6, by striking out "(22)" and inserting: (30)

Amend Sec. 2 (Sec. 5329), page 11, line 8, by striking out "(23)" and inserting: (31)

Amend Bill, page 22, by inserting between lines 16 and 17:

Section 3. Section 1904(b), (c) and (h) of Title 42 are amended to read:

§ 1904. Availability of criminal charge information in child custody proceedings.

(b) Criminal charges enumerated.—The criminal charge information that shall be available on the information system shall be limited to the offenses listed in 23 Pa.C.S. § [5303(b.1)(2) (relating to award of custody, partial custody or visitation)] 5329(a) (relating to consideration of criminal convictions).

(c) Application for access to criminal charge information.—To obtain information about charges covered in 23 Pa.C.S. § [5303(b.1)(2)] 5329(a), a parent who has been awarded custody, partial custody or visitation or who is a party to a custody proceeding must file an application for access to the information with the office of the prothonotary in the county where the proceeding or order was filed.

(1) A person who knowingly gives false information with the intent to gain information provided for under this section commits an offense under 18 Pa.C.S. § 4904(a) (relating to unsworn falsification to authorities).

(2) The application must be filed with the prothonotary by one of the following methods:

(i) In person, at the office of the prothonotary, by the parent who is filing the application. The applicant must have a valid form of photoidentification available for the inspection of the prothonotary.

(ii) By mailing a notarized application using first class mail.

(iii) By including the application with the original complaint, initial response or any other pleading or motion filed with the prothonotary.

(3) The Administrative Office shall develop the application for access to the criminal charge information system. The following information shall be included in the application:

- (i) Docket number of original court filing.
- (ii) Date of filing.
- (iii) Date of birth of all children involved in the custody proceeding or order.
- (iv) A personal access code.
- (v) A notice to the parent that additional information relating to criminal history record information is available, as provided for in 18 Pa.C.S. Ch. 91 (relating to criminal history record information).
- (vi) A statement verifying that:
 - (A) the person who is filing for access to the criminal charge information system is the actual person listed on the application;
 - (B) to the best of the applicant's knowledge and belief, all the information included in the application is true and correct; and
 - (C) the applicant is a party to the custody proceeding or order that is listed on the application.

(vii) A warning as to the penalty under 18 Pa.C.S. § 4904.

(viii) Any additional information that it is determined to be necessary to expedite the verification of the application and to provide access to the system, as determined by the Administrative Office.

(4) Applications shall be made available through county prothonotaries.

(h) Information available to parent.—
(1) After applying and qualifying to obtain the criminal charge information provided by the system, a parent may request information by telephone as to whether the other parent has been charged with any offense listed in 23 Pa.C.S. § [5303(b.1)(2)] 5329(a).

(2) The parent shall also be entitled to criminal history record information as provided for in 18 Pa.C.S. Ch. 91, and the parent shall be informed of the availability.

(3) Criminal charge information shall be retained on the system for the period of time as provided for the retention of criminal charges and records under 18 Pa.C.S. Ch. 91 and then only until the youngest child involved in the custody proceeding or order reaches 18 years of age. At no time shall information be retained on the system beyond what is permitted under 18 Pa.C.S. Ch. 91.

Amend Sec. 3, page 22, line 17, by striking out "3" and inserting:

4 Amend Sec. 4, page 22, line 20, by striking out "4" and inserting:

5

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

Without objection, the bill, as amended, was passed over in its order at the request of Senator BRIGHTBILL.

BILL ON SECOND CONSIDERATION

SB 384 (Pr. No. 386) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 24 (Education) of the Pennsylvania Consolidated Statutes, further providing for definitions and for administrative duties of board.

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

BILL OVER IN ORDER

SB 629 -- Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

BILLS ON SECOND CONSIDERATION

HB 761 (Pr. No. 1992) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for the offense of invasion of privacy; and providing for actions involving products or services used to invade privacy.

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

SB 867 (Pr. No. 1132) -- The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to the Pennsylvania Emergency Management Agency for the purpose of funding grants under the act of July 31, 2003 (P.L. 73, No.17), known as the Volunteer Fire Company and Volunteer Ambulance Service Grant Act.

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

BILL OVER IN ORDER

HB 1435 -- Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

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 PENNSYLVANIA INDUSTRIAL DEVELOPMENT AUTHORITY

June 2, 2005

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, Abbe F. Fletman, 422 West Price Street, Philadelphia 19144, Philadelphia County, Third Senatorial District, for appointment as a member of the Pennsylvania Industrial Development Authority, to serve until July 24, 2008, and until her successor is appointed and qualified, vice Arthur J. Rooney, II, Esquire, Pittsburgh, resigned.

EDWARD G. RENDELL
Governor

MEMBER OF THE PENNSYLVANIA
INDUSTRIAL DEVELOPMENT AUTHORITY

June 3, 2005

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, Charles M. Powell, 5700 Bunkerhill Road, #1102, Pittsburgh 15206, Allegheny County, Thirty-eighth Senatorial District, for appointment as a member of the Pennsylvania Industrial Development Authority, to serve until July 24, 2011, and until his successor is appointed and qualified, vice David E. Barenfeld, Ellwood City, resigned.

EDWARD G. RENDELL
Governor

MEMBER OF THE COUNCIL OF TRUSTEES OF
SLIPPERY ROCK UNIVERSITY OF PENNSYLVANIA
OF THE STATE SYSTEM OF HIGHER EDUCATION

May 16, 2005

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, Nicholas DeRosa, 211 North Cascade Street, New Castle 16101, Lawrence County, Forty-seventh Senatorial District, for appointment as a member of the Council of Trustees of Slippery Rock University of Pennsylvania of the State System of Higher Education, to serve until the third Tuesday of January 2011, and until his successor is appointed and qualified, vice Arlene Quinlan, Butler, whose term expired.

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-48

Armstrong	Gordner	Piccola	Thompson
Boscola	Greenleaf	Pileggi	Tomlinson
Brightbill	Hughes	Pippy	Vance
Browne	Jubelirer	Punt	Washington
Conti	Kasunic	Rafferty	Waugh
Corman	LaValle	Regola	Wenger
Costa	Lemmond	Rhoades	White, Donald
Earll	Logan	Robbins	White, Mary Jo

Erickson	Mellow	Scarnati	Williams, Anthony H.
Ferlo	Musto	Stack	Williams, Constance
Fontana	O'Pake	Stout	Wonderling
Fumo	Orie	Tartaglione	Wozniak

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.

EXECUTIVE SESSION RISES

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

The motion was agreed to by voice vote.

**UNFINISHED BUSINESS
SENATE RESOLUTIONS ADOPTED**

Senators PICCOLA, BRIGHTBILL, BOSCOLA, FERLO, EARLL, RAFFERTY, LOGAN, COSTA, ERICKSON, PILEGGI, TARTAGLIONE, WENGER, CONTI, ORIE, O'PAKE, C. WILLIAMS, M.J. WHITE, STACK, RHOADES, WONDERLING, LaVALLE, ARMSTRONG, WOZNIAK, FONTANA, GREENLEAF, BROWNE, WASHINGTON, THOMPSON, D. WHITE, PIPPY and LEMMOND, by unanimous consent, offered **Senate Resolution No. 174**, entitled:

A Resolution designating October 2005 as "Rett Syndrome Awareness Month" in Pennsylvania.

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

Senator ERICKSON, by unanimous consent, offered **Senate Resolution No. 175**, entitled:

A Resolution designating October 1, 2005, as "Upper Darby Township Neighborhood Unity Day."

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

Senators CONTI, WONDERLING, GREENLEAF, THOMPSON, RAFFERTY, TOMLINSON, BRIGHTBILL, WENGER, M.J. WHITE, FUMO, RHOADES, MELLOW, KASUNIC, O'PAKE, STOUT, ORIE, TARTAGLIONE, PIPPY, COSTA, ERICKSON, BOSCOLA, LOGAN EARLL, WOZNIAK, BROWNE, C. WILLIAMS, ARMSTRONG, KITCHEN, LEMMOND, CORMAN, LaVALLE, VANCE and D. WHITE, by unanimous consent, offered **Senate Resolution No. 176**, entitled:

A Resolution recognizing October 21, 2005, as "Biomedical Research Day" in Pennsylvania.

On the question,
Will the Senate adopt the resolution?

The PRESIDENT. The Chair recognizes the gentleman from Bucks, Senator Conti.

Senator CONTI. Madam President, today I offer for consideration a resolution that will designate October 21, 2005, as Biomedical Research Day across Pennsylvania. Over the past few years, the Commonwealth has emerged as a leader in biomedical research and technology. Our success as a State can be attributed directly to the dedicated professionals who make up our biotech industries, for without their world-class expertise, knowledge, innovation, and abilities to develop practical applications, we would not be the global leaders that we are today in this field, and without their hard work, the improved quality of life we all enjoy would not be possible.

This resolution, Madam President, is the least we can do to recognize their efforts, and I seek unanimous consent.

Thank you.

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

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

Senators PIPPY, BRIGHTBILL, PICCOLA, FERLO, BOSCOLA, ERICKSON, KASUNIC, COSTA, ARMSTRONG, RAFFERTY, FONTANA, ORIE, WENGER, KITCHEN, LOGAN, O'PAKE, THOMPSON, PILEGGI, SCARNATI, CONTI, GREENLEAF, FUMO, RHOADES, STACK, WONDERLING, C. WILLIAMS and BROWNE, by unanimous consent, offered **Senate Resolution No. 177**, entitled:

A Resolution designating October 15, 2005, as "Pregnancy and Infant Loss Awareness Day" in Pennsylvania.

On the question,
Will the Senate adopt the resolution?

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

Senator PIPPY. Madam President, today I offer a resolution declaring October 15 as Pregnancy and Infant Loss Awareness Day. Each year an overwhelming number of American families suffer the heartbreak of a miscarriage, stillbirth, or the death of a newborn child. Many of us know family or friends who have experienced that. I was approached by a constituent who suffered that loss, and through that wanted to find ways to help other families deal with their loss. By adopting this resolution today, we will join many other States in declaring October 15 as Pregnancy and Infant Loss Awareness Day, recognizing the grief of the families and remembering all those who have been lost. This also will aid in giving significant comfort as they go through counseling in dealing with this tragedy.

I want to thank you, Madam President, for allowing me to offer 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 STACK, WONDERLING, FONTANA, BOSCOLA, THOMPSON, PIPPY, MUSTO, ARMSTRONG, ERICKSON,

O'PAKE, FERLO, COSTA, ORIE, RAFFERTY, TARTAGLIONE, RHOADES, FUMO, STOUT, PICCOLA, MELLOW, D. WHITE, KASUNIC, LEMMOND, PILEGGI, WENGER and GREENLEAF, by unanimous consent, offered **Senate Resolution No. 178**, entitled:

A Resolution recognizing October 2005 as "The Great Hunger Remembrance Month" in Pennsylvania.

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

Senators STACK, WONDERLING, FONTANA, BOSCOLA, THOMPSON, PIPPY, MUSTO, ARMSTRONG, ERICKSON, O'PAKE, FERLO, COSTA, ORIE, RAFFERTY, TARTAGLIONE, RHOADES, FUMO, STOUT, PICCOLA, MELLOW, D. WHITE, KASUNIC, LEMMOND, PILEGGI, WENGER and GREENLEAF, by unanimous consent, offered **Senate Resolution No. 179**, entitled:

A Resolution designating the month of October 2005 as "Polish American Heritage Month" in Pennsylvania.

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

Senators STACK, WONDERLING, FONTANA, BOSCOLA, THOMPSON, PIPPY, MUSTO, ARMSTRONG, ERICKSON, O'PAKE, FERLO, COSTA, ORIE, RAFFERTY, TARTAGLIONE, RHOADES, FUMO, STOUT, PICCOLA, MELLOW, D. WHITE, KASUNIC, LEMMOND, PILEGGI, WENGER and GREENLEAF, by unanimous consent, offered **Senate Resolution No. 180**, entitled:

A Resolution designating the month of October 2005 as "Italian Heritage Month" in Pennsylvania.

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

Senators ORIE, BRIGHTBILL, KASUNIC, BROWNE, KITCHEN, ARMSTRONG, ERICKSON, LOGAN, RAFFERTY, GORDNER, O'PAKE, LEMMOND, THOMPSON, MELLOW, PIPPY, TARTAGLIONE, RHOADES, C. WILLIAMS, STACK, COSTA, M.J. WHITE, FONTANA, BOSCOLA and WONDERLING, by unanimous consent, offered **Senate Resolution No. 181**, entitled:

A Resolution designating October 12, 2005, as "Health Cares About Domestic Violence Day" in Pennsylvania.

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

Senators ORIE, BRIGHTBILL, KASUNIC, BROWNE, WENGER, KITCHEN, ARMSTRONG, FONTANA, ERICKSON, VANCE, LOGAN, PILEGGI, RAFFERTY, GORDNER, BOSCOLA, WONDERLING, O'PAKE, D. WHITE, LEMMOND, THOMPSON, MELLOW, PIPPY, TARTAGLIONE, RHOADES, C. WILLIAMS, PICCOLA, STACK, CORMAN, COSTA, EARLL and M.J. WHITE, by unanimous consent, offered **Senate Resolution No. 182**, entitled:

A Resolution designating the month of October 2005 as "Domestic Violence Awareness Month" in Pennsylvania.

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

Senators ORIE, BRIGHTBILL, FERLO, BOSCOLA, WONDERLING, STACK, MELLOW, THOMPSON, O'PAKE, TARTAGLIONE, PICCOLA, PIPPY, ERICKSON, RAFFERTY, WENGER and GREENLEAF, by unanimous consent, offered **Senate Resolution No. 183**, entitled:

A Resolution commemorating the lives of those persons killed by intoxicated drivers and urging observance of October 2, 2005, as "DUI Victims Memorial Day."

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

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 Robert Martin by Senator Conti.

Congratulations of the Senate were extended to Noah Timothy Jones and to the Berwick Health and Wellness Fund Auxiliary by Senator Gordner.

Congratulations of the Senate were extended to Sister Paula DelGrosso by Senator Jubelirer.

Congratulations of the Senate were extended to Dr. Edward L. Witek, Jr., by Senator Kasunic.

Congratulations of the Senate were extended to Mr. and Mrs. Bernard Stripp, Mr. and Mrs. Richard VanBuskirk, Mr. and Mrs. Emil Kozemko, Mr. and Mrs. William Jones and to Paul R. Webb IV by Senator Madigan.

Congratulations of the Senate were extended to the Honorable Peter J. O'Brien by Senators Mellow and others.

Congratulations of the Senate were extended to Reading Community Players and to the Italian Societies of Reading and Berks County by Senator O'Pake.

Congratulations of the Senate were extended to Mr. and Mrs. Thomas B. George by Senator Piccola.

Congratulations of the Senate were extended to Jack William Ries by Senator Robbins.

Congratulations of the Senate were extended to Mr. and Mrs. George Auman, Lieutenant Colonel Abdul Shahbazkhil, Colonel Taiseer Saleh and to Morefield Communications of Camp Hill by Senator Vance.

Congratulations of the Senate were extended to the Reverend Dr. Aaron Willford, Jr., by Senator Waugh.

Congratulations of the Senate were extended to Mr. and Mrs. John Clouse and to Pennsylvania American Water of McMurray by Senator D. White.

Congratulations of the Senate were extended to Mr. and Mrs. Edwin Ausel by Senator M.J. White.

BILLS ON FIRST CONSIDERATION

Senator VANCE. 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 202, SB 235, SB 656, HB 111, HB 1525 and HB 1579.

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 Cambria, Senator Wozniak.

Senator WOZNIAK. Madam President, tomorrow the Governor of Pennsylvania, Ed Rendell, is going to address both the House and the Senate in a Special Session dealing with property tax. For the 25 years that I have been in office, it has been an issue that has been out there percolating. One of the problems we have, and I will be facetious, everybody wants to go to heaven, nobody wants to die. Very few people balance their checkbooks, but they know every time we introduce legislation to restructure taxes, if they are going to pay more, they are against it, but if they are going to pay less, they are for it. The fairest tax is the one that Senator Boscola pays and the one that John Wozniak does not pay.

What we are going to attempt to do over the next few months in this Commonwealth is hopefully a collaborative effort between the Democrats and Republicans, the House and Senate, and the Governor to craft language that might be a little painful in the short run, but in the long run will be fairer for all Pennsylvanians. I have heard it very loud and clear that Pennsylvanians want their property taxes reduced. I have talked to most Pennsylvanians, and they are wise enough to know there is no free lunch. To reduce property taxes, revenues have to come from someplace else. It is going to be that sticky wicket that we are going to have to deal with.

Now, the one shining star in this whole operation is whether you are for or against gambling, it is now the law of Pennsylvania. Hopefully, in a few short years we will be deriving approximately \$1 billion of new money in tax reductions. So, folks, what we are attempting to do is something that has not happened in Pennsylvania for 25 years. Hopefully, out of crisis comes opportunity. Hopefully, the Members of this House and Senate will have the political courage to learn how to collaborate, to work together, to build consensus, and to give Pennsylvanians a modern tax structure that relies more on the ability to pay and not necessarily on what was once considered your wealth, your house.

Madam President, I thank you for giving me the opportunity to hopefully set the pace of what are going to be difficult months ahead.

The PRESIDENT. The Chair recognizes the gentlewoman from Northampton, Senator Boscola.

Senator BOSCOLA. Madam President, I also want to follow up on something Senator Wozniak said about the Special Session that will open up tomorrow. Last week I stood together with some local school superintendents and school board members who want to be part of the process delivering tax relief to homeowners. When you consider how far apart we were 5 months ago

on Act 72, I think it is very significant to see superintendents and school board members reaching out to us to work together in the weeks ahead, but we as a legislative body must also be willing to work with them. We must put aside the past and work together. If we learned anything from our experience with Act 72, we should have learned to see the wisdom in compromise and give-and-take. If we forget that lesson, this upcoming Special Session will not be successful.

Tomorrow marks the beginning of our greatest opportunity to create real and positive change for our taxpayers, for our schools, and ultimately for our children's education. We cannot let this opportunity pass us by. It is imperative that the legislature and the Governor work together with our local school superintendents, our local school boards, and taxpayers to develop a reasonable and workable plan to provide real tax relief. This is too important to presume that we have all the answers.

Madam President, we all need to understand that we cannot turn back the clock, but we also need to understand that we can make a difference, make a difference if we move forward together. That is why I will be introducing a compromise plan tomorrow when the Special Session on property tax relief officially opens. I believe it is a common sense plan that works for homeowners, educators, property owners, and for parents of schoolchildren. Not only does this plan make serious sense, I am convinced that it can work.

First of all, it eliminates the local earned income tax requirement. The Governor's proposal also eliminates the EIT, which was one of the worst features of Act 72, so I am glad to see that a lot of people in this body, Democrats and Republicans and the Governor, agree on the elimination of an earned income tax requirement under Act 72.

Second, this plan puts fair, reasonable, and effective limits on property taxes. We cannot reduce property taxes unless we reduce the rate of spending, and this plan does that. It ties school spending to a predetermined educational cost index, similar to what is now in Act 72.

Finally, this plan sets up a statewide property tax review board. This review board would be an advocate for both taxpayers and educators, kind of like an umpire or referee, to keep things fair. It would closely examine any school spending that would exceed a predetermined educational cost index before forcing the school districts to go to a back end referendum. I want to stress that this property tax relief review board does not eliminate the use of the back end referendum to give local residents a say in how their tax dollars are being spent, but what it might do is eliminate the need for an annual voter referendum, which would probably prove to be a more efficient way to adopt school budgets.

Madam President, I do not believe in ultimatums. I believe in common sense, compromise, and collaboration. In politics, every problem is an opportunity. I look at this proposal as a way of providing the breakthrough we need to help homeowners and to help our local schools. From this point forward, we need to find partners who will work with us to create a new solution to the problem of rising property taxes and school funding. Over these next few weeks, I hope all of us in this Chamber will work together to reduce property taxes without making it more difficult for our schools to educate our children.

Thank you, Madam President.

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

Senator STACK. Madam President, earlier today I offered three resolutions designating October as Great Hunger Remembrance Month, Polish American Heritage Month, and Italian Heritage Month in Pennsylvania, respectively.

From the beginning, Pennsylvania has been a haven for people of every nationality and every ethnic stock. The Irish, Polish, and Italian people have made their mark in Pennsylvania, the United States, and the world over. Pennsylvania is home to the nation's fourth largest concentration of Polish Americans, over 800,000 people. Pennsylvania is also home to the nation's fourth largest population of Italian Americans, with 1.4 million living in our State, and the United States is home to 44 million Irish Americans. Irish, Polish, and Italian Americans have been an essential part of our American story. They helped create, innovate, and lead our country to becoming the finest democracy in the world.

Madam President, I want to thank my Senate colleagues for their approval of these resolutions recognizing October as Polish American Heritage Month, Italian Heritage Month, and Great Hunger Remembrance Month. The resolutions celebrate our vibrant multiethnic society and honor the contributions of our State's diverse population.

Thank you, Madam President.

COMMUNICATION FROM THE GOVERNOR

NOMINATION REFERRED TO COMMITTEE

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

MEMBER OF THE COUNCIL OF TRUSTEES OF SLIPPERY ROCK UNIVERSITY OF PENNSYLVANIA OF THE STATE SYSTEM OF HIGHER EDUCATION

September 27, 2005

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, Grace Hawkins, 279 Great Belt Road, Butler 16002, Butler County, Forty-first Senatorial District, for appointment as a member of the Council of Trustees of Slippery Rock University of Pennsylvania of the State System of Higher Education, to serve until the third Tuesday of January 2011, and until her successor is appointed and qualified, vice Martha King, Valencia, whose term expired.

EDWARD G. RENDELL
Governor

ANNOUNCEMENTS BY THE SECRETARY

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

SENATE OF PENNSYLVANIA

COMMITTEE MEETINGS

WEDNESDAY, SEPTEMBER 28, 2005

9:30 A.M.	CONSUMER PROTECTION AND PROFESSIONAL LICENSURE (informational briefing on issue of delivery of petroleum, gas and gasoline to consumers)	Senate Maj. Caucus Rm.
12:20 P.M.	JUDICIARY (public hearing to receive testimony relating to Senate Bill No. 668, and other jury reform issues)	U. of Pgh. W. Pitt Union Ballroom, Pgh.

RECESS

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

Senator PICCOLA. Madam President, I move that the Senate do now recess until Wednesday, September 28, 2005, to a time immediately following the daily recess of the Special Session.

The PRESIDENT. It has been moved by Senator Piccola that the Senate do now recess until Wednesday, September 28, 2005, immediately following recess of the Special Session.

The motion was agreed to by voice vote.

The Senate recessed at 4:07 p.m., Eastern Daylight Saving Time.