

COMMONWEALTH OF PENNSYLVANIA
Legislative Journal

WEDNESDAY, OCTOBER 8, 2008

SESSION OF 2008 192ND OF THE GENERAL ASSEMBLY

No. 64

SENATE

WEDNESDAY, October 8, 2008

The Senate met at 10 a.m., Eastern Daylight Saving Time.

The PRESIDENT pro tempore (Joseph B. Scarnati III) in the Chair.

PRAYER

The Chaplain, Reverend LOUIS BUTCHER, of Brightside Baptist Church, Lancaster, offered the following prayer:

Let us pray.

Our father and our God, we come today with thanksgiving in our hearts and praise on our lips to You, the sovereign of the universe. We observe Your handiwork, and we certainly stand in awe. You are truly an awesome God. Today, we have much to be thankful for. First, You have smiled upon this nation and its people. Despite our problems, we remain the land of the free and the home of the brave. You have endowed us with life, liberty, and the pursuit of happiness, which has made us the greatest nation on Earth.

We come now to ask Your blessings upon the various elements of this union. Be gracious to our President and the branches of our government. Grant wisdom and insight to lead Your people prudently. Watch over us and keep us safe in a world prone to terrorism and violence. Bless our children and our seasoned citizens, the millions of workers who make this republic strong. More than that, remember our courageous young men and women who stand in harm's way to defend our freedom around the globe.

Bless the Commonwealth of Pennsylvania, if You will. Give unto us prosperity and good will. Bless each branch of our State government, and shed Your grace upon the Senate where we stand. Give wisdom to these legislators that they may, in a bipartisan way, do what is best for the citizens of this State. Be with the leadership and help them to make wise decisions.

We ask these things of You with humility and reverence. Grant them, if You will, in Jesus' name. Amen.

The PRESIDENT pro tempore. The Chair thanks Reverend Butcher, who is the guest today of Senator Armstrong.

PLEDGE OF ALLEGIANCE

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

COMMUNICATIONS FROM THE GOVERNOR

**RECALL COMMUNICATIONS
REFERRED TO COMMITTEE**

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

**MEMBER OF THE PENNSYLVANIA ECONOMIC
DEVELOPMENT FINANCING AUTHORITY**

October 8, 2008

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated June 12, 2008, for the appointment of David E. Landau, 11 Oak Knoll Drive, Wallingford 19086, Delaware County, Ninth Senatorial District, as a member of the Pennsylvania Economic Development Financing Authority, to serve for a term of four years and until his successor is appointed and qualified, vice William Davis, Williamsport, resigned.

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

EDWARD G. RENDELL
Governor

**MEMBER OF THE PENNSYLVANIA ECONOMIC
DEVELOPMENT FINANCING AUTHORITY**

October 8, 2008

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated June 13, 2008, for the appointment of Fred P. Rinaldi, Esquire, One Lee Court, Old Forge 18518, Lackawanna County, Twenty-second Senatorial District, as a member of the Pennsylvania Economic Development Financing Authority, to serve for a term of four years and until his successor is appointed and qualified, vice C. Talbot Heppenstall, Jr., Pittsburgh, resigned.

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

EDWARD G. RENDELL
Governor

HOUSE MESSAGES

SENATE BILL RETURNED WITH AMENDMENTS

The Clerk of the House of Representatives returned to the Senate **SB 768**, with the information the House has passed the same with amendments in which the concurrence of the Senate is requested.

The PRESIDENT pro tempore. Pursuant to Senate Rule XIV, section 6, this bill will be referred to the Committee on Rules and Executive Nominations.

HOUSE CONCURS IN SENATE BILLS

The Clerk of the House of Representatives returned to the Senate **SB 908** and **SB 1019**, with the information the House has passed the same without amendments.

BILLS INTRODUCED AND REFERRED

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

October 8, 2008

Senators ORIE and COSTA presented to the Chair **SB 1602**, entitled:

An Act amending the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, providing for an inmate medical services program, for deposits and for recovery of costs.

Which was committed to the Committee on JUDICIARY, October 8, 2008.

Senators McILHINNEY, COSTA, RAFFERTY, BAKER, FONTANA, CORMAN, M. WHITE, ERICKSON, ORIE, TOMLINSON, GORDNER, O'PAKE, WASHINGTON, BOSCOLA, RHOADES, KASUNIC, PILEGGI, MUSTO, BRUBAKER, C. WILLIAMS, MELLOW, BROWNE and GREENLEAF presented to the Chair **SB 1603**, entitled:

An Act providing for quarterly interim payments to certain providers of community mental retardation services; and providing for powers and duties of the Department of Public Welfare.

Which was committed to the Committee on PUBLIC HEALTH AND WELFARE, October 8, 2008.

Senators WAUGH, PILEGGI, WONDERLING, ORIE, RHOADES and BRUBAKER presented to the Chair **SB 1604**, entitled:

An Act amending the act of December 17, 1981 (P.L.435, No.135), known as the Race Horse Industry Reform Act, further providing for the composition of the State Horse Racing Commission.

Which was committed to the Committee on STATE GOVERNMENT, October 8, 2008.

Senators WAUGH, RAFFERTY, MUSTO, FONTANA, TARTAGLIONE, LOGAN, WONDERLING, PUNT,

BRUBAKER, TOMLINSON, STACK, GREENLEAF, WASHINGTON and BOSCOLA presented to the Chair **SB 1605**, entitled:

An Act establishing a grant program for municipal fire and emergency services organizations; and providing for grant funding.

Which was committed to the Committee on VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS, October 8, 2008.

Senators WAUGH, ERICKSON, RAFFERTY, MUSTO, FONTANA, COSTA, TARTAGLIONE, LOGAN, WONDERLING, PUNT, BRUBAKER, TOMLINSON, GREENLEAF, M. WHITE, ORIE, WASHINGTON and FUMO presented to the Chair **SB 1606**, entitled:

An Act providing for the establishment and operation of the Pennsylvania Law Enforcement Officer Alert System; and imposing powers and duties on the Pennsylvania State Police and the Department of Transportation.

Which was committed to the Committee on LAW AND JUSTICE, October 8, 2008.

Senator WAUGH presented to the Chair **SB 1607**, entitled:

An Act amending the act of August 9, 1955 (P.L.323, No.130), known as The County Code, providing for a referendum and question when damages are not agreed to; and further providing for county to furnish bond when seeking possession of land.

Which was committed to the Committee on LOCAL GOVERNMENT, October 8, 2008.

Senators ORIE, RAFFERTY, C. WILLIAMS, COSTA, FONTANA, WAUGH, O'PAKE, WONDERLING, LOGAN, TOMLINSON, PICCOLA, STACK and WASHINGTON presented to the Chair **SB 1608**, entitled:

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, requiring criminal background checks.

Which was committed to the Committee on EDUCATION, October 8, 2008.

Senator ORIE presented to the Chair **SB 1609**, entitled:

An Act designating a portion of Route 8 in the Borough of Etna, Allegheny County, as the Chief Warrant Officer Michael J. Novosel Memorial Highway; and making a related repeal.

Which was committed to the Committee on TRANSPORTATION, October 8, 2008.

Senators McILHINNEY, FONTANA, M. WHITE, COSTA, TARTAGLIONE, ERICKSON, O'PAKE, RHOADES, MUSTO, RAFFERTY, BOSCOLA, WAUGH, LOGAN and STACK presented to the Chair **SB 1610**, 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 definitions and for classes of income.

Which was committed to the Committee on FINANCE, October 8, 2008.

RESOLUTION INTRODUCED AND REFERRED

The PRESIDENT pro tempore laid before the Senate the following Senate Resolution numbered, entitled, and referred as follows, which was read by the Clerk:

October 8, 2008

Senators ORIE, WASHINGTON, RAFFERTY, KASUNIC, RHOADES, WAUGH, KITCHEN and GREENLEAF presented to the Chair **SR 413**, entitled:

A Resolution memorializing the Congress of the United States to amend existing "food-to-fuel" mandates and immediately embark on a series of policy remedies aimed at the production of advanced biofuels.

Which was committed to the Committee on ENVIRONMENTAL RESOURCES AND ENERGY, October 8, 2008.

BILLS SIGNED

The PRESIDENT pro tempore (Joseph B. Scarnati III) in the presence of the Senate signed the following bills:

SB 684, SB 908, SB 1019, SB 1225, SB 1308, SB 1503, HB 420, HB 1147, HB 1634 and HB 2233.

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

The SECRETARY. Consent has been given for the Committee on Environmental Resources and Energy to meet off the floor to consider certain Environmental Quality Board regulations.

LEGISLATIVE LEAVES

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

Senator PILEGGI. Mr. President, I request a temporary Capitol leave for Senator Piccola.

The PRESIDENT pro tempore. Senator Pileggi requests a temporary Capitol leave for Senator Piccola.

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

Senator O'PAKE. Mr. President, I request legislative leaves for Senator Mellow and Senator Washington.

The PRESIDENT pro tempore. Senator O'Pake requests legislative leaves for Senator Mellow and Senator Washington.

Without objection, the leaves will be granted.

CALENDAR

THIRD CONSIDERATION CALENDAR

HB 1723 CALLED UP OUT OF ORDER

HB 1723 (Pr. No. 4513) -- Without objection, the bill was called up out of order, from page 5 of the Third Consideration Calendar, by Senator PILEGGI, as a Special Order of Business.

**BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE**

HB 1723 (Pr. No. 4513) -- The Senate proceeded to consideration of the bill, entitled:

An Act designating a section of US Route 15 in Tioga Township, Tioga County, as the Senator Roger A. Madigan Highway; designating the bridge on State Route 655 on Main Street, Belleville, Union Township, Mifflin County, as the Curt Zook Memorial Bridge; designating the Newtown 413 Bypass as the Officer Gregg Memorial Bypass; and designating the Walnut Street Bridge in the City of Johnstown, Cambria County, as the Martin Luther King, Jr., Memorial Bridge.

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

Senator PILEGGI. Mr. President, for the information of the Members, this is a road-naming bill including the amendment that we adopted yesterday designating a section of U.S. Route 15 in Tioga County as the Senator Roger A. Madigan Highway.

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-49

Armstrong	Fontana	Orie	Tomlinson
Baker	Fumo	Piccola	Vance
Boscola	Gordner	Pileggi	Washington
Browne	Greenleaf	Pippy	Waugh
Brubaker	Hughes	Punt	White, Donald
Corman	Kasunic	Rafferty	White, Mary Jo
Costa	Kitchen	Regola	Williams, Anthony H.
Dinniman	LaValle	Rhoades	Williams, Constance
Earl	Logan	Robbins	Wonderling
Eichelberger	McIlhinney	Scarnati	Wozniak
Erickson	Mellow	Stack	
Ferlo	Musto	Stout	
Folmer	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.

**SPECIAL ORDER OF BUSINESS
GUESTS OF SENATOR JOHN EICHELBERGER
PRESENTED TO THE SENATE**

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Blair, Senator Eichelberger.

Senator EICHELBERGER. Mr. President, it is a privilege for me to welcome today, as a guest Page, 11-year-old Patrick Reagan Keefer, who is here with me from Fulton County. He is from McConnellsburg. He is a fifth grader at Fulton County Christian

School, and he already has quite an impressive resume for his young age. He is a member of the 4H gun club and Little League baseball and basketball teams. He has assisted with many campaigns, including county treasurer races and county commissioner races, and he has been to three National Republican Conventions, including the most recent one in Minnesota.

Patrick is here with his mother, a Fulton County commissioner, Bonnie Mellott-Keefe, who is seated in the gallery, and Bonnie has been a good friend of mine for a long time. Mr. President, please join me in offering Patrick and his mother our traditional warm Senate welcome.

The PRESIDENT pro tempore. Would the guests of Senator Eichelberger please rise so the Senate may welcome you.

(Applause.)

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Mercer, Senator Robbins.

Senator ROBBINS. Mr. President, I just want to add to the story of Patrick. He also collects autographs, and he has gotten hundreds of autographs of political leaders. If any Senator in here would want to give Patrick their autograph, he would certainly appreciate it, and he would take that back home with great pride.

Thank you, Mr. President.

**GUEST OF SENATOR J. BARRY STOUT
PRESENTED TO THE SENATE**

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Washington, Senator Stout.

Senator STOUT. Mr. President, it is my honor and pleasure today to introduce a young lady in the gallery who is visiting the Capitol. Her name is Michelle Ferenz. Michelle is a senior at California University of Pennsylvania majoring in social work, and she has been recognized as a University Scholar. This semester, she has served as an intern in my district office, and she has had a lot of interfacing with the senior citizens and other constituents in my district. I am really impressed with her enthusiasm and the work she has done. So I think it has been a good experience for her. She will be pursuing a master's degree next year.

Now I would like her to be recognized. She is a resident of Bentleyville. She and her husband have lived there for the last 9 years, and she is originally a resident of Charleroi. Would the Senate give a warm welcome to Michelle Ferenz.

The PRESIDENT pro tempore. Would the guest of Senator Stout please rise for a Senate welcome.

(Applause.)

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

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

Senator O'PAKE. Mr. President, also in the gallery are Mr. and Mrs. James P. Stewart of Mooresville, in Berks County. Jim supported the Prospectus Berco's 14th Annual Golf Tournament fundraiser by winning A Day at the Capitol with your State Senator. This was a surprise birthday present for his wife, Sally. Jim is a buyer with Carpenter Technology Corporation in Reading, a specialty steel manufacturer, and Sally is a CPA with the CPA firm of Reinsel Kuntz Leshner. They have two sons, ages 6 and 4.

They are in the gallery, and I ask that the Chair extend the usual warm welcome of the Senate to Mr. and Mrs. James P. Stewart.

The PRESIDENT pro tempore. Would the guests of Senator O'Pake please rise so the Senate may welcome you.

(Applause.)

CONSIDERATION OF CALENDAR RESUMED

THIRD CONSIDERATION CALENDAR RESUMED

BILLS OUT OF ORDER

Without objection, the following bills on today's Calendar were called out of order by Senator PILEGGI, as Special Orders of Business.

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

HB 1845 (Pr. No. 4528) -- 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 sentence for murder and murder of unborn child; providing for the offense of criminal homicide of law enforcement officer and for the offense of assault of law enforcement officer; imposing penalties; further providing for false reports to law enforcement authorities; in firearms, further providing for ineligibility for possession or dealing, for required licensure, for emergency prohibitions, for licenses, for possession with altered manufacturer's number, for sale or transfer, for Pennsylvania State Police, for altering or obliterating marks of identification, for firearm tracing and for procedure; establishing the Straw Purchase Prevention Education Program and the Straw Purchase Prevention Education Fund; further providing for limitation of actions; prescribing sentences for offenses committed against law enforcement officer; and abrogating a regulation.

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

Senator PILEGGI. Mr. President, for the information of the Members, this is the bill that amends the laws regarding straw purchases, and also, we placed an amendment in the bill yesterday that deals with assaults on police officers.

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	Fontana	O'Pake	Tartaglione
Baker	Fumo	Orie	Tomlinson
Boscola	Gordner	Piccola	Vance
Browne	Greenleaf	Pileggi	Washington

Brubaker	Hughes	Pippy	Waugh
Corman	Kasunic	Punt	White, Donald
Costa	Kitchen	Rafferty	White, Mary Jo
Dinniman	LaValle	Regola	Williams, Anthony H.
Earll	Logan	Rhoades	Williams, Constance
Eichelberger	Madigan	Robbins	Wonderling
Erickson	McIlhinney	Scarnati	Wozniak
Ferlo	Mellow	Stack	
Folmer	Musto	Stout	

NAY-0

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

Ordered, That the Secretary of the Senate return said bill to the House of Representatives with information that the Senate has passed the same with amendments in which concurrence of the House is requested.

HB 2499 (Pr. No. 4523) -- The Senate proceeded to consideration of the bill, entitled:

An Act regulating massage therapy; establishing the State Board of Massage Therapy; providing for funds, for licensure, for disciplinary action, for remedies, for penalties and for preemption.

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

Senator PILEGGI. Mr. President, for the information of the Members, this is a bill that deals with massage therapy and licensure for massage therapy.

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

Baker	Fontana	Musto	Stack
Boscola	Fumo	O'Pake	Stout
Browne	Gordner	Orie	Tartaglione
Brubaker	Greenleaf	Piccola	Tomlinson
Corman	Hughes	Pileggi	Vance
Costa	Kasunic	Pippy	Washington
Dinniman	Kitchen	Punt	Waugh
Earll	LaValle	Rafferty	White, Donald
Eichelberger	Logan	Regola	Williams, Anthony H.
Erickson	Madigan	Rhoades	Williams, Constance
Ferlo	McIlhinney	Robbins	Wonderling
Folmer	Mellow	Scarnati	Wozniak

NAY-2

Armstrong	White, Mary Jo
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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.

BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 647 (Pr. No. 4519) -- The Senate proceeded to consideration of the bill, entitled:

An Act relating to crane operator licensure; establishing the State Board of Crane Operators; conferring powers and imposing duties relative to regulating the practice of crane operation; imposing penalties; and making an appropriation.

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

Senator PILEGGI. Mr. President, for the information of the Members, this bill deals with crane operator licensure.

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	Fontana	O'Pake	Tartaglione
Baker	Fumo	Orie	Tomlinson
Boscola	Gordner	Piccola	Vance
Browne	Greenleaf	Pileggi	Washington
Brubaker	Hughes	Pippy	Waugh
Corman	Kasunic	Punt	White, Donald
Costa	Kitchen	Rafferty	White, Mary Jo
Dinniman	LaValle	Regola	Williams, Anthony H.
Earll	Logan	Rhoades	Williams, Constance
Eichelberger	Madigan	Robbins	Wonderling
Erickson	McIlhinney	Scarnati	Wozniak
Ferlo	Mellow	Stack	
Folmer	Musto	Stout	

NAY-0

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

Ordered, That the Secretary of the Senate return said bill to the House of Representatives with information that the Senate has passed the same with amendments in which concurrence of the House is requested.

HB 1664 (Pr. No. 4520) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for theft of leased property; and, in wiretapping and electronic surveillance, further providing for disclosure of contents and for expiration of chapter.

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

Senator PILEGGI. Mr. President, for the information of the Members, this is a bill that deals with amendments to the State's wiretap law.

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-49

Armstrong	Fontana	Orie	Tomlinson
Baker	Gordner	Piccola	Vance
Boscola	Greenleaf	Pileggi	Washington
Browne	Hughes	Pippy	Waugh
Brubaker	Kasunic	Punt	White, Donald
Corman	Kitchen	Rafferty	White, Mary Jo
Costa	LaValle	Regola	Williams, Anthony H.
Dinniman	Logan	Rhoades	Williams, Constance
Earl	Madigan	Robbins	Wonderling
Eichelberger	McIlhinney	Scarnati	Wozniak
Erickson	Mellow	Stack	
Ferlo	Musto	Stout	
Folmer	O'Pake	Tartaglione	

NAY-1

Fumo

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 2722 (Pr. No. 4224) -- The Senate proceeded to consideration of the bill, entitled:

An Act designating the bridges on State Route 830 over Interstate 80 in Washington Township, Jefferson County, as the SFC Michael J. Tully Memorial Bridges.

Considered the third time and agreed to,

On the question,
Shall the bill pass finally?

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

Senator PILEGGI. Mr. President, for the information of the Members, this bill names a bridge in Washington Township, Jefferson County.

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	Fontana	O'Pake	Tartaglione
Baker	Fumo	Orie	Tomlinson
Boscola	Gordner	Piccola	Vance
Browne	Greenleaf	Pileggi	Washington
Brubaker	Hughes	Pippy	Waugh
Corman	Kasunic	Punt	White, Donald
Costa	Kitchen	Rafferty	White, Mary Jo
Dinniman	LaValle	Regola	Williams, Anthony H.
Earl	Logan	Rhoades	Williams, Constance
Eichelberger	Madigan	Robbins	Wonderling
Erickson	McIlhinney	Scarnati	Wozniak
Ferlo	Mellow	Stack	
Folmer	Musto	Stout	

NAY-0

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

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

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT pro tempore. Senator Piccola has returned, and his temporary Capitol leave is cancelled.

CONSIDERATION OF CALENDAR RESUMED

THIRD CONSIDERATION CALENDAR RESUMED

RECONSIDERATION OF HB 2499

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 2499 (Pr. No. 4523) -- Senator O'PAKE. Mr. President, I move that the Senate do now reconsider the vote by which House Bill No. 2499, Printer's No. 4523, 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-47

Baker	Fontana	O'Pake	Stout
Boscola	Fumo	Orie	Tartaglione
Browne	Gordner	Piccola	Tomlinson
Brubaker	Greenleaf	Pileggi	Vance
Corman	Hughes	Pippy	Washington
Costa	Kasunic	Punt	Waugh
Dinniman	Kitchen	Rafferty	White, Donald
Earll	LaValle	Regola	Williams, Anthony H.
Eichelberger	Madigan	Rhoades	Williams, Constance
Erickson	McIlhinney	Robbins	Wonderling
Ferlo	Mellow	Scarnati	Wozniak
Folmer	Musto	Stack	

NAY-3

Armstrong	Logan	White, Mary Jo
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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 ON CONCURRENCE IN HOUSE
AMENDMENTS AS AMENDED**

**SENATE CONCURS IN HOUSE
AMENDMENTS AS AMENDED**

SB 740 (Pr. No. 2499) -- The Senate proceeded to consideration of the bill, entitled:

An Act authorizing certain lands in Centre County to be conveyed; authorizing the Borough of Old Forge, Lackawanna County, to transfer, sell and convey certain Project 70 lands free of restrictions imposed by the Project 70 Land Acquisition and Borrowing Act; authorizing and directing the Department of General Services, with the approval of the Governor, to grant and convey to the Philadelphia Regional Port Authority certain lands situate in the 39th Ward of the City of Philadelphia; and providing for Commonwealth ownership of submerged lands; and authorizing and directing the Department of General Services, with the approval of the Governor and the Department of Military and Veterans' Affairs, to grant and convey to the Schuylkill YMCA certain lands and building situate in the Borough of Pottsville, Schuylkill County.

On the question,

Will the Senate concur in the amendments made by the House, as further amended by the Senate, to Senate Bill No. 740?

Senator PILEGGI. Mr. 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. 740.

On the question,

Will the Senate agree to the motion?

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

YEA-50

Armstrong	Fontana	O'Pake	Tartaglione
Baker	Fumo	Orie	Tomlinson
Boscola	Gordner	Piccola	Vance
Browne	Greenleaf	Pileggi	Washington
Brubaker	Hughes	Pippy	Waugh
Corman	Kasunic	Punt	White, Donald
Costa	Kitchen	Rafferty	White, Mary Jo
Dinniman	LaValle	Regola	Williams, Anthony H.
Earll	Logan	Rhoades	Williams, Constance
Eichelberger	Madigan	Robbins	Wonderling
Erickson	McIlhinney	Scarnati	Wozniak
Ferlo	Mellow	Stack	
Folmer	Musto	Stout	

NAY-0

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

Ordered, That the Secretary of the Senate inform the House of Representatives accordingly.

RECESS

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

Senator PILEGGI. Mr. President, I request a recess of the Senate for the purpose, first, of a meeting of the Committee on Rules and Executive Nominations to be held in the Rules room, to be followed by a Republican caucus in the Majority Caucus Room.

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

Senator O'PAKE. Mr. President, at the conclusion of the meeting of the Committee on Rules and Executive Nominations, I ask that the Democrats report to our caucus room.

The PRESIDENT pro tempore. For purposes of a meeting of the Committee on Rules and Executive Nominations, to be followed by Republican and Democratic caucuses, without objection, the Senate stands in recess.

AFTER RECESS

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

BILLS REPORTED FROM COMMITTEE

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

SB 263 (Pr. No. 2453) (Rereported) (Concurrence)

An Act amending the act of June 21, 1939 (P.L.566, No.284), known as The Pennsylvania Occupational Disease Act, providing further benefits.

SB 768 (Pr. No. 2431) (Rereported) (Concurrence)

An Act amending Title 64 (Public Authorities and Quasi-Public Corporations) of the Pennsylvania Consolidated Statutes, further providing for the definitions of "commercial lending activities" and "commercial lending institutions" and for the First Industries Program.

SB 1107 (Pr. No. 2472) (Rereported) (Concurrence)

An Act amending Titles 23 (Domestic Relations) and 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, further providing for modification of existing custody orders; and providing for protection of deployed members of the Pennsylvania National Guard and reserve components in child custody arrangements.

SB 1504 (Pr. No. 2454) (Rereported) (Concurrence)

An Act providing for the highway capital budget project itemization for the fiscal year 2008-2009 to be financed from current revenue or by the incurring of debt.

CONSIDERATION OF CALENDAR RESUMED

BILL ON CONCURRENCE IN HOUSE AMENDMENTS TO SENATE AMENDMENTS AS AMENDED

SENATE CONCURS IN HOUSE AMENDMENTS TO SENATE AMENDMENTS AS AMENDED

HB 1096 (Pr. No. 4527) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of November 10, 1999 (P.L.491, No.45), known as the Pennsylvania Construction Code Act, further providing for definitions; establishing the Uniform Construction Code Review and Advisory Council; and further providing for revised or successor codes and for training of inspectors.

On the question,

Will the Senate concur in the amendments made by the House to Senate amendments, as further amended by the Senate, to House Bill No. 1096?

Senator PILEGGI. Mr. President, I move that the Senate do concur in the amendments made by the House to Senate amendments, as further amended by the Senate, to House Bill No. 1096.

On the question,

Will the Senate agree to the motion?

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

YEA-50

Armstrong	Fontana	O'Pake	Tartaglione
Baker	Fumo	Orie	Tomlinson
Boscola	Gordner	Piccola	Vance
Browne	Greenleaf	Pileggi	Washington
Brubaker	Hughes	Pippy	Waugh
Corman	Kasunic	Punt	White, Donald
Costa	Kitchen	Rafferty	White, Mary Jo
Dinniman	LaValle	Regola	Williams, Anthony H.
Earl	Logan	Rhoades	Williams, Constance
Eichelberger	Madigan	Robbins	Wonderling
Erickson	McIlhinney	Scarnati	Wozniak
Ferlo	Mellow	Stack	
Folmer	Musto	Stout	

NAY-0

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

Ordered, That the Secretary of the Senate inform the House of Representatives accordingly.

THIRD CONSIDERATION CALENDAR RESUMED

BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 2200 (Pr. No. 4526) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, further providing for director of operations, secretary, employees and consultants; repealing provisions relating to office of trial staff; further providing for bureaus and offices; providing for other bureaus, offices and positions; further providing for electric utility definitions; providing for energy efficiency and conservation program and for energy efficiency and conservation; further providing for duties of electric distribution companies and for market power remediation; and providing for procurement, for additional alternative energy sources and for carbon dioxide sequestration network.

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

Senator TOMLINSON. Mr. President, I rise to ask for support for House Bill No. 2200 as amended by the Senate. I think this is very, very important legislation for our consumers today who consume power and energy in Pennsylvania. House Bill No. 2200 is, I think, a large step forward. The Governor of the State of Pennsylvania, Ed Rendell, has been a leader in a new energy policy, and this legislation contains many of those items in there.

It includes demand-side reduction, conservation, that I think is going to help the consumer, in the long run, to reduce the demand on power. We are requiring a reduction of 3 percent by the year 2013 and 4 1/2 percent for peak power, and I think that is extremely important as we go forward with an energy policy, Mr. President. It also contains language in there that we will have smart meters. It is not mandated, but it allows for the deployment of smart meters through a depreciation process, through new home construction process, and through the depreciation of 15 years, and for anyone who wants to purchase a smart meter which they feel will help them manage their electric load better.

I think probably the most important reason that we do this is the procurement language. As many of you know, we fought, in the last few months, trying to get mitigation for rate caps coming off. So that is a year or 2 away in some instances, and I think we have more time to fight that battle, but something that I think will help the consumer immediately will be the fact that we have new procurement standards. We no longer are going to use market pricing. We are going to use best pricing or least price for the consumer, and I think that helps the consumer in the end, when utilities are able to go out and compete for power as they purchase it for the distribution company.

I think that by offering these different tools and giving some latitude, people are not locked into buying power in 1 day for the rest of their contracts. Many of you are aware of the Pike County

situation, where after the episode of Katrina, Pike County and that utility up there were forced to buy their power the day after the hurricane, and of course, the rates were extremely high. Under our provisions here for procurement, we would be able to prevent that. And so for that reason, I think that would be a huge step forward in trying to bring electric rates down for the consumers in Pennsylvania.

I am disappointed. I fought hard to try to get mitigation. I do not think that is possible now, but I do not think that chapter is closed. I think that we are going to stand here and fight hard in these next 2 years and fight for mitigation or fight to make sure that any rate increases when the caps come off are not onerous for our consumers. But I think it is important today that we step forward and take these steps when it comes to demand-side reduction, to energy conservation, and to procurement, to make sure that we are moving forward with a very sensible energy policy in Pennsylvania.

I want to thank several people here. I want to thank Senator Boscola, my counterpart on the committee, for her hard fight and her cooperation. I want to thank my counterparts in the House, Representative McCall and Representative Preston. I want to thank our staffs. Fran Cleaver and Kathy Eakin have worked extremely hard, along with Bernie Kieklak and Christopher Craig, who have done an outstanding job, particularly, I think, in representing the interests of the consumer in this.

We are very, very fortunate in Pennsylvania to have some very strong utility companies, and we are, in fact, an exporter of power. We are, in fact, very energy-independent. We export probably 40 percent of the power we produce. Thirty-five percent of our power is produced by nuclear, and we are, of course, very, very rich in coal resources in Pennsylvania. So I think we have a great base in our energy policies and in our energy companies here to be able to go on and move into some of our alternative energies, to move into a better energy policy, as the Governor has asked for.

So I think this is a great compromise bill. It has been hard-fought. There are very, very strong and passionate positions on both sides of this issue. But I think it is time now to move forward, help the consumer, move forward with a forward-thinking energy policy that the Governor has put forward, and pass this bill today. So for that reason, Mr. President, I ask for a favorable vote on House Bill No. 2200 as amended by the Senate.

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

Senator BOSCOLA. Mr. President, as we all know, electric rate caps are scheduled to expire in Pennsylvania's five largest electric companies in 2010. And if we do nothing, if we do nothing to protect millions of electric customers from rate shock, the people we represent will see their bills go up by 30, 40, 50, and up to 70 percent in some areas, and that will be overnight.

Today, in House Bill No. 2200, we can finally do something to help millions of ratepayers hold on to more of their money instead of having to send it to their electric company. The procurement provisions contained in this bill will force power companies to purchase least-cost fuel instead of purchasing coal or natural gas or uranium at prevailing market rates, which is more expensive. It also gives Pennsylvania's Consumer Advocate the

tools he needs to keep electric prices as low as possible in the future. That is why our Consumer Advocate endorses this bill today, and personally assured me late last night that passing House Bill No. 2200 today is the right thing to do.

The other major provision of this bill deals with energy conservation and some very important steps that we all need to take for electric use. So-called smart meters by themselves are not magically -- anyone's monthly electric bill is not going to go down just because you are getting a smart meter. That will not happen. But this new technology will reward customers who are smart enough to realize that they can use electricity when it is cheapest during off-peak hours and pay a lower rate. We also made sure that smart meters would not be mandated for every single ratepayer. Not only is that a smarter approach to smart meter deployment, but it will also save electric customers hundreds of millions of dollars paying for something that will not provide a real benefit in their own households.

There is also strong market manipulation language in House Bill No. 2200, and that is what Senator Mellow insisted on being part of this bill. He should be commended for that, and we should not overlook that critical provision, because it will insure that real competition will not be undermined by existing power companies manipulating the wholesale market or the retail market to their own advantage.

What is not contained in this bill, unfortunately, is a real rate relief mitigation plan that I think the Senate needs to pass eventually. As everyone in this Chamber knows, that is what I have been fighting for for the past 2 years, and I do not doubt anybody knows that I am passionate about it, and this is just the beginning of this fight. Now, have we reached an agreement on mitigation yet? No. Despite our best efforts and ongoing negotiations that lasted into early morning, we have not. But I believe we are getting there.

And I know for a fact that we are closer to real rate mitigation now than we were 2 weeks ago or 2 months ago or 2 years ago. If there is anyone who wants to dispute that, you just have to take my word for it. And you can ask Senator Pileggi and Senator Tomlinson. They both sat in marathon sessions, negotiating sessions, and they want what we all want. We want Pennsylvania power companies to put up their own money to make it easier for customers to afford the new deregulated electric rates in 2010 and 2011. To do that will cost billions of dollars, billions, billions, that the companies would have given to their shareholders or slickly added to their profits.

So real rate relief, not just some Christmas card program or a plan to add some coupons, stuff some coupons in your pocket and save \$10 off your next purchase of a \$30,000 solar panel, that is not real rate relief. Just because it did not all come together at the eleventh hour like it does in the movies does not mean that we are done and that mitigation is dead. I have too much respect for Senator Pileggi, Chairman Tomlinson, Senator Fumo, and Senator Mellow to doubt that we will have a mitigation plan in place before rate caps come off. I also know that Governor Rendell will not rest until we have a mitigation plan in place that helps the ratepayers, small businesses, and our most vulnerable industries from this rate shock.

Together, we have put a tremendous amount of time into making this bill good for ratepayers and good for Pennsylvania. I

want to thank Senator Pileggi and Kathy Eakin and Dave Woods on his staff, Senator Tomlinson for going above and beyond the call of duty on this very, very complicated issue, and of course, my shopping partner, Fran Cleaver on his staff. I want to also thank Senator Mellow and Senator Fumo for their faith in me during these times when the obstacles seemed almost insurmountable, and both Gladys Brown and Christopher "Wing Man" Craig, who distinguished themselves in the heat of so many battles here and so many late, late nights and early mornings of hard, hard work.

Our job is not finished. There is still a lot of work to do. As of today, we have 449 days left to get it done before the rate caps come off, and get it done right. And as of today, after talking to Governor Rendell, he had indicated that he will take the bus that he goes around in across the State, and we are going to talk rate mitigation come January and February and take that bus to every corner of the State until we get a rate mitigation plan in effect before 2010.

Thank you, Mr. President. I thank everybody for all their hard work, and let us try to move forward. Thank you.

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

Senator RHOADES. Mr. President, first, I want to applaud everyone who has worked so hard on this particular issue - Senator Tomlinson and his staff, Senator Pileggi, and everyone who has been involved and committed to this. I really do think we have a good piece of legislation, but I am going to agree with the gentlewoman from Northampton, because I will tell you what, 10 years ago may have been--and I say may have been--the first and the only time I voted for deregulation.

But the decision I made then was based on what I perceived to be the statements made to me, and as I saw it, that this would result in lower or at least the same level playing field rates for consumers. There was no talk then of a cost increase. There was no talk of a projection increase. There was no talk of a 35- or 40-percent increase at the end. And we still allowed the stranded costs. Then I look over that 10-year period, and the local company I have has made billions of dollars of profit, has been able to distribute very fine dividends to its stockholders. That is fine. That is excellent. That is good.

We have gone from a regulated monopoly to an unregulated monopoly, and I have problems with that. I do not want to move on any piece of legislation until I see the mitigation piece and how it is going to affect the consumers. Then I will say we should do the whole thing. I want to see how it affects the consumers, what it is going to mean to them, and how we are going to put it in place. I know, I hear, well, we will give them a 75-percent break, then a 50-percent break, then a 25-percent break, but as a company borrows that money, you know who is going to end up paying the interest on it. Or I will tell you what, you put your deposit in, and I will give you 6 percent now. Why do I have to go through that gyration when I should have had an understanding, at least it was projected to me, that all things will remain basically the same, except now, you will be able to go out and be at least more competitive. I have not seen that.

Another grave concern I have, too, is I want to make sure that PPL retirees, and those are the people I am talking about, have their pension system put in a separate account. I do not want to

end up like Bethlehem Steel, where it ended up that they closed down, and then I had people looking for pensions. I want these kinds of things to be understood, and I want to know what the consumer is really going to have to pay before I can pass on anything. So for that reason, I will be voting "no."

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

Senator FERLO. Mr. President, with all due respect to all the self-congratulatory accolades being expressed, I am very disappointed in the final outcome represented in this bill, House Bill No. 2200, and it quite honestly represents a sucker punch in the face of electric ratepayers, both individual homeowners and ratepayers at a residential level, as well as those in the small business community, and even larger businesses that are going to have to continue to bear exorbitant rate hikes and rate increases when it comes to electricity.

I am disappointed mostly because as a benchmark piece of legislation, this legislation does not admit or declare in some type of form the horrendous failure that so-called electric choice has been. The State legislature should be held accountable for a bad decision made over 10 years ago in creating so-called electric choice. The only electric choice we have, basically, is to continue to pay exorbitant electric rates.

There is no true competition. There is basically an almost fraudulent methodology by which electricity is purchased on the PJM marketplace. We have companies going to Wall Street, blatantly and with very clear annual statements and reports, even documenting the amount of profiteering that they are going to make off the backs of ratepayers. And as one of my most brilliant colleagues reported at a press conference in June, the rate hikes will basically represent probably the largest tax increase on the backs of Pennsylvania residents and businesses, although it will not be in the form of taxes. It will come through the back door in the form of higher electric rates.

Needless to say, I am less than pleased. I have three amendments here. Two deal, actually, with the issue that everybody seems to say they want, and that is rate mitigation. Well, I have two amendments right here. One is to extend the rate caps to 2013. Another one is to implement a more modified rate cap over a 5-year period at 9 percent per year, which would at least create less pain for residents and small businesses. I am also concerned, at a third level, about the fact that this legislature, just 2 1/2 years ago, removed the so-called Chapter 14 provisions, which at least provided some consumer protections under the Public Utility Commission code.

We have had over 60 house fires in this State in the last 2 years since the removal of the Chapter 14 consumer rights provisions, where people have actually died in their houses, people trying to keep gas and light on either illegally or inappropriately, or during the winter months, trying to use kerosene heaters, lighting wood and fuel. That is a horrendous situation, and given the harsh reality of the economics of this country right now, today, and what everybody admits is going to be hard times for the next several years, I find it reprehensible that we are not able to proceed with some level of rate cap mitigation in this bill and, as well, some restoration of consumer rights to provide opportunities to ban winter shutoffs, to allow a more rational and reasonable reconnect policy as to how much people have to pay to get

