

COMMONWEALTH OF PENNSYLVANIA
Legislative Journal

WEDNESDAY, JANUARY 27, 2016

SESSION OF 2016 200TH OF THE GENERAL ASSEMBLY

No. 5

SENATE

WEDNESDAY, January 27, 2016

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

The PRESIDENT (Lieutenant Governor Mike Stack) in the Chair.

PRAYER

The Chaplain, Reverend DR. BRAD F. MELLON, of Frederick Living Community, Frederick, offered the following prayer:

Thank you. It is my honor and privilege to be with you today.

Let us pray.

We give You thanks, merciful God, for giving us another day. As You make available to Your people the grace and knowledge to meet the needs of the day, we pray that Your spirit will be upon the Members of this Senate giving them the richness of wisdom. Bless the Members as they gather. May they, with those who accompany them, travel safely and meet in peace. May these days be filled with hopeful anticipation. May the power of truth and faith give them the confidence they will need to do the good work required for service to our Commonwealth. Give all Members the strength of purpose and clarity of mind to do those things that bring justice and mercy to all people everywhere, and maintain freedom and liberty for our land. May all that is done this day be for the greater honor and glory. Amen.

The PRESIDENT. The Chair thanks Dr. Mellon, who is the guest today of Senator Mensch.

PLEDGE OF ALLEGIANCE

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

GENERAL COMMUNICATION

**ANNUAL REPORT OF THE PUBLIC EMPLOYEE
RETIREMENT COMMISSION**

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

COMMONWEALTH OF PENNSYLVANIA
Public Employee Retirement Commission
P.O. Box 1429, Harrisburg, PA 17105

January 27, 2016

THIS E-MAIL IS BEING SENT ON BEHALF OF JOHN T. DURBIN,
CHAIRMAN OF THE PUBLIC EMPLOYEE RETIREMENT COM-
MISSION

Dear Ms. Consedine:

The Public Employee Retirement Commission and its staff is pleased to provide you with the link to our thirty-third annual report summarizing the Commission's findings, recommendations, and activities for the year 2015.

This report can be viewed on our website at the following link: http://www.perc.pa.gov/ReportsandPublications/Documents/RPT_2015_ANNUAL_REPORT_FINAL.pdf

Rose Hutchinson
Administrative Officer

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

LEGISLATIVE LEAVES

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President, I request legislative leaves for Senator Greenleaf and Senator Ward.

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

Senator COSTA. Mr. President, I request legislative leaves for Senator Brewster, Senator Haywood, Senator Kitchen, and Senator Leach.

The PRESIDENT. Senator Corman requests legislative leaves for Senator Greenleaf and Senator Ward.

Senator Costa requests legislative leaves for Senator Brewster, Senator Haywood, Senator Kitchen, and Senator Leach.

Without objection, the leaves will be granted.

LEAVE OF ABSENCE

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

SENATE CONCURRENT RESOLUTION

JOINT SESSION

Senator CORMAN offered the following resolution, which was read as follows:

In the Senate, January 27, 2016

RESOLVED, (the House of Representatives concurring), That the Senate and House of Representatives meet in Joint Session on Tuesday, February 9, 2016, at 11:30 a.m., in the Hall of the House of Representatives for the purpose of hearing an address by His Excellency, Governor Tom Wolf; and be it further

RESOLVED, That a committee of three, on the part of the Senate, be appointed to act with a similar committee on the part of the House

of Representatives, to escort His Excellency, the Governor of the Commonwealth of Pennsylvania, to the Hall of the House of Representatives.

On the question,
Will the Senate adopt the resolution?

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

YEA-48

Alloway	Dinniman	McGarrigle	Teplitz
Argall	Eichelberger	McIlhinney	Tomlinson
Aument	Farnese	Mensch	Vance
Baker	Folmer	Rafferty	Vogel
Bartolotta	Fontana	Resenthaler	Vulakovich
Blake	Gordner	Sabatina	Wagner
Boscola	Greenleaf	Scarnati	Ward
Brewster	Haywood	Scavello	White
Brooks	Hughes	Schwank	Williams
Browne	Hutchinson	Smucker	Wozniak
Corman	Kitchen	Stefano	Yaw
Costa	Leach	Tartaglione	Yudichak

NAY-0

A majority of 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.

CALENDAR

BILL ON CONCURRENCE IN HOUSE AMENDMENTS AS AMENDED

SENATE CONCURS IN HOUSE AMENDMENTS AS AMENDED

SB 166 (Pr. No. 1517) -- 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, in criminal history record information, further providing for general regulations and providing for order for limited access; and, in governance of the system, providing for petition for expungement or order for limited access fee.

On the question,
Will the Senate concur in the amendments made by the House, as further amended by the Senate, to Senate Bill No. 166?

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. 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. 166.

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

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

YEA-48

Alloway	Dinniman	McGarrigle	Teplitz
Argall	Eichelberger	McIlhinney	Tomlinson
Aument	Farnese	Mensch	Vance
Baker	Folmer	Rafferty	Vogel
Bartolotta	Fontana	Resenthaler	Vulakovich
Blake	Gordner	Sabatina	Wagner
Boscola	Greenleaf	Scarnati	Ward
Brewster	Haywood	Scavello	White
Brooks	Hughes	Schwank	Williams
Browne	Hutchinson	Smucker	Wozniak
Corman	Kitchen	Stefano	Yaw
Costa	Leach	Tartaglione	Yudichak

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.

GUESTS OF SENATOR ROBERT B. MENSCH PRESENTED TO THE SENATE

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

Senator MENSCH. Mr. President, it is my pleasure today to introduce to the Pennsylvania Senate our guest Chaplain. Not only is he a wonderful servant of the Lord, he is also a very good and dear personal friend, he and his wife. I want to introduce Dr. Brad Mellon and his wife, Marilyn, to the Senate, and thank them for coming today to deliver the message for us.

Dr. Mellon is involved in that industry that is so important to so many of us, which is the senior care industry in Pennsylvania. Frederick Living Community has several thousand people who are all seniors and are needing those services which I believe in our lifetime each of us will probably have a time to call upon. So, Dr. Mellon ministers to those several thousand people on a daily basis, and my mother, along with my father, were residents of Frederick and found great comfort in the services that Dr. Mellon and others offered them there. So, I want to say, firstly, and to the PCN crowd, thank you very much, Dr. Mellon, for all that you do to provide for the seniors. On a side note, Dr. Mellon was, quote, "essential staff" this weekend and served in Frederick throughout the entire snowstorm, 23 hours, I believe, he was on call. So, again, a sign of the kind of dedication that it takes to be in that industry and provide those services. Those of us who witness every day what you do, we appreciate it very much, so thank you.

Governor, please join me in extending a great Senate welcome to Dr. Mellon and his wife, Marilyn.

The PRESIDENT. Will the guests of Senator Mensch, Dr. Mellon and Mrs. Mellon, please rise so that we may welcome you to the Pennsylvania Senate. Thank you for your wonderful prayer.

(Applause.)

RECESS

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President, I request a recess of the Senate for the purpose of a Republican caucus to be held in the Rules room.

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

Senator COSTA. Mr. President, I request that Senate Democrats report to our caucus room at the rear of the Chamber.

The PRESIDENT. For purposes of Republican and Democratic caucuses, without objection, the Senate stands in recess.

AFTER RECESS

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

LEGISLATIVE LEAVE

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President, I request a temporary Capitol leave for Senator Argall.

The PRESIDENT. Senator Corman requests a temporary Capitol leave for Senator Argall. Without objection, the leave will be granted.

LEAVE CHANGED

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

Senator COSTA. Mr. President, I request that Senator Wiley's leave be changed from a personal leave to a legislative leave.

The PRESIDENT. Senator Costa requests that Senator Wiley's leave be changed from a personal leave to a legislative leave. Without objection, the leave will be changed.

CONSIDERATION OF CALENDAR RESUMED

THIRD CONSIDERATION CALENDAR

PREFERRED APPROPRIATION BILL OVER IN ORDER

SB 1106 -- Without objection, the bill was passed over in its order at the request of Senator CORMAN.

BILL OVER IN ORDER

HB 57 -- Without objection, the bill was passed over in its order at the request of Senator CORMAN.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 153 (Pr. No. 1318) -- The Senate proceeded to consideration of the bill, entitled:

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, reducing the size of the General Assembly.

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

BOSCOLA AMENDMENT A5586 OFFERED

Senator BOSCOLA offered the following amendment No. A5586:

Amend Bill, page 1, line 1, by striking out "an amendment" and inserting:
distinct amendments

Amend Bill, page 1, line 2, by striking out the period after "Assembly" and inserting:
; and further providing for the Legislative Reapportionment Commission for the purpose of reapportioning and redistricting the Commonwealth of Pennsylvania.

Amend Bill, page 1, lines 5 and 6, by striking out all of said lines and inserting:

Section 1. The following distinct amendments to the Constitution of Pennsylvania are proposed in accordance with Article XI:

(1)

Amend Bill, page 2, lines 3 through 25, by striking out all of said lines and inserting:

(2) That section 17 of Article II be amended to read:

§ 17. Legislative [Reapportionment] and Congressional Redistricting Commission.

(a) [In each year following the year of the Federal decennial census] Not later than December 31 of each year ending in zero, a Legislative [Reapportionment] and Congressional Redistricting Commission shall be constituted for the purpose of reapportioning the Commonwealth. The commission shall [act by a majority of its entire membership.]:

(1) Conduct an open and transparent process enabling full public consideration of and comment on the drawing of district lines.

(2) Draw district lines according to the redistricting criteria specified in this article.

(3) Conduct itself with integrity and fairness.

(b) The commission shall consist of five members: four of whom shall be the majority and minority leaders of both the Senate and the House of Representatives, or deputies appointed by each of them, and a chairman selected as hereinafter provided. No later than 60 days following the official reporting of the Federal census as required by Federal law, the four members shall be certified by the President pro tempore of the Senate and the Speaker of the House of Representatives to the elections officer of the Commonwealth who under law shall have supervision over elections.

The four members within 45 days after their certification shall select the fifth member, who shall serve as chairman of the commission, and shall immediately certify his name to such elections officer. The chairman shall be a citizen of the Commonwealth other than a local, State or Federal official holding an office to which compensation is attached.

If the four members fail to select the fifth member within the time prescribed, a majority of the entire membership of the Supreme Court within 30 days thereafter shall appoint the chairman as aforesaid and certify his appointment to such elections officer.

Any vacancy in the commission shall be filled within 15 days in the same manner in which such position was originally filled.

(c) No later than 90 days after either the commission has been duly certified or the population data for the Commonwealth as determined by the Federal census are available, whichever is later in time, the commission shall file a preliminary reapportionment plan with such elections officer.

The commission shall have 30 days after filing the preliminary plan to make corrections in the plan.

Any person aggrieved by the preliminary plan shall have the same 30-day period to file exceptions with the commission in which case the commission shall have 30 days after the date the exceptions were filed to prepare and file with such elections officer a revised reapportionment plan. If no exceptions are filed within 30 days, or if filed and acted upon, the commission's plan shall be final and have the force of law.

(d) Any aggrieved person may file an appeal from the final plan directly to the Supreme Court within 30 days after the filing thereof. If the appellant establishes that the final plan is contrary to law, the Supreme Court shall issue an order remanding the plan to the commission and directing the commission to reapportion the Commonwealth in a manner not inconsistent with such order.

(e) When the Supreme Court has finally decided an appeal or when the last day for filing an appeal has passed with no appeal taken, the reapportionment plan shall have the force of law and the districts therein provided shall be used thereafter in elections to the General Assembly until the next reapportionment as required under this section

- 17.
- (f) Any district which does not include the residence from which a member of the Senate was elected whether or not scheduled for election at the next general election shall elect a Senator at such election.
- (g) The General Assembly shall appropriate sufficient funds for the compensation and expenses of members and staff appointed by the commission, and other necessary expenses. The members of the commission shall be entitled to such compensation for their services as the General Assembly from time to time shall determine, but no part thereof shall be paid until a preliminary plan is filed. If a preliminary plan is filed but the commission fails to file a revised or final plan within the time prescribed, the commission members shall forfeit all right to compensation not paid.
- (h) If a preliminary, revised or final reapportionment plan is not filed by the commission within the time prescribed by this section, unless the time be extended by the Supreme Court for cause shown, the Supreme Court shall immediately proceed on its own motion to reapportion the Commonwealth.
- (i) Any reapportionment plan filed by the commission, or ordered or prepared by the Supreme Court upon the failure of the commission to act, shall be published by the elections officer once in at least one newspaper of general circulation in each senatorial and representative district. The publication shall contain a map of the Commonwealth showing the complete reapportionment of the General Assembly by districts, and a map showing the reapportionment districts in the area normally served by the newspaper in which the publication is made. The publication shall also state the population of the senatorial and representative districts having the smallest and largest population and the percentage variation of such districts from the average population for senatorial and representative districts.]
- (b) The commission shall consist of 11 members, as follows: four who are registered with the largest political party in this Commonwealth based on registration, four who are registered with the second-largest political party in this Commonwealth based on registration and three who are not registered with either of the two largest political parties in this Commonwealth based on registration.
- (c) Each commission member shall possess all of the following qualifications:
- (1) Be a voter who has been continuously registered in this Commonwealth with the same political party or unaffiliated with a political party or political body and whose political affiliation has not changed in the previous three years immediately preceding the date of appointment to the commission.
 - (2) Has voted in two of the last three Statewide general elections immediately preceding the date of appointment to the commission.
 - (3) Has not held, nor has a spouse who has held, elective public office at the Federal, State or political subdivision level in this Commonwealth in the previous five years immediately preceding the date of appointment to the commission.
 - (4) Has not served as a paid staff member or paid consultant to Congress, the General Assembly, the Commonwealth or any political subdivision in this Commonwealth in the previous five years immediately preceding the date of appointment to the commission.
 - (5) Has not registered as a Federal, State or local lobbyist in this Commonwealth in the previous five years immediately preceding the date of appointment to the commission.
 - (6) Has not held office or served as a paid staff member for a political party or political body in the previous five years immediately preceding the date of appointment to the commission.
 - (7) Has not been nominated as a candidate for elective office by a political party or political body or served as a paid staff member or officer of a political party, political body, political committee or political action committee in the previous five years immediately preceding the date of appointment to the commission.
- (d) Application and selection of the members of the commission shall be subject to the following:
- (1) Application to serve as a member of the commission may be filed with, and on a form developed by, the Secretary of the Commonwealth indicating thereon evidence of his or her qualifications as provided by this section.
 - (2) The Secretary of the Commonwealth shall verify the qualifications of each applicant. If the Secretary of the Commonwealth finds that an applicant is not qualified, the Secretary of the Commonwealth shall not include the applicant's name in the pool of applicants.
 - (3) The Secretary of the Commonwealth shall separate all qualified applicants into three groups consisting of those who are:
 - (i) registered with the largest political party in this Commonwealth based on registration;
 - (ii) registered with the second-largest political party in this Commonwealth based on registration; and
 - (iii) not registered with either of the two largest political parties in this Commonwealth based on registration.
 - (4) The Secretary of the Commonwealth shall select, for appointment as members of the commission, on a random basis from each of the three groups of qualified applicants. In addition to the qualification requirements provided in subsection (c), appointments from each group shall reasonably reflect the racial, geographic and gender diversity of this Commonwealth.
 - (5) One of the members shall be selected as chair by a vote of at least six members of the commission.
 - (e) The term of office of each member of the commission shall expire at the same time the commission expires as provided in this section.
 - (f) Removal of a member and vacancies on the commission shall be subject to the following:
 - (1) If a member of the commission fails to attend more than two consecutive meetings at which a vote of the commission is scheduled, the member's position shall be deemed vacant unless the member is absent due to death of an immediate family member, personal illness or illness of an immediate family member.
 - (2) Any vacancy in the commission shall be filled within 14 days from the time the commission is notified of the vacancy in the same manner in which the position was originally filled and using the same pool of applicants from which the vacating member was chosen. If none of those remaining applicants are available for service, the Secretary of the Commonwealth shall fill the vacancy from a new pool of applicants created for the same voter registration category as the vacating member.
 - (g) A member shall be ineligible for a period of three years beginning from the expiration of the term for which the member was appointed to the commission to:
 - (1) Hold an appointive Federal, State or political subdivision position in this Commonwealth.
 - (2) Serve as a paid staff member or paid consultant to Congress, the General Assembly, the Commonwealth or any political subdivision.
 - (3) Register as a Federal, State or local lobbyist in this Commonwealth.
 - (4) Hold office or serve as a paid staff member or paid political consultant for a political party, political body, political committee or political action committee.
 - (g.1) A member shall be ineligible for a period of five years beginning from the expiration of the term for which the member was appointed to the commission to:
 - (1) Hold elective public office at the Federal, State or political subdivision level in this Commonwealth.
 - (2) Be eligible for nomination as a candidate for elective office by a political party or political body.
 - (h) Seven members of the commission shall constitute a quorum. Seven or more affirmative votes shall be required for any official action. The final redistricting plan must be approved by at least seven affirmative votes, which must include at least one vote of a member registered from each of the two largest political parties in this Commonwealth based on registration and one vote from a member who is not registered with either of the two largest political parties.
 - (i) To begin the process of preparing information necessary to the redistricting process, the commission shall complete all of the following:
 - (1) The commission shall acquire all necessary and appropriate information, review and evaluate available facilities and develop programs and procedures, which may include the use of software, in preparation for drawing congressional and legislative redistricting plans on the basis of each Federal census. The commission shall make the information available to the public through the commission's publicly accessible Internet website.
 - (2) As soon as possible after December 31 of each year ending in zero, the commission shall obtain from the United States Census Bureau the population data needed for legislative districting that the Census Bureau is required to provide the Commonwealth under 13 U.S.C. § 141 (relating to population and other census information) and shall use

that data to assign a population figure based upon census data to each geographic and political unit described pursuant to subparagraph (i). Upon completing that task, the commission shall begin the preparation of congressional and legislative redistricting plans as required by this subsection and subsection (j). The commission shall use the data obtained to prepare:

(i) Necessary descriptions of census blocks, voting districts, wards, municipalities and counties for which census data will be reported and which are suitable for use as components of districts.

(ii) Maps of census blocks, voting districts, wards, municipalities and counties within this Commonwealth, which may be used to illustrate the locations of district boundaries proposed in plans drawn in accordance with subsection (j).

(j) The commission shall establish congressional and legislative districts pursuant to a mapping process using the following criteria as set forth in the following order of priority:

(1) Districts shall comply with the Constitution of the United States and shall be established on the basis of population as follows:

(i) Senatorial and representative districts, respectively, shall each have a population as nearly equal as practicable to the ideal population for such districts, determined by dividing the number of districts to be established into the population of this Commonwealth reported in the Federal census. Senatorial districts and representative districts shall not vary in population from the respective ideal district populations except as necessary to comply with one of the other standards enumerated in this section. In no case shall the quotient, obtained by dividing the total of the absolute values of the deviations of all district populations from the applicable ideal district population by the number of districts established, exceed 3.5% of the applicable ideal district population. No senatorial district shall have a population which exceeds that of any other senatorial district by more than 5%, and no representative district shall have a population which exceeds that of any other representative district by more than 5%.

(ii) Congressional districts shall each have a population as close to the applicable ideal district population as possible.

(2) To the extent consistent with paragraph (1), district boundaries shall coincide with the boundaries of political subdivisions of this Commonwealth. The number of counties and municipalities divided among more than one district shall be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions shall be divided before the less populous, but this criterion does not apply to a legislative district boundary drawn along a county line which passes through a municipality that lies in more than one county.

(3) Districts shall be composed of contiguous territory. Areas which meet only at the points of adjoining corners are not contiguous.

(4) Districts should represent communities of interest.

(5) The geographic integrity of a municipality or local community of interest shall be respected in a manner that minimizes its division to the extent possible without violating the requirements of any of the preceding subsections.

(6) It is preferable that districts be compact in form, except that the standards established in paragraphs (1), (2) and (3) shall take precedence over compactness where a conflict arises between compactness and these standards. Compactness shall be determined through the use of one of the standard compactness measures that compares the area, population or geography of the districts to one another.

(7) No district shall be drawn for the purpose of favoring a political party, incumbent legislator or member of Congress or other person or group. In establishing districts, the following data shall not be considered:

(i) Addresses of incumbent legislators or members of Congress.

(ii) Political affiliations of registered voters.

(iii) Previous election results.

(8) Each plan drawn under this section shall provide that any vacancy in the General Assembly which is filled under the plan, occurring at a time which makes it necessary to fill the vacancy at a special election held under section 629 of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, shall be filled from the same district which elected the senator or representative whose seat is vacant.

(k) The commission, within 30 days prior to the deadline for approval of a preliminary plan as set forth in subsection (l)(1), shall schedule and conduct at least four public hearings in different geographic

regions of this Commonwealth.

(l) (1) Not later than July 1 of each year ending in one, the commission shall complete and approve a preliminary redistricting plan and maps as required under this section and make such preliminary plan and maps available to the public through the commission's publicly accessible Internet website.

(2) The commission, within 30 days following the deadline for approval of a preliminary plan as set forth in paragraph (1), shall schedule and conduct at least four public hearings, in different geographic regions of this Commonwealth, on the preliminary plan.

(3) Not later than August 15 of each year ending in one, the commission shall approve a final redistricting plan. Upon approval, the commission shall certify the resulting plan to the Secretary of the Commonwealth, which plan shall constitute the certified final plan.

(4) If the commission fails to approve a final plan in accordance with paragraph (3), the following shall apply:

(i) Not later than September 1 of each year ending in one, the commission shall complete and approve a second preliminary redistricting plan and maps prepared in accordance with subsection (j) and make such second preliminary plan and maps available to the public through the commission's publicly accessible Internet website.

(ii) Within 30 days following the deadline for approval of the second preliminary plan as set forth in subparagraph (i), the commission shall schedule and conduct at least four public hearings, in different geographic regions of this Commonwealth, on the second preliminary plan.

(iii) Not later than October 15 of each year ending in one, the commission shall approve a final redistricting plan. Upon approval, the commission shall certify the resulting plan to the Secretary of the Commonwealth, which plan shall constitute the certified final plan.

(m) If the commission does not complete and approve a final redistricting plan by October 16 of each year ending in one, the Secretary of the Commonwealth shall immediately petition the Supreme Court for an order directing the appointment of a special master to develop and complete a final redistricting plan in accordance with the criteria and requirements set forth in subsection (j). The special master must demonstrate expertise in geographic information systems by holding a graduate degree in geographic information systems and currently serving as a faculty member for a geographic information systems program at an institution of higher learning located within this Commonwealth and must meet the qualifications in subsection (c) and be bound by the restrictions in subsection (g). Upon its approval of the master's plan, the court shall certify the resulting plan to the Secretary of the Commonwealth, which plan shall constitute the certified final plan.

(n) The commission has the sole legal standing to defend any action regarding a certified final plan and shall inform the General Assembly if it determines that funds or other resources provided for the operation of the commission are not adequate.

(o) (1) The Supreme Court has original and exclusive jurisdiction in all proceedings in which a certified final plan is challenged or is claimed not to have taken timely effect.

(2) Any aggrieved person who is a registered voter in this Commonwealth may file a petition with the Supreme Court within 30 days after the commission has certified a final plan to the Secretary of the Commonwealth to bar the Secretary of the Commonwealth from implementing the plan on the grounds that the filed plan violates the Constitution of the United States, this Constitution or any Federal or State statute.

(p) The Department of State shall provide staff as needed to support the commission in the performance of its duties.

(q) Upon the filing of all redistricting plans required under this section and the exhaustion of all appeals of a redistricting plan:

(1) the commission shall expire and the commission's responsibilities shall terminate; and

(2) the final plan shall have the force of law and the districts therein provided shall be used thereafter in elections to the General Assembly until the next redistricting as required under this section.

(r) The General Assembly shall appropriate sufficient funds for the compensation and expenses of members and staff appointed by the commission and for other necessary expenses. In addition to necessary expenses, the members of the commission shall receive a per diem for each day or part of a day spent performing their official duties. The per diem shall be the most recent per diem rate for locations in this Commonwealth as established and published by the United States General

Services Administration.

(s) Any district which does not include the residence from which a member of the Senate was elected whether or not scheduled for election at the next general election shall elect a Senator at the election.

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

"Commission." The Legislative and Congressional Redistricting Commission.

"Community of interest." A contiguous population which shares common social and economic interests that should be included within a single district for purposes of its effective and fair representation. It shall not include relationships with political parties, incumbents or political candidates.

"Federal census." The decennial census required by Federal law to be conducted by the United States Census Bureau in every year ending in zero.

"Immediate family." A parent, spouse, child, brother or sister.

"Member." A member of the Legislative and Congressional Redistricting Commission.

"Plan." A plan for legislative and congressional redistricting drawn under the requirements of this section.

Section 2. (a) Upon the first passage by the General Assembly of these proposed constitutional amendments, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of these proposed constitutional amendments.

(b) Upon the second passage by the General Assembly of these proposed constitutional amendments, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of these proposed constitutional amendments. The Secretary of the Commonwealth shall submit the proposed constitutional amendments under section 1 of this resolution to the qualified electors of this Commonwealth as separate ballot questions at the first primary, general or municipal election which meets the requirements of and is in conformance with section 1 of Article XI of the Constitution of Pennsylvania and which occurs at least three months after the proposed constitutional amendments are passed by the General Assembly.

Amend Bill, page 2, line 27, by striking out "this" and inserting: the

Amend Bill, page 2, line 28, by inserting after "amendment": under section 1(1)

On the question,

Will the Senate agree to the amendment?

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

Senator BOSCOLA. Mr. President, this bill downsizes the House of Representatives, and it is a great bill. I wish we would do it in the Senate as well, but this is the bill that we have before us. It is to reduce the size of the House. Section 3 of the bill cites the redistricting process, because that is how you achieve the reduction of the legislature, through the redistricting process. So, until we eliminate gerrymandering and reform the way we redistrict our legislative districts--currently, it is a corrupt system, and the gerrymanders prove it. We have to address that issue before we downsize the legislature because they go hand in hand, as referenced in section 3 of the bill.

This process is blighted and tainted in every way that I have seen in the last 30 years. Even our last budget impasse was a result of our gerrymandered process. With that being said, I have an amendment that would correct the way we do the redistricting process and put it in the hands of a citizen commission, a com-

mission that has nothing to do with partisan politics, no elected official, no lobbyists, and nobody part of an independent commission. What would happen is the Secretary of State would collect the names and then 11 people are selected randomly.

I have been in this legislature for way too long now and I have seen what happens in this polluted process. My amendment would establish this unbiased 11-member commission because if we do not do it that way, we are putting the cart before the horse. You cannot downsize the legislature without reforming the way we handle these districts. These districts are so important. You do not want to disenfranchise voters, which happens now, and, in fact, the legislature is picking their voters instead of the voters picking who their legislative individuals are. That will be complicated more if we pass this bill without redistricting reform. So, it is for those reasons I offer amendment No. A5586 to House Bill No. 153.

BOSCOLA AMENDMENT A5586 TABLED

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President, I certainly am sympathetic to what the Senator's intentions and goals are with redistricting. I think that is something that certainly got a lot of attention. We had a very difficult time with redistricting the last time around, and I think, certainly, that is a worthy goal for all of us here in the Senate.

Having said that, this is a constitutional amendment dealing with reducing the size of the House. It is a House bill that has come over here. If we amend it, it would have to go back over there. This way, if passed as it is today, it would allow us to complete the first Session of this constitutional amendment and, hopefully, the House will reintroduce it again in 2 years. I certainly would like to work with the Senator, and I am sure the chairman of the Committee on State Government from Lebanon County would as well, because it is a very worthy cause.

For today's purposes, I think it is good to focus just on this issue of the constitutional amendment to reduce the size of the House. This is something the House has now passed, I believe, in three different Sessions and sent over to us. I think we do have a much larger House of Representatives than most States per population, so I think it is time that we move in this direction and I am sure it will get voter approval. So, having said all of that, and, again, my offer to work with the Senator, I move that amendment No. A5586 be laid upon the table.

On the question,

Will the Senate agree to the motion?

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

Senator BOSCOLA. Mr. President, is that debatable?

The PRESIDENT. The motion is nondebatable. Senator Corman's motion is in order.

Senator BOSCOLA. Go figure, Mr. President.

And the question recurring,

Will the Senate agree to the motion?

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

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

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

Senator EICHELBERGER. Mr. President, I had been looking at preparing an amendment for this bill and could not figure out a way to address it, I did not think it was germane to the bill, but I would stress that a lot of people think that this change in the legislature, the complement of the House Members, would greatly decrease the expense of the legislature. In previous hearings that have been held in the past, it has been demonstrated that it really would not. Conservative organizations and rural organizations have stepped up and said that this is not a cost savings, and, yet, it does other things to reduce the representation, it spreads people out farther and makes them less accessible to their constituents back home.

I suggest that if this bill passes, and I do not have a problem with it passing per se, but I think commensurately with that there have to be changes made in the legislature, particularly, in this case, in the House, changes to the rules so that the intent of the bill is accomplished by saving money and doing some other things that I think the citizens of this Commonwealth expect. That includes changing the operations of the legislative offices so that we do not backfill Members with staff complement. So, if we replace every Member that we lose with at least one staff person, we save almost no money with benefits and salary. I suggest that the House look at ways to change their operations by not promoting people coming to the office for things that they should be doing themselves, like driver's license renewals and car registration renewals. If somebody needs help, we are all here to help them, but if they want them to come in and they want to drive that business into their office, I think it is improper to do that. I think the use of PSAs to do that, the use of newsletters to do that, that is all costly. I recommend that they do not continue that effort. I think they need to stop doing mailings that are unnecessary and that do not have a legislative purpose, like sending things out to people because it is their anniversary or their son got on the honor roll at school or things like that--not a legislative purpose. Having staff in the office who do those functions for them, paying staff and their benefits and so on to do that work are all things that I deem to be more campaign oriented than legislative.

So, my caution to Members today is that proceeding with this, which is not necessarily a bad idea in and of itself, if we do not also address the operations of legislative offices, we are not going to accomplish any cost savings with simply diminishing the number of Representatives in the House of Representatives. So, I ask Members to carefully consider that and urge some changes as we move forward.

Thank you, Mr. President.

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

WILLIAMS AMENDMENT A5595 OFFERED

Senator WILLIAMS offered the following amendment No. A5595:

Amend Bill, page 1, line 1, by striking out "an amendment" and inserting:
integrated amendments

Amend Bill, page 1, line 2, by striking out "reducing the size of the General Assembly." and inserting:

further providing for election of members and vacancies, for terms of members, for sessions, for compensation, for legislative districts, for Governor's budget and financial plan, for appropriations and for surplus.

Amend Bill, page 1, lines 5 through 7, by striking out all of said lines and inserting:

Section 1. The following integrated amendments to the Constitution of Pennsylvania are proposed in accordance with Article XI:

(1) That section 2 of Article II be amended to read:

§ 2. Election of members; vacancies.

Members of the General Assembly shall be chosen at the general election [every second year]. Their term of service shall begin on the first day of December next after their election. Whenever a vacancy shall occur in either House, the presiding officer thereof shall issue a writ of election to fill such vacancy for the remainder of the term.

(2) That section 3 of Article II be amended to read:

§ 3. Terms of members.

[Senators] (a) Except as provided under subsection (b), members shall be elected for the term of four years [and Representatives for the term of two years].

(b) At the first general election after the adoption of the amendment adding this subsection, members from odd-numbered districts shall be elected for terms of four years.

(3) That section 4 of Article II be amended to read:

§ 4. Sessions.

(a) The General Assembly shall be a continuing body [during the term for which its Representatives are elected. It shall meet at 12 o'clock noon on] from the first Tuesday of January [each] of an odd-numbered year,] until November 30 of the fourth following year. Regular sessions shall be conducted during the months of January and February in each odd-numbered year. Special sessions shall be called by the Governor on petition of a majority of the members elected to each House or may be called by the Governor whenever in his opinion the public interest requires.

(b) The amendment of subsection (a) shall apply to the General Assembly elected at the first general election after the adoption of the amendment adding this subsection.

(4) That section 8 of Article II be amended to read:

§ 8. Compensation.

The members of the General Assembly shall receive [such salary] compensation for their services and mileage for regular and special sessions as shall be fixed by law, and no other compensation whatever, whether for service upon committee or otherwise. No member of either House shall during the term for which he may have been elected, receive any increase of salary, or mileage, under any law passed during such term.

(5) That section 16 of Article II be amended to read:

Amend Bill, page 2, by inserting between lines 2 and 3:

(6) That section 12 of Article VIII be amended to read:

§ 12. Governor's budgets and financial plan.

[Annually] Biennially, at the times set by law, the Governor shall submit to the General Assembly:

(a) A balanced operating budget for the ensuing two fiscal [year] years setting forth in detail for each fiscal year (i) proposed expenditures classified by department or agency and by program and (ii) estimated revenues from all sources. If estimated revenues and available surplus are less than proposed expenditures, the Governor shall recommend specific additional sources of revenue sufficient to pay the deficiency and the estimated revenue to be derived from each source;

(b) A capital budget for the ensuing two fiscal [years] years setting forth in detail for each fiscal year proposed expenditures to be financed from the proceeds of obligations of the Commonwealth or of its agencies or authorities or from operating funds; and

(c) A financial plan for not less than the next succeeding [five] six fiscal years, which plan shall include for each such fiscal year:

(i) Projected operating expenditures classified by department or agency and by program, in reasonable detail, and estimated revenues, by major categories, from existing and additional sources, and

(ii) Projected expenditures for capital projects specifically itemized by purpose, and the proposed sources of financing each.

(7) That section 13 of Article VIII be amended to read:
 § 13. Appropriations.
 (a) Operating budget appropriations made by the General Assembly shall not exceed the actual and estimated revenues and surplus available in the same fiscal year.
 (b) The General Assembly shall adopt a capital budget for the ensuing two fiscal [year] years.
 (8) That section 14 of Article VIII be amended to read:
 § 14. Surplus.
 All surplus of operating funds at the end of the fiscal year shall be appropriated during the ensuing two fiscal [year] years by the General Assembly.

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

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

Senator WILLIAMS. Mr. President, I do believe that many of us in this Chamber are divided on the question of whether we should reduce the General Assembly and the consequences of that. I think there are substantive, serious, and thoughtful arguments on both sides. There are those who say reducing the size would, in effect, cut costs and hopefully make the legislative process much more interactive. Then there are those who say that the cost reduction is minimal, and some who are currently able to access legislative offices would find difficulty, and, most importantly, those who represent them would be overwhelmed by the simple size of their districts.

The measure happened to come through a committee of which I am the ranking Member, the Committee on State Government, and at the time, I did not necessarily have a position. It was favorable, but I did say that if this was the manner and time and place where we are going to have this conversation, I asked the author of the bill, would they consider that--this is more than just a number change, this is a cultural change. The complaints that I hear, not just in Philadelphia and Delaware Counties, do not go just simply to the number of the General Assembly, it goes to how we operate in the General Assembly. So, to do that, you have to go beyond the simplistic nature of saying, I am going to reduce the House of Representatives by X number and then thinking it fixes the problem because, with all due respect, I do not believe it to be that. I believe that you have to do substantive and much more reforming, if you will, of the process: one, that would include the Senate; and two, frankly, would include a culture change of the resources that we currently spend. If I have not heard it one time, I have heard it thousands of times, not about the reduction of the General Assembly but, frankly, the fact that we are a full-time General Assembly and we get paid so much and use so many resources.

Mr. President, if we are about the business of cutting the costs, if we are about the business of reducing the size, then I am offering an amendment to that end. The amendment is very simple, and it comes from probably one of the more conservative Members in the General Assembly from the State House, Representative Cutler, on which 99.9 percent of the issues he and I are very much at odds. But I do believe that if we are going to be serious about this, we need to think about it in a manner that, those who have been involved in the conversations, that means what the people we represent have said, they have said to us, cut the size and cut the costs. So, this amendment simply offers that opportunity to return to what Pennsylvania once was, a

noninfluenced, lack-of-special-interest body because we were a part-time General Assembly and we did our budgets in 2-year cycles and we were formulated over 2-month periods of time. For all of the bills and all of the days we sit here debating about the budget, we got nothing done. I guarantee you, by the time we actually get to a conclusion about the budget, it will encompass about 2 weeks, not even 2 months will be required.

So, I offer this amendment to the bill to return us to a part-time General Assembly and reduce the General Assembly size in the Senate and the House. To that end, I offer amendment No. A5595 to House Bill No. 153.

Thank you, Mr. President.

WILLIAMS AMENDMENT A5595 TABLED

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President, much like the previous amendment, I think this amendment is a very worthy amendment. In fact, when I first got into the legislature, I believe in 1999, I introduced a bill dealing with moving the General Assembly to a part-time legislature. However, obviously, there are a lot of things to consider over that particular idea and I think that is something that needs to go through a vetting process such as the committee process. I am sure, once again, that the gentleman from Lebanon County, the chair of the Committee on State Government, if the gentleman from Philadelphia would introduce such a bill, would give it some consideration, vet it through, and see all of the things that need to be considered to go along with that. This particular piece, as a standing bill, as we are looking at it today, House Bill No. 153, as I mentioned before, has been through the House three different Sessions. It used to be introduced by the former Speaker of the House. It came out of the Committee on State Government of this Senate last Session, so it has had a lot of vetting through their process to understand what exactly reducing the House by this size would mean.

So, again, I pledge to work with the Senator if he wants to introduce a bill dealing with a part-time General Assembly. I think it is an idea with a lot of merit. I would be happy to do that, but I think we need to go through the committee process with that, work with the chairman, both the Democratic chairman and the chairman from Lebanon County, so we can understand exactly what we are looking to accomplish. For today's purposes, Mr. President, I would like to consider House Bill No. 153 on itself, so I move that amendment No. A5595 be laid upon the table.

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

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

And the question recurring,
 Will the Senate agree to the bill on third consideration?
 It was 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-43

Alloway	Dinniman	Rafferty	Vogel
Argall	Eichelberger	Reschenthaler	Vulakovich
Aument	Folmer	Sabatina	Wagner
Baker	Fontana	Scarnati	Ward
Bartolotta	Gordner	Scavello	White
Blake	Greenleaf	Schwank	Wiley
Boscola	Haywood	Smucker	Williams
Brewster	Kitchen	Stefano	Wozniak
Browne	McGarrigle	Teplitz	Yaw
Corman	McIlhinney	Tomlinson	Yudichak
Costa	Mensch	Vance	

NAY-6

Brooks	Hughes	Leach	Tartaglione
Farnese	Hutchinson		

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

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

BILL LAID ON THE TABLE

SB 489 (Pr. No. 429) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of February 18, 1998 (P.L.146, No.22), known as the Check Casher Licensing Act, further providing for definitions, for authority of department, for conditions for licensing and for fees and charges; and providing for recovery of losses due to theft and fraudulent misrepresentation.

Upon motion of Senator GORDNER, and agreed to by voice vote, the bill was laid on the table.

SB 489 TAKEN FROM THE TABLE

Senator GORDNER. Mr. President, I move that Senate Bill No. 489, Printer's No. 429, be taken from the table and placed on the Calendar.

The motion was agreed to by voice vote.
The PRESIDENT. The bill will be placed on the Calendar.

BILLS OVER IN ORDER

HB 561, SB 606, SB 691, HB 837, SB 1013, SB 1056 and HB 1296 -- Without objection, the bills were passed over in their order at the request of Senator GORDNER.

SECOND CONSIDERATION CALENDAR

BILL OVER IN ORDER

SB 50 -- Without objection, the bill was passed over in its order at the request of Senator GORDNER.

BILLS OVER IN ORDER AND LAID ON THE TABLE

SB 126 (Pr. No. 1365) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in sentencing, providing for lottery winnings intercept.

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

Pursuant to Senate Rule 9, the bill was laid on the table.

SB 127 (Pr. No. 1366) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act, in enforcement, providing for State income tax intercept.

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

Pursuant to Senate Rule 9, the bill was laid on the table.

SB 201 (Pr. No. 504) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 19, 1974 (P.L.973, No.319), known as the Pennsylvania Farmland and Forest Land Assessment Act of 1974, further providing for roll-back taxes and special circumstances.

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

Pursuant to Senate Rule 9, the bill was laid on the table.

BILLS OVER IN ORDER

HB 400 and SB 488 -- Without objection, the bills were passed over in their order at the request of Senator GORDNER.

BILL ON SECOND CONSIDERATION

SB 568 (Pr. No. 541) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 20 (Decedents, Estates and Fiduciaries) of the Pennsylvania Consolidated Statutes, in orphans' court divisions, further providing for appointment and purpose and for compensation; and, in incapacitated persons, providing for venue and for confidentiality and disclosure of information, further providing for petition and hearing and independent evaluation, repealing provisions relating to county of appointment and qualifications, further providing for review hearing, providing for affidavit in uncontested termination matters and for counsel, further providing for emergency guardian, repealing provisions relating to provisions similar to other estates, providing for removal and discharge of guardian, for appointment of guardian in conveyance and for bond, further providing for evidence of incapacity, for cross-examination of witnesses and for provisions concerning powers, duties and liabilities, providing for protection of person dealing with guardian, and further providing for when accounting filed, for distributions of income and principal during incapacity and for guardianship services.

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

BILLS OVER IN ORDER

SB 805, SB 889, HB 950 and SB 976 -- Without objection, the bills were passed over in their order at the request of Senator GORDNER.

BILL ON SECOND CONSIDERATION AND REREFERRED

SB 1086 (Pr. No. 1509) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, in registration of vehicles, further providing for display of registration plate and for surrender of registration plates and cards upon suspension or revocation and providing for suspension of registration upon unpaid tolls; and, in fees, further providing for reinstatement of operating privilege or vehicle registration.

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

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

BILL ON SECOND CONSIDERATION

SB 1104 (Pr. No. 1498) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 20 (Decedents, Estates and Fiduciaries) of the Pennsylvania Consolidated Statutes, in orphans' court divisions, further providing for nonmandatory exercise of jurisdiction through orphans' court division; in wills, further providing for rules of interpretation; in dispositions independent of letters, family exemption, probate of wills and grant of letters, providing for submission to jurisdiction; in administration and personal representatives, further providing for continuation of business and for incorporation of estate's business; in accounts and distribution, further providing for determination of title to decedent's interest in real estate; in health care, further providing for definitions, for authority of health care agent and for relation of health care agent to court-appointed guardian and other agents; in powers of attorney, further providing for general provisions, for form of power of attorney, for implementation of power of attorney, for durable powers of attorney and for account; providing for meaning and effect of power of attorney and for jurisdiction and venue; in estates, further providing for release or disclaimer of powers or interests; in estates, providing for release of powers and interests and disclaimer of powers; providing for powers of appointment; in trusts, further providing for nonjudicial settlement agreements - UTC 111, for representation of parties in interest in general, for division of trusts, for resignation of trustee and filing resignation, for duty to inform and report, for limitation of action against trustee and for powers, duties and liabilities identical with personal representatives; codifying provisions of the Charitable Instruments Act of 1971; in principal and income, further providing for charitable trusts; and making a related repeal.

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

BILL ON SECOND CONSIDERATION AND REREFERRED

SB 1108 (Pr. No. 1503) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, in general provisions, further providing for definitions;

in licensing of drivers, further providing for classes of licenses and for examination of applicant for driver's license; in special vehicles and pedestrians, providing for certain passengers prohibited in autocycles; and, in accidents and accident reports, further providing for accident report forms and for department to compile, tabulate and analyze accident reports.

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

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

BILLS OVER IN ORDER

HB 1199, HB 1229, HB 1484 and HB 1660 -- Without objection, the bills were passed over in their order at the request of Senator GORDNER.

SENATE RESOLUTION No. 247, ADOPTED

Senator GORDNER, without objection, called up from page 7 of the Calendar, **Senate Resolution No. 247**, entitled:

A Resolution urging the United States Department of Transportation to work with tank car manufacturers and owners, crude oil shippers and the rail industry in adopting a higher pool fire survivability standard and assisting with additional Federal funds to sustain the training of emergency first responders to ensure communities across the Commonwealth of Pennsylvania and the rest of the United States benefit from the safe transportation of Crude by Rail shipments.

On the question,
Will the Senate adopt the resolution?
A voice vote having been taken, the question was determined in the affirmative.

GENERAL COMMUNICATION
SENATE OF PENNSYLVANIA

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

January 27, 2016

COMMITTEE REPORT OF THE
SPECIAL COMMITTEE ON SENATE ADDRESS

Examining Pennsylvania Attorney General Kathleen Kane's ability to perform the duties of her office with a suspended law license.
Chairman John R. Gordner.
Democratic Chairman Sean Wiley.
Members, Lisa Baker, Art Haywood, Judith L. Schwank, Gene Yaw, President pro tempore Joseph B. Scarnati, III, *ex officio*.

The PRESIDENT. This report will be filed in the Office of the Secretary of the Senate.

REMARKS SUBMITTED

The PRESIDENT. The Chair recognizes the gentlewoman from Luzerne, Senator Baker.

Senator BAKER. Mr. President, as a Member of the Special Committee on Senate Address, I have the following information

which I would like to place upon the record. It is a letter that I sent, along with responses that I received from Bruce Beemer, the First Deputy Attorney General, as well as Attorney Douglas Gansler, related to an inquiry that I made with the Office of Attorney General seeking answers to questions regarding the appointment of a special prosecutor to review potentially derogatory emails exchanged by State officials. This information is an important addition to the record for Members as a body as we make a determination following the recommendations contained in the final report of the Special Committee on Senate Address.

Contrary to the suggestion by Mr. Gansler's letter, none of this discussion is intended to deflect or delay inquiry into the emails in question. It is solely meant to determine whether the Attorney General is abiding by the restrictions imposed by the suspension of her law license. So, I will be submitting a memorandum for the record along with the various letters that I just mentioned.

In addition, I would also like to place on the record a letter that was received today to the chair of the Special Committee on Senate Address, the Honorable John Gordner, sent by the Pennsylvania District Attorneys Association dated January 27, in which I paraphrase, "The Executive Committee of the Pennsylvania District Attorneys Association agrees with the conclusions of the District Attorneys Heckler, Adams, and Lazzari-Strasler that the job of an elected prosecutor necessarily involves the practice of law and, therefore, requires us to hold an active law license."

I present all of these documents to be placed in the record as we consider the report of the special committee.

Thank you, Mr. President.

The PRESIDENT. Without objection, the documents and letters will be spread upon the record.

(The following documents were made part of the record at the request of the gentlewoman from Luzerne, Senator BAKER:)

SENATE OF PENNSYLVANIA

MEMORANDUM

Date: January 27, 2016

To: All Members
Senate of Pennsylvania

From: Senator LISA BAKER

Subject: Special Committee on Senate Address

Attached is a letter I sent, along with the responses received, related to an inquiry I made with the Office of Attorney General seeking answers to questions regarding the appointment of a special prosecutor to review potentially derogatory emails exchanged by state officials. This information is an important addition to the record as the members of this body work to make a determination following the recommendations contained in the Final Report of the Special Committee on Senate Address.

Contrary to the suggestion in Mr. Gansler's letter, none of this discussion is intended to deflect or delay inquiry into the emails in question. It is solely meant to determine whether the Attorney General is abiding by the restrictions imposed by the suspension of her law license.

I trust these documents are useful as part of your review.

Attachments (3)

Letter to Bruce R. Beemer, First Deputy Attorney General

Letter from Douglas F. Gansler

Letter from Bruce R. Beemer, First Deputy Attorney General

SENATE OF PENNSYLVANIA

January 13, 2016

Bruce R. Beemer, First Deputy Attorney General
Office of Attorney General
Strawberry Square
Harrisburg, PA 17120

Dear First Deputy Beemer:

I appreciated your testimony before the Special Committee on Senate Address on November 18, 2015. Since the Committee made its report to the full Senate on November 25, 2015, several intervening events have taken place.

Most importantly, on December 1, 2015, Kathleen Kane publicly announced the appointment of a special prosecutor to review potentially pornographic and otherwise offensive emails exchanged by state officials. I have enclosed correlating documents, one dated December 16, 2015, signed Kathleen G. Kane, Attorney General (hereinafter "Charge") and a second, with an effective date of December 1, 2015, signed Kathleen G. Kane, Attorney General, on December 8, 2015 (hereinafter "Contract").

Yesterday, in accordance with Senate Resolution 256 of 2015, a hearing was held to examine Kathleen Kane's ability to perform the duties of Attorney General with a suspended law license. Chief of Staff Jonathan Duecker appeared on behalf of the Attorney General. Although he provided some important insights, he was unable to adequately respond to my inquiries.

I am requesting answers to the following questions regarding the Charge and Contract, and other related actions, as well as some clarifications regarding prior OAG testimony:

Appointment, Charge and Contract of Special Prosecutor

- 1) Is there a procedure within the Office of Attorney General (OAG) for determining that a Special Prosecutor or Special Deputy Attorney General is necessary?
- 2) Under what legal authority does the Attorney General make such an appointment?
- 3) Who participated in deciding that a Special Prosecutor or Special Deputy Attorney General was needed for the investigation outlined in the Charge and Contract?
- 4) Who wrote the Contract and the Charge?
- 5) What is the process for reviewing and approving such documents? Was it followed?
- 6) Did any lawyer at OAG review and approve the Charge before it was signed? If so, who?
- 7) Who approved the Contract "as to form and legality" at the OAG and signed the same on December 9, 2015?
- 8) Do the provisions and terms of the Charge and/or the Contract differ in any material way from other contracts and/or charges or appointments of Special Deputy Attorneys General? If so, how?

Appointment of Douglas F. Gansler and BuckleySandler LLP

9) What are the qualifications for consideration for appointment as a Special Prosecutor or Special Deputy Attorney General? What process was used in the selection of Douglas Gansler? Is this procedure set forth within the memo created by you and the other deputies regarding the operation of OAG during Kathleen Kane's suspension?

10) Was anyone else considered for this appointment?

11) What is the contractual relationship between the Special Prosecutor or Special Deputy Attorney General Douglas Gansler and the OAG? Is he an employee, an independent contractor or other? To whom will he report?

12) What is the contractual relationship between the OAG and BuckleySandler LLP and the people at the firm who will work under Mr. Gansler's supervision and direction?

Email Review

13) Who at the OAG ordered the release of the emails to Buckley Sandler LLC [sic]?

14) In releasing the emails, has the OAG violated internal procedures or the Grand Jury Secrecy oaths of its lawyers, investigators and staff members?

15) When were the emails delivered?

16) Did any of the emails contain secret Grand Jury information? Information which may violate any privacy laws? Information protected by attorney client privilege or attorney client confidentiality?

17) Did anyone waive privacy, attorney client privilege or attorney client confidentiality rights on behalf of the Commonwealth before releasing the emails? If so, who made such a waiver?

18) Were the emails released before the OAG received signed secrecy oaths from the lawyers and staff working under the Contract and Charge at BuckleySandler LLC?

19) Has anyone at OAG asked BuckleySandler LLP or Douglas Ganser [sic] to return emails to the OAG. If so, who? For what reason(s)?

20) If there has been a request, what issues or problems with Kathleen Kane's appointment of the Special Deputy Attorney General or the Charge and/or Contract have resulted in the request for the return of the emails? And what response has OAG received?

Bond or Indebtedness of the Commonwealth

21) Robert Mulle testified before the committee that one duty of the Attorney General which may not be able to be delegated is the obligation to sign bonds or instruments of indebtedness for the Commonwealth. Has there been any further research to determine whether or not this duty can be delegated?

22) What other duties of the Attorney General are or may not be capable of being delegated?

Miscellaneous

23) Since you testified, has anyone at OAG violated or failed to abide by the terms of the memo created by you and the other deputies regarding the operation of OAG during Kathleen Kane's suspension?

24) Is there anything else you wish to add or you believe the Committee should know regarding operation of OAG, which would assist the Committee in its charge?

I would appreciate receiving your responses no later than January 20, 2016, as the Committee works to meet its obligation to provide a report to the Senate by January 27, 2016.

Thank you for your cooperation.

Sincerely,

LISA BAKER
Senator

BuckleySandler LLP
1250 24th Street NW, Suite 700
Washington, DC 20037

January 18, 2016

Senator Lisa Baker
362 Main Capitol Building
Senate Box 203020
Harrisburg, PA 17120-3020

Dear Senator Baker:

I am in receipt of your letter, dated January 13, 2016, to Bruce R. Beemer, First Deputy Attorney General of Pennsylvania, which includes 24 questions regarding my appointment as Special Deputy Attorney General to Conduct an Independent Investigation in order to assure public confidence in the integrity of the prosecutorial and judicial func-

tions in the Commonwealth. In particular, on December 1, 2015, I was charged by the Attorney General of Pennsylvania with the responsibility to conduct an independent review of well over one million emails on the Office of the Attorney General's ("OAG") email system to determine what rules, regulations, codes, policies or laws may have been violated by current or former members of the OAG, members of the judiciary or other public officials..

I can only assume that, as an elected State Senator, you too share the concerns of the citizens of Pennsylvania regarding the diminished trust and confidence of your constituents regarding the judicial and criminal justice system, in general, and the Office of the Attorney General, in particular, as a result of the purported contents of the emails. I also believe that you welcome an independent review of the materials and look forward to my report and findings

I will note that it is curious that you chose not to address your inquiry to Attorney General Kane, or even to me. Further, I do not understand how my investigation has any relevance to what I understood to be the issue being heard before your committee as to whether an Attorney General with a temporarily suspended license -- who could thus not temporarily "practice law" -- could continue to serve as Attorney General. This is particularly true because, obviously, hiring and firing does not require a law license and, in this case, the Attorney General was explicitly hiring someone other than she to practice law with respect to certain matters. Nevertheless, I will endeavor to answer the questions contained in your letter to supplement any answers provided by others so that you and your Committee will have as complete and accurate a record as possible for your deliberations. Of course, I am always available to meet in person or by telephone if you or any of your colleagues have remaining questions. .

1) The determination that a Special Prosecutor or Special Deputy Attorney General is necessary rests exclusively within the purview of the duly elected Attorney General of Pennsylvania. Indeed, the Attorney General is the only Executive Branch official who has the unquestionable authority to appoint such a person pursuant to the Commonwealth Attorneys Act.

2) The Commonwealth Attorneys Act of Pennsylvania provided authority for my appointment.

3) As noted above, the Attorney General made this determination and I am not in a position to answer this question. It is clear to me that given the nature and volume of the emails that have already been publicly released, the Attorney General appropriately determined that there is a serious issue regarding the integrity and impartiality of the judicial and criminal justice system in Pennsylvania, and that, rather than ignoring the issue, an independent review and report would be critical to restoring the confidence and trust of the citizens of Pennsylvania in that system.

4) The Charge was issued by the Attorney General and the contract with BuckleySandler, which I have not reviewed and was not involved preparing, was, to my understanding generated, reviewed and approved through the OAG's standard contractual process that approves contracts for form and legality.

5) The process of my appointment was in accordance with the powers vested in the Attorney General under the Commonwealth Attorneys Act. As noted above, my understanding is that the standard process for reviewing and approving the Contract was followed.

6) I do not know whether any OAG lawyer reviewed the Charge before it was signed, nor am I aware of any procedure or regulation at the OAG that requires OAG lawyers to review such decisions by the Attorney General.

7) It is my understanding that Mr. Robert Mulle, Executive Deputy Attorney General signed the Contract as to "form and legality", consistent with my understanding that this is standard practice, and others in the OAG may have reviewed the contract as well.

8) By definition, each time the OAG has appointed an independent or Special Deputy in the past, the unique circumstances of that case dictate the language of the Charge. Of course, these circumstances are unique in that I am unaware of any historical precedent in Pennsylvania where there were multiple public and government officials transmitting the types of emails purportedly involved in this case through the OAG server.

9) My qualifications include, among many other qualifications, that I graduated with honors from Yale University and graduated from the University of Virginia Law School; clerked on the highest Court in Maryland; worked for two years at a national law firm; served six years

as an Assistant United States Attorney; served eight years as the State's Attorney for over one million people living in Montgomery County, Maryland, including overseeing the legal investigation and ultimately the prosecution of the Beltway Snipers; and served as Maryland Attorney General for eight years, including one year as President of the National Association of Attorneys General. I am not aware of the memorandum referenced in the question relating to the operation of the OAG.

10) The Attorney General indicated that she was considering others for the assignment but that decision and process were hers.

11) My responsibilities commenced on December 1, 2015, with the Charge of the Pennsylvania Attorney General that contains terms of the contractual payment relationship, specifically that that I "shall receive compensation at the per diem rate equal to the annual rate of basic pay payable to the Attorney General." My understanding is that the language and rate is consistent with the expired Pennsylvania Independent Counsel Authorization Act.

12) The contractual relationship between BuckleySandler and the OAG is reflected in the contact entered into between them which I believe is publicly available.

13) The Attorney General, consistent with her vested legal authority, responsibility to the Commonwealth and Charge, would be responsible for the release of the emails;;

14) The Attorney General and members of the OAG have not violated any rule, regulation, or law by providing the emails to me. To the contrary, the very purpose of the review of the emails is in part to determine what rules, regulation, or laws might have been violated and by whom.

15) The emails were delivered in December, 2015.

16) We have not reviewed the emails in their entirety at this time so we are unaware of their specific contents. We do not intend to disclose the nature of any emails, other than those relevant to the Charge and which we intend will be publicly released consistent with Pennsylvania law and regulation.

17) No one in the OAG waived any rights or privileges, or violated any rules, regulations, or laws by providing the emails for an independent review consistent with the Charge. In fact, the very purpose of the independent review is to discern what, if any, rules, regulations, or laws might have been violated and by whom.

18) No non-publicly released emails were reviewed prior to the signing and return to the OAG of grand jury secrecy oaths.

19) Yes, Mr. Beemer has requested return of the emails. The motives of why anyone at the OAG would ask for the return of emails from the OAG server being reviewed by an independent investigator to determine whether improper materials were transmitted by members of the OAG would be a matter of speculation on my part.

20) I advised Mr. Beemer that there is no basis for the return of any emails received and that no violations of any law, rule or regulation have resulted from the provision of those emails. Further, I advised him that to the extent that there any steps that need to be taken beyond the execution of grand jury secrecy oaths with respect to any of the emails received or that may be requested in the future, we need to work together expeditiously and cooperatively to ensure that the necessary independent review can continue to be conducted in compliance with all applicable laws and regulations.

21-24) I am not in a position to provide any information on these four questions.

Again, please feel free to reach out if I may be of any assistance.

Sincerely,

DOUGLAS F. GANSLER

COMMONWEALTH OF PENNSYLVANIA
Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

January 20, 2016

The Honorable Lisa Baker
SENATE OF PENNSYLVANIA
362 Main Capitol Building
Senate Box 203020
Harrisburg, PA 17120-3020

Dear Senator Baker:

I am writing in reply to your letter of January 13, 2016, which poses numerous questions about operational procedures in the Office of Attorney General (OAG) both generally, and in specific situations. As you will see from my responses below, where I was able to do so, I answered the question(s) you asked. However, in many instances I could not supply an answer as I have no knowledge of what occurred because neither I, nor any of the attorneys I supervise, had any involvement in the event(s) or occurrence(s) about which you have inquired.

By way of preface, I would like to mention that all of us who testified jointly on November 18, 2015, and indeed the vast majority of OAG employees, would like to have a full fair and independent review of the emails about which your letter has raised various questions. Transparency demands nothing less. However, we are greatly concerned that any review be conducted in a manner that comports with Pennsylvania law, not just to ensure the integrity of that review and any action(s) that may result from it, but also to avoid any potential liability to the Commonwealth that may flow from unauthorized conduct.

I must note one other thing: several of your questions pertain either entirely or in part to grand jury related-matters such as maintenance of grand jury secrecy. Those very principles, however, prevent me and other OAG staff members from providing a response absent permission from a supervising judge. As you will see from the response to question 18, the supervising grand jury judge has authorized me to furnish certain limited information, which I have included.

I will answer your questions in the order they appear in your letter:

1. I am aware of no written or otherwise established procedure for making such a determination at present, nor any criteria to be utilized. To the best of my knowledge, in the comparatively few instances when such an appointment has been made in the past, it has been purely at the discretion of the Attorney General. The OAG has procedures for the hiring of outside civil counsel, but the duties performed by persons hired as such do not include the criminal law/prosecutorial functions contemplated by the Charge.

2. As you are no doubt aware, Pennsylvania no longer has a statute that allows for the appointment of independent counsel. The previous statute, the Independent Counsel Authorization Act expired on February 18, 2003, *see* 18 Pa.C.S. §9352, and has not been renewed or replaced at any time since. The Attorney General's authority to appoint a Special Deputy Attorney General derives from the Commonwealth Attorneys Act (CAA), 71 P.S. §732- 101 *et seq.*, specifically the provisions set forth in §732-201(c), which provides, in relevant part, that "[t]he Attorney General shall appoint and fix the compensation of a first deputy attorney general . . . and such other deputies, officers and employees who may, at any time, exercise such powers and perform such duties as may be prescribed by the Attorney General." Notably, the authority to appoint must be exercised in a way that ensures compliance with other applicable state and federal laws. For example, the Attorney General cannot appoint someone as an OAG employee or official if that appointment would violate the State Adverse Interest Act (SAIA), 71 P.S. §776.1 *et seq.*, which prohibits the appointment/employment of individuals who have a financial interest in contracts into which the Commonwealth has entered. Here, as you know, BuckleySandler has a contract with the Commonwealth to provide support services to any Special Deputy appointed to review the emails in question. Because Mr. Gansler is a partner in BuckleySandler, he cannot be appointed as an OAG official or employee. *See* 71 P.S. §§776.2 and 776.4-776.6. Such an appointment would amount to a criminal offense. Each violation of the SAIA constitutes a misdemeanor punishable by imprisonment (up to 1 year) and a fine (up to \$1000).

3. I do not know. As far as I have been able to determine, no OAG attorney was consulted about, or otherwise involved in, the decision to appoint a Special Prosecutor or Special Deputy Attorney General. This question, I believe, would need to be directed to the Attorney General.

4. I do not know who wrote either the Charge or the Contract. Again, this question should be addressed to the Attorney General.

5. Generally, all agency contracts for goods and services, including legal services, must be submitted to the Legal Review Section of the OAG for review and approval before performance can begin. This process is mandated by the CAA and the State Procurement Code. The

contract in question with Mr. Gansler's law firm, BuckleySandler, was reviewed and approved on December 5, 2015.

6. Not to my knowledge.

7. Executive Deputy Attorney General Robert A. Mulle performed those duties.

8. We are not aware of a sufficiently-similar past appointment or contract for services that would serve as a basis for comparison.

9. I do not know. This matter was not addressed in any memo sent by myself and the Executive Deputy Attorneys General to the Attorney General dealing with the OAG's operation in the wake for her license suspension. Neither I, nor they, had any knowledge of her intent to make an appointment of this sort.

10. I do not know. This question, I believe, would need to be directed to the Attorney General.

11. As the responses to some of the questions below explain in more detail, at present, Mr. Gansler has no official status or relationship with the OAG. Several members of my staff and I have had a series of conversations with Mr. Gansler and other BuckleySandler personnel in an effort to try to agree upon a contract for his services that would comport with Pennsylvania law. To date, those efforts have not been successful.

12. At this time, I am unable to answer due to the fact that this is a matter still under review.

13. I do not know. This question, I believe, would need to be directed to the Attorney General.

14. To my knowledge, it has always been routine OAG practice, not to release any materials without prior review of the materials by counsel to ensure that release of the same would not violate state and federal law and regulations. This would include not only grand jury-related obligations and privilege-based obligations such as attorney-client communications, but also treatment and employment materials that are subject to disclosure restrictions or prohibitions. In this instance, I have no knowledge of whether or not any review of this sort was conducted prior to the transmittal of emails to BuckleySandler.

15. I do not know, although we have received correspondence from BuckleySandler indicating that the firm has in its possession some 850,000 emails.

16. To the extent this question involves grand jury-related information, I am unable to respond. With respect to the remaining issues, I do not know, as I do not know what has been furnished to BuckleySandler.

17. To the extent this question might involve grand jury-related information, I am unable to respond. With respect to the remaining issues, I do not know. I am able to advise you that I have not been provided with any documents reflecting a waiver of any kind.

18. Given that this question appears to involve grand jury-related information, I am unable to respond other than to say that the grand jury judge has authorized me to inform you that no order permitting the disclosure of any grand jury materials that may be contained in the emails which have been transmitted to BuckleySandler has been issued and that he is taking appropriate steps to investigate the possible unauthorized disclosure of secrecy-protected grand jury materials. I would point out that, as a general matter, under the Pennsylvania Grand Jury Act, any release of materials subject to grand jury secrecy without the prior permission of a supervising judge, constitutes a violation of the Act. See 42 Pa.C.S. §4549(b). Subsequent execution of a secrecy oath does not cure or remove the violation.

19. Yes, I have, in recent conversations with Mr. Gansler and other representatives of his firm. At my direction, Mr. Mulle also previously requested their return. Both I and the senior staff attorneys believe that before any emails were released, there should have been a review of the material(s) to be disclosed to ensure that there will be no violation of state and/or federal law associated with their disclosure. We also believe that it is improper to provide any of this material to any individual unless and until there is a clear indication that the individual's status allows him/her to receive it. Mr. Gansler has no contract with the OAG and therefore at this time he has no official status or relationship with the OAG.

20. I believe my previous response explains why it became necessary to seek the return of the emails given to BuckleySandler. Those requests have been refused.

21. We are continuing to review this issue. It appears that a provision of the Administrative Code, specifically permits the First Deputy to assume this and other responsibilities. That provision, which is codi-

fied at 71 P.S. §762("§762"), and which is entitled "Duty of person next in authority to act during vacancy or absence of incumbent," provides that

[w]henever, by reason of the absence, incapacity, or inability of the head or chief of any of the departments of the State Government to perform the duties of his office, or whenever a vacancy in the office of the head or chief of any of the departments of the State Government occurs, the duties of the head or chief of such department shall be performed by the deputy, chief clerk, or other person next in authority, until such disability is removed or the vacancy filled.

22. As explained during our testimony, at the time the Attorney General's law license was fully suspended, she immediately became unable to engage in any activity that involves the practice of law. By operation of Pennsylvania law, specifically, pursuant to §762, which is quoted above, the First Deputy Attorney General was invested with the authority to perform those duties by operation of law. Thus, to the extent the Attorney General sought to delegate criminal law-based/prosecutorial authority on a special prosecutor, she was unable to do so as she lost the ability to perform those functions and could not delegate

23. Please see my response to the next question.

24. Shortly after our testimony before your committee, we found it necessary to again attempt to resolve abiding operational issues caused by the Attorney General's suspension of her law license. To that end, the three Executive Deputy Attorney Generals and I wrote to the Acting Chief of Staff Jonathan A. Duecker. In a memorandum of November 24, 2015, a copy of which I am enclosing, we emphasized the legal and ethical importance of ensuring that any matter which in any way requires legal knowledge or expertise be handled and/or overseen by an attorney. A copy of that memorandum was also provided to the Attorney General. We stressed in our memorandum, that for various reasons, such assignments could not be handled by someone not licensed to practice in Pennsylvania.

To date, we have not received any response to our memorandum, and we have concerns, based on recent events involving the appointment of Mr. Gansler, that its contents are being ignored. The appointment of a special deputy/prosecutor is not merely an employment decision. It encompasses a host of legal issues that must be considered and resolved prior to any action. These include, but are not limited to, ascertaining whether there is a proper, legal basis for the action, whether the proposed appointment complies with any other laws that may apply in the particular circumstances, and what powers the appointee may legitimately exercise. At no time, was I or any other member of the legal staff I supervise, consulted with respect to the appointment of Mr. Gansler. Indeed, I did not even become aware of it until it was announced in press reports.

Of equal concern has been the release of materials to BuckleySandler. In our memorandum of November 24, 2015, we specifically instructed Mr. Duecker that no agency records or documents in any form were to be released absent prior approval by myself or my designee. Despite this, without any prior notice to-or consultation with-me, a large quantity of emails was provided to BuckleySandler. I learned of this only after the fact. These developments are extremely distressing to me and to the members of the OAG's legal staff, many of whom have voiced their dismay at these highly irregular and ill-advised actions.

As a courtesy, we are providing the other members of the Special Committee with a copy of this correspondence.

Please do not hesitate to contact me if you need additional information or clarification.

Very truly yours,

BRUCE R. BEEMER
First Deputy Attorney General

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

November 24, 2015

SUBJECT: Procedures During License Suspension

TO: Jonathan A. Duecker
Acting Chief of Staff

FROM: Bruce R. Beemer
First Deputy Attorney General
James A. Donahue, III
Executive Deputy Attorney General
Public Protection Division
Robert A. Mulle
Executive Deputy Attorney General
Civil Law Division
Lawrence Cherba
Executive Deputy Attorney General
Criminal Law Division

As you know, it has been more than a month since we wrote to the Attorney General on the subject of her license suspension and its effect on office operations. With each passing day, the need to resolve these important issues becomes more acute and the attorneys who carry out our agency's responsibilities require guidance from us on a wide variety of operational issues. In order to properly carry out the work of the office, we must provide clear and definitive answers. We are very willing to work with you to ensure that we, and all the attorneys in our various divisions, comply with the Rules of Professional Conduct and the substantive law that governs OAG operations. Compliance with the ethical obligations of our profession is not only required, but it is also in everyone's best interest including your own.

It is imperative that, in making any adjustments to office procedures that may be needed as the result of the suspension, steps be taken to ensure that all matters which *in any way* require legal knowledge and expertise be handled by attorneys and that the work of attorneys be supervised only by attorneys. These tasks may not be assigned to persons who are not authorized to practice law in Pennsylvania as such would constitute a violation of the Rules of Professional Conduct and may expose the non-attorney to criminal charges for the unauthorized practice of law. *See* 42 Pa.C.S. §2524; Pa.R.P.C. 5.1, 5.3. In order to avoid ethical violations of this sort and to allay concerns by OAG attorneys about aiding or abetting the unauthorized practice of law, we are advising our attorneys to bring to our attention any assignment or professional involvement that appears to violate these well-established ethical standards as well as any other matter of which they may be aware.

To be specific, several areas are of particular concern to us at this time. One area is compliance with process such as subpoenas for documents and/or attendance at proceedings that are directed to this office, or to OAG employees, including those directed to "the custodian of records." Compliance with a subpoena is a legal matter often involving multi-faceted issues of law and must therefore be handled by an attorney. While the assigned attorney may need to consult with and/or seek the assistance of non-attorneys in performing this work, the decisions about what action(s) will be taken regarding compliance must be made by the attorney, and the attorney must oversee and co-ordinate the involvement of any non-attorneys whose help has been enlisted.

A second area of legal concern deals with the issuance of press releases and other public statements on behalf of the Office of Attorney General. As an agency devoted to the practice of law all press releases have the potential to effect current cases as well as expose the office and its employees to liability in the federal or state courts. Several recent cases have cited the contents of press releases and public statements to support various allegations of bad faith and illegal or tortious conduct by officials and employees of this agency. Likewise, such releases have jeopardized current appellate cases and important work on behalf of the Commonwealth. Therefore we must insist that all statements and releases issued by the press office or any part of the Office be reviewed for form and legality by either the respective Division Director or the First Deputy before release to the press or any other party. Lawyers are required to insure that all press releases comply with Pennsylvania Rule of Professional Conduct 3.6.

A somewhat related concern deals with the release of agency documents and records in any form. Such a release must only occur after the review and approval by the First Deputy or his designee. Improperly releasing certain documents may harm third parties and create liability for the Office and consequently the taxpayers of Pennsylvania. Moreover, persons releasing said documents could face potential liability.

We would also remind you that such records are Commonwealth property and may only be used for official agency purposes.

You should take note that all Commonwealth employees have an affirmative duty to comply with the laws of the state and to consult and follow the advice of agency legal counsel. Such cooperation is a condition for the receipt by the individual of Commonwealth defense and indemnification in the event that individual is the subject of a legal or equitable action arising from acts taken under the color of public service.

We remain available to discuss the above with you and your subordinates. Please know that we expect full compliance with the principles set forth above.

PENNSYLVANIA DISTRICT
ATTORNEYS ASSOCIATION
2929 North Front Street
Harrisburg, PA 17110

January 27, 2016

The Honorable John R. Gordner
Chair, Special Committee on Senate Address
Senate of Pennsylvania
Room 177 Main Capitol
Harrisburg, PA 17120

Via Electronic Mail

Re: Duties of elected prosecutors

Dear Senator Gordner:

On November 9, 2015, three Pennsylvania District Attorneys, David Heckler of Bucks County, John Adams of Berks County, and Lisa Lazzari-Strasiser of Somerset County, testified before the Special Committee on Senate Address. While the Pennsylvania District Attorneys Association helped to identify these three individuals to testify, each testified on his or her own behalf and only spoke for him or herself.

All were asked whether they believed that their individual jobs were essentially legal in nature and, therefore, required them to have a law license. Each answered in the affirmative. While each of these District Attorneys approaches his or her job differently and their day-to-day responsibilities may differ, each of them detailed how what they do as the elected district attorney is unequivocally legal in nature.

The Executive Committee of the Pennsylvania District Attorneys Association agrees with the conclusions of District Attorneys Heckler, Adams, and Lazzari-Strasiser that the job of an elected prosecutor necessarily involves the practice of law and, therefore, requires us to hold an active law license.

That work includes: trying cases, weighing in on the decision to charge, providing sentencing recommendations, reviewing appeals (both the decision to seek an appeal and the written work product), determining whether to seek the death penalty, deciding whether to agree to the granting of relief to a defendant, and deciding whether to seek a search warrant. While each of us does not necessarily undertake every one of these tasks, each of us undertakes at least some of them. When an assistant prosecutor undertakes those tasks he or she does so pursuant to a delegation of legal authority.

Each of us also believes that most of what we do that is not explicitly legal in nature is necessarily informed by our experience as attorneys. Most personnel decisions (promotions, raises, discipline) are based on whether an employee is an effective attorney, has appropriate knowledge of our criminal statutes and caselaw, and understands how to try a case or defend a conviction in court. Most budgetary decisions are based on our view of what the needs of our office are, an analysis that requires us to apply our knowledge of the law. We work to implement best practices, which include how we handle our cases, review evidence, examine claims of innocence or misconduct, and how police lineups are conducted. Further, as you well know, we offer our insight and guidance on legislation that affects our communities.

Also, a large part of our job for many of us involves advising municipal and state police on legal matters. Whether they need a search

warrant or have enough evidence to file criminal charges all involve legal decisions. Police rely on us for that advice because we are lawyers. Every office responds 24/7 to those inquiries. In some offices, the elected district attorney answers those calls, but in every county, the elected district attorney is ultimately responsible for those legal decisions.

We do not undertake these tasks in a vacuum, nor do we check our law licenses and our legal education at the door when we are elected district attorney.

To be sure, a small part of what we do is typical of other elected officials. Some community outreach and public appearances, for instance, are not inherently legal in nature. Generally speaking, however, we act as prosecutors, not as generic office holders. If it were not essential to be an attorney in order to execute the duties of a district attorney, then it would be absurd for the law to require that only an attorney can be elected district attorney. Those who have sought election to this office generally do not campaign on the grounds that their legal experience - especially prior experience as a prosecutor - is irrelevant to their qualifications.

You have undertaken a difficult and complex analysis, and we admire the seriousness and earnestness of your efforts. Thank you for considering our viewpoints.

Sincerely,

DAVID J. ARNOLD, JR.
President

REMARKS SUBMITTED

The PRESIDENT. The Chair recognizes the gentlewoman from Berks, Senator Schwank.

Senator SCHWANK. Mr. President, I also am a Member of the Special Committee on Senate Address, and on behalf of myself, as well as independent comments by Senator Haywood, who is also a Member of the committee, I submit the following comments to be read with the report that the committee has submitted.

The PRESIDENT. Without objection, the remarks will be spread upon the record.

(The following prepared remarks were made part of the record at the request of the gentlewoman from Berks, Senator SCHWANK:)

Mr. President, as one of the first, and few, state public officials to openly, and continually, call on the Attorney General to step down following the revelation of criminal charges against her, and as a dissenting member of the committee report conclusion that the hearings and evidence gathered over the last three months provide possible grounds for the Senate to act to remove the Attorney General from her office, I believe both the public in general and the Senate, which seems likely to be called to vote on the question of removing the Attorney General, deserve to know the bases of that dissent.

They are several. To begin, however, the most important purpose of my statement is to provide the other members of the Senate with a fair and complete summary of relevant testimony and records in this matter. I believe it is possible that members might have little occasion or opportunity to review the entire record, should the question of removal be called to a vote, nor should they be required to do so when I believe the committee can easily guide them to appropriate evidence. It is my belief that the committee report, unfortunately, fails to do so.

In response to the temporary suspension of Attorney General Kathleen Kane's law license by the Supreme Court of Pennsylvania by a per curiam order on September 21, 2015, the Special Committee on Address (hereafter, "committee") was established with unanimous approval by the Senate on the motion of the President Pro Tempore on October 26, 2015 to "pursue possible address under Article 6 (sic) section 7 of the Pennsylvania Constitution regarding Attorney General

Kathleen Kane..." The committee was established with three members of the Senate majority Republican Caucus, three members of the minority Democratic caucus, and the President Pro Tempore serving as an ex officio member.

The committee was directed by the motion to file its report within 30 days from its establishment, and it thereafter met in camera on six occasions to determine various procedural matters. These resulted in the further refinement of its scope of investigation to the sole question of whether the temporary suspension of the Attorney General's law license was sufficient to require or authorize her removal under Article VI, Section 7. The meetings also were used to receive legal opinions on the issues of the subpoena authority of the committee, the application of the state Open Meetings law to the committee, the application of precedent under Article VI, Section 7 to the circumstances of the Kane case, and the ultimate legal authority of the Senate to exercise removal under Article VI, Section 7 in the Kane case.

Concurrently with the in-camera proceedings, the committee conducted three public hearings. These were held to receive testimony on behalf of the Pennsylvania District Attorneys Association, purportedly to consider its concerns about the impact on the various offices from the suspension of the Attorney General's law license; testimony from Professor Bruce Antkowiak of Saint Vincent College on the historical meaning and purpose of Article VI, Section 7 and Attorneys Robert H. Davis, Jr., Harrisburg and Beth L. Weiser of Fox Rothschild LLP, authorities on the state professional conduct rules for attorneys, on the effect of the suspension of the Attorney General's law license on her ability to serve as Attorney General; and testimony from four chief Deputies Attorney General on the impact on the Office of Attorney General of the suspension of the Attorney General's law license.

The three District Attorneys association representatives, Berks County District Attorney John T. Adams, Bucks County District Attorney David W. Heckler and Somerset County District Attorney Lisa Lazari-Strasiser, all expressly agreed that working relationships between their separate offices with the Office of Attorney General had not been impaired in any way by the suspension, nor were they aware of any problems for other District Attorney offices. They also agreed that the suspension of the Attorney General's license did not constitutionally disqualify her from her office as the suspension did not act to remove her as a member of the Pennsylvania Bar as required by Article IV, Section 4.1 of the State Constitution. In response to committee members' questions, each also expressed a belief that a share of a District Attorney's official responsibilities required them to "engage in the practice of law" and therefore to have an active law license. However, the three further testified that the share of such duties depended on the needs of a particular office and on the interest of the individual District Attorney. Their testimony indicated that the share of legal duties required of a District Attorney increased in inverse relationship to the size of the office staff and operations of the office, that is, the smaller the office, the more legal work is required of the District Attorney. None of the three offices compares similarly in either staff size or operations to the Office of Attorney General, and none of the three representatives were able to offer an example of a legal duty that must be performed personally by them. District Attorney Adams initially offered as one such example the authority to seek a wiretap, but on further questioning conceded that the duty legally can be handled by a deputy.

Professor Antkowiak's sole testimony regarding the legislative intent behind requiring the Attorney General to be a member of the Pennsylvania Bar was that during the legislative debate on its adoption, the sponsor of the proposal stated that there were two reasons: To ensure the Attorney General was learned in the law, which the sponsor said the requirement was simply a shorthand way to express; and to insure the Attorney General would be subject to the professional conduct rules applicable to lawyers in Pennsylvania. Professor Antkowiak also testified that this was the extent of the discussion on the point, other than that during the debate it was well understood that there had been no requirement that previously appointed Attorneys General be lawyers. He testified that the legislative debate instead focused on whether the Attorney General should represent the Commonwealth generally, or the governor particularly. Professor Antkowiak also testified that any suggestion that by statute only the Attorney General could personally perform certain duties under applicable laws was incorrect and contrary to well-established statutory standards for interpreting Pennsylvania laws.

Attorneys Davis and Weiser responded predominantly to questions regarding duties generally imposed on the Attorney General by court rule as a result of the suspension of her license, and as to what she must do or not do to be compliant with such duties. Attorney Davis testified that in both his experience and familiarity with the origin of the rule, he believed it was not intended to apply to such circumstances as the Attorney General's case, where the suspension was widely known and well-published. Instead, he testified, it was intended to prevent "sham practices" where suspended lawyers hide and practice behind the shield of another lawyer's license. He also testified without contradiction that a temporary suspension is not necessarily a serious indication of wrongdoing or of mental or moral inability to practice law, but might be more of an administrative action that can result simply from failing to pay a required license fee or to take sufficient continuing legal credits. Attorney Weiser's testimony largely paralleled Attorney Davis', although delving deeper into the nature of what a suspended attorney might or might not do. Neither Weiser, Davis nor Antkowiak, however, offered any opinion or other testimony as to whether Attorney General had engaged or was engaging in any duties prohibited to her or as a result of her suspension not engaging in duties required of her.

The Deputies Attorney General each testified in agreement that they knew of no duties prohibited to or required of the Attorney General by the suspension of her license being, respectively, performed or not performed by her, including that she had not intervened or interfered in any of the legal functions of office since her suspension. They also agreed that she was not constitutionally disqualified from her office by her license suspension, and that all the law-related functions of the Office of Attorney General were being performed. They also testified without disagreement or contradiction among them, and in concurrence with previous witnesses, that there is no statutory duty required to be personally performed by the Attorney General. While they expressed concern that the office might face challenges to its authority under such an argument, they were confident that the law could not and would not be read in that way, and the office had not pursued any legal avenues to resolve such questions.

In addition to the witness testimony, the committee also received a memorandum prepared by special committee counsel on the 1891 proceedings under Article VI, Section 7 against then-State Treasurer Henry K. Boyer and then-State Auditor Thomas McCamant. The memorandum notes that in that proceeding, as has been reported publicly in recent media accounts, the Senate Republican majority determined that where there are pending criminal charges for official misconduct against an elected official, the proper method to remove him is through impeachment, and that Article VI, Section 7 is not to apply. The public and committee record, of course, is clear that the basis for the temporary suspension of the Attorney General is the pending criminal case against her. As well, official accounts of the constitutional debates on the adoption of Article VI, Section 7, are clear that the purpose of the provision is to deal with official "incompetence" in situations where the public safety or well-being is at immediate risk.

Despite a lack of other relevant testimony or evidence of constitutional or actual incompetence to perform the requirements of her office, the committee voted 5-2 on November 25, 2015, to approve a report that the committee found "sufficient basis for the Senate to move forward ... pursuant to Article VI, Section 7 of the Pennsylvania Constitution." Subsequently, the President Pro Tempore directed the committee to develop a resolution to be voted on by the full Senate, to be submitted to the full Senate within 15 days of acceptance of the report, and to include procedures for a full hearing on the removal of the Attorney General as provided for under Article VI, Section 7. Thereafter, the committee conducted two additional in camera hearings with regard to procedures to be followed going forward and one public hearing.

At the public hearing, on January 12, 2015, the committee heard testimony from Jonathan Duecker, Chief of Staff to the Attorney General, regarding the previous testimony by the Deputies Attorney General concerning the proportion of the Attorney General's workload that is law-related, and from former-Governor and former Philadelphia District Attorney Edward G. Rendell. Though lengthy, the sum of Mr. Duecker's testimony was to support the previous public statements by the Attorney General that the overwhelming share of her official responsibilities are of a non-legal nature, and to dispute the previous contrary statements on that point by the chief deputies to the Attorney General. He also testified that the Office of Attorney General continues to fulfill all its func-

tions, that to his understanding no responsibilities or duties of the office are required to be personally performed by the Attorney General, and that to his knowledge the Attorney General has engaged in no law-related duties since her suspension. Governor Rendell testified that in his experience as Attorney General, very few duties, perhaps as little as five percent, of the executive of a large prosecutor's office might be law-related, because of the many administrative, policy and public duties it also entails, and that all of them can be delegated to others.

Although the majority in its questions during the hearing and in its report relies on unproved or unprovable and disputed issues such as whether the Attorney General has complied with the suspension order or whether there has been an additional burden placed on the Office of Attorney General as a result of her license suspension, the evidence obtained throughout the course of the Special Committee proceedings has been consistent that the Attorney General remains constitutionally qualified within both the letter and the intent of the provisions of Article VI, Section 4.1 of the State Constitution to hold her office; that there are no duties of a legal nature that must be performed personally by the Attorney General and all duties of the Office of Attorney General have been fulfilled or are not likely to be unfulfilled as a result of the suspension of the Attorney General's license; that no incompetency exists based on any fair reading of the record; and that the root of the suspension of the Attorney General's law license is a pending criminal proceeding related to her official duties and responsibilities, making her subject to removal by impeachment under Article VI, Section 7, and not to removal by Senate address, pursuant to prior Senate precedent.

Nevertheless, the course of the proceedings in this case illustrate the notable absence of a lack of standards for placing the burden of proof to remove an elected official, which should not lie with a body that also must determine the facts; for establishing a level of proof, which in circumstances of removing a duly elected official should be clear and high; for establishing a process completely transparent to the public and the press from start to finish, to ensure that liberties are not taken or power abused for personal or partisan purposes. Importantly, it also illustrates the inability for the members of the Senate, who likely might be called to vote on removal, to have an opportunity themselves to gauge the weight and credibility of the evidence on which they would vote for removal.

(The following prepared remarks were made part of the record at the request of the gentlewoman from Berks, Senator SCHWANK, on behalf of the gentleman from Montgomery, Senator HAYWOOD:)

Mr. President, the work of the Special Committee on Senate Address has come to an end as should the removal process in the Senate. The recommendation of the majority of the Special Committee to move forward with the removal process by putting it to a vote of the Senate is simply wrong. Recommending a vote of the Senate without some recommended outcome undermines the entire process.

First, what if any evidence did the Committee obtain that supports removal? The deputies said that most of the work of the Attorney General involves the practice of law. This was contradicted by Attorney General Kane's Chief of Staff Jonathan Duecker and former Philadelphia District Attorney and Governor Ed Rendell at the January 12 hearing. Specifically, Chief of Staff Duecker and Governor Rendell testified that more than 90 percent of the Attorney General's responsibilities in office are managerial and policy matters.

They said and it makes sense that the Attorney General is primarily the CEO of an 830-person, multi-office law enforcement operation. The Office of Attorney General indeed goes to court, but has more than 300 lawyers to do so. In fact, we received testimony that two thirds of the Attorney General's staff are not lawyers.

The deputies also predicted an avalanche of litigation challenging the prosecutorial authority of the office. False again. Courts of Common Pleas are routinely ruling that the Office of Attorney General has the authority to prosecute criminals since their powers come from the Commonwealth Attorneys Act not an individual law license of the Attorney General.

Is the Attorney General practicing law without a license? We have scant if any evidence of that before the Special Committee. In fact, the Disciplinary Board of the Supreme Court would be responsible for that determination and they have not found it to be the case.

Is having a temporarily suspended law license as Attorney General a violation of the Constitution or law? The Attorney General is a lawyer and a member of the Bar of the Supreme Court. She meets the requirements of Article IV, Section 5 of the Pennsylvania Constitution. Further, Constitutional and statutory interpretation is the function of the Judiciary Branch not the Legislature. If we remove the Attorney General based upon our interpretation of the Constitution, we would become the Supreme Senate and ruin the framework for our democracy.

Second, should the hearing and testimony have been held before the entire Senate? The Special Committee was unable to come to a specific finding on removal based on the evidence in its November 25 Preliminary Report and today. The Senate has been asked to make a decision that the Special Committee could not.

I urge the Senate not to move forward with the removal process set forth in Article VI, Section 7. The Special Committee did not recommend removal because there is no evidence to do so. I urge the Senate to take no action with regard to the recommendations of the majority of the Special Committee.

**UNFINISHED BUSINESS
SENATE RESOLUTIONS ADOPTED**

Senators TARTAGLIONE, BAKER, WOZNIAK, TEPLITZ, WARD, GREENLEAF, BREWSTER, SABATINA, KITCHEN, COSTA, ARGALL, FONTANA, DINNIMAN, MENSCH, VANCE, BARTOLOTTA, AUMENT, RAFFERTY, SCHWANK, VULAKOVICH, FOLMER, HUGHES, FARNESE and YUDICHAK, by unanimous consent, offered **Senate Resolution No. 272**, entitled:

A Resolution recognizing February 5, 2016, as "National Wear Red Day" in Pennsylvania.

On the question,
Will the Senate adopt the resolution?

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

Senator TARTAGLIONE. Mr. President, on behalf of Senator Baker and myself, we wanted to do the resolution for the day and the month for Wear Red. Very often, women are caretakers in their families. We take care of our children, our spouses, our parents, and everyone around us, but, unfortunately, we do not take care of ourselves. Not only does heart disease claim the lives of more women than men each year, but also one woman is killed every 80 seconds by cardiovascular disease, making it the most deadly of all diseases among women. Yet, only one in five American women believes that heart disease is her greatest health threat. This year, as part of the American Heart Association's "Go Red For Women" campaign, Senator Baker and myself are offering this resolution to insure women understand the risks of heart disease. We are encouraging every female in the State to become more aware and proactive in maintaining their own cardiovascular health.

Today, Mr. President, we are asking for an affirmative vote on this resolution to declare Friday, February 5, 2016, as National Wear Red Day so that we may continue our outreach efforts until we reach every mother, daughter, sister, friend, and everyone in this Commonwealth.

Thank you, Mr. President.

The PRESIDENT. The Chair thanks the lovely Senator in red, and recognizes the other lovely lady in red, the gentlewoman from Luzerne, Senator Baker.

Senator BAKER. Mr. President, I am pleased to sponsor this Senate resolution with my friend and colleague, Senator Tartaglione, to, indeed, raise awareness about heart disease and strokes, which cause one in three deaths among women. Today, we are joining together to raise public awareness about heart disease in women, as well as to encourage all Pennsylvanians to know the warning signs and symptoms of heart attacks in women which can be hard to recognize.

Many people are not aware that there are four silent heart attack symptoms that every woman should know about, because in women we respond in a different way. Shortness of breath. Many women find it difficult to breathe a few weeks before experiencing a heart attack. They may experience back pain. Irregular pain in the lower or upper back can indicate stress to the heart muscle. Jaw pain or discomfort in one or both arms or the neck, and nausea or flu-like symptoms. So, we say trust your instincts. If you are not feeling well, go to the emergency room or consult your doctor.

This resolution recognizes February 5 as "National Wear Red Day," and it marks the 13th anniversary of the American Heart Association's national movement not only to bring awareness, but to promote research and education. Millions of our mothers, sisters, daughters, and friends are now making healthy lifestyle changes, losing weight, increasing their exercise regime, changing their diets, checking their cholesterol levels, and, importantly, talking to their doctors. So, please join Senator Tartaglione and me in helping to spread the message to save the hearts and lives of those you love. Go Red For Women, Go Red on February 5.

Thank you, Mr. President.

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

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

Senators ALLOWAY, KITCHEN, BREWSTER, DINNIMAN, SABATINA, ARGALL, GREENLEAF, VULAKOVICH, TEPLITZ, SCAVELLO, BARTOLOTTA, HAYWOOD, FONTANA, BLAKE, YUDICHAK, WARD, RAFFERTY, BROWNE, BAKER, YAW, COSTA, WHITE, FARNESE, BOSCOLA, MENSCH, AUMENT and HUGHES, by unanimous consent, offered **Senate Resolution No. 273**, entitled:

A Resolution recognizing the month of February 2016 as "American Heart Month" in Pennsylvania and urging all Pennsylvanians to recognize the critical importance of the tools and skills that will increase survival rates from cardiac arrest.

On the question,
Will the Senate adopt the resolution?

The PRESIDENT. The Chair recognizes the gentleman from Franklin, Senator Alloway.

Senator ALLOWAY. Mr. President, as a former member of the local board for the American Heart Association, I am proud to rise today to offer this resolution designating the month of February 2016 as "American Heart Month." Cardiovascular disease is the nation's leading cause of death, with direct and indirect costs estimated to be over \$240 billion. Nearly 2,500 Ameri-

cans die of cardiovascular disease each day--2,500 each day, Mr. President. In my district, Hanover Hospital is leading the charge in providing lifesaving measures to a currently underserved region of the Commonwealth, seeking to expand its operations through the development of a new cardiac catheter unit. Hanover Hospital is projected to serve over 1,000 heart patients in 2016, and upon completion of the new heart center, hopes to accommodate even more.

The American Heart Association encourages citizens to help save lives by calling 911 if symptoms occur, become trained in CPR, and encourages AED - automated external defibrillator - access within their communities. Please join me in designating February 2016 as American Heart Month in Pennsylvania and encourage all citizens of the Commonwealth to live heart-healthy lifestyles and recognize the critical importance that access to care plays in treating cardiovascular disease.

Thank you, Mr. President.

And the question recurring,

Will the Senate adopt the resolution?

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

Senators TEPLITZ, KITCHEN, SABATINA, SCHWANK, VULAKOVICH, FONTANA, GREENLEAF, COSTA, BARTOLOTTA, AUMENT, RAFFERTY, FOLMER, HUGHES, FARNESE and YUDICHAK, by unanimous consent, offered **Senate Resolution No. 274**, entitled:

A Resolution recognizing February 4, 2016, as "World Cancer Day" in Pennsylvania to raise awareness of cancer and to encourage its prevention, detection and treatment.

On the question,

Will the Senate adopt the resolution?

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

Senator TEPLITZ. Mr. President, this resolution designates February 4, 2016, as "World Cancer Day" in Pennsylvania. World Cancer Day was founded by the Union for International Cancer Control to support the goals of the World Cancer Declaration written in 2008 to significantly reduce illness and death caused by cancer by the year 2020. World Cancer Day aims to reduce the number of preventable deaths each year by raising cancer awareness among the general public and pressing governments to take further actions against the disease. The World Health Organization reports that cancers are among the leading causes of morbidity and mortality worldwide, with approximately 8.2 million cancer-related deaths in 2012. It is expected that annual cancer cases will rise from 14 million in 2012 to 22 million within the next two decades. We have all been touched by cancer in some way. It is a disease that impacts people from all walks of life. Medical researchers have made tremendous progress in diagnosis and treatment, and there is hope that ultimately there will be a cure one day. Until that time, we must unite globally in the fight to beat this terrible disease.

Mr. President, I ask my colleagues to join me in designating February 4, 2016, as World Cancer Day in Pennsylvania to raise awareness of cancer and to encourage its prevention, detection, and treatment.

Thank you, Mr. President.

And the question recurring,

Will the Senate adopt the resolution?

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

CONGRATULATORY RESOLUTIONS

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

Congratulations of the Senate were extended to Justin Derek Weller and to Jared Hoffmaster by Senator Argall.

Congratulations of the Senate were extended to Mr. and Mrs. Richard Filling, Mr. and Mrs. Abner Musser, Jr., Maria L. Gale, Nancy M. Kraybill, Alma Haberstroh Mease, Julius H. Barr, Jordan Wood, Betty J. Martzall and to Harold Brubaker by Senator Aument.

Congratulations of the Senate were extended to Mr. and Mrs. Frank Hill and to Dale Walker by Senator Baker.

Congratulations of the Senate were extended to Carmella Lotti and to the members and coach of the Emmaus High School Field Hockey Team by Senator Boscola.

Congratulations of the Senate were extended to Robert Arthur Biddle III, Charles Andrew Lehman and to Jonathan R. Urban by Senator Brewster.

Congratulations of the Senate were extended to Justin Lamar Bond, Balint Balogh, Walter Thomas Hislop and to Daniel J. Perrelli by Senator Browne.

Congratulations of the Senate were extended to Kayla Renninger, Aaron Bubb, Macie MacKneer, Mariah Krout, Steven R. Burk, Robert C. Zeak and to the "Juniata Sentinel" by Senator Corman.

Congratulations of the Senate were extended to Jack D. Goodrich, Clifford Long, Joshua John Tarlo, Tina Tharp, Grace Crossan, Bradley William Ingraham, Liam Darcy, Marshall R. Goodman, William Phillip Halle, Alexander Rainer Duffy, Patrick Griffith, Joseph Roscioli, Elma May Husbands Boulden, Community Volunteers in Medicine and to the Chester County Fund for Women and Girls by Senator Dinniman.

Congratulations of the Senate were extended to Main Line Chinese Culture Center, Inc., by Senators Dinniman and Leach.

Congratulations of the Senate were extended to Linda Redanauer by Senator Farnese.

Congratulations of the Senate were extended to Lebanon Valley College by Senator Folmer.

Congratulations of the Senate were extended to Matthew Adams by Senator Gordner.

Congratulations of the Senate were extended to Emmanuel African Union Methodist Protestant Church of Ambler by Senator Greenleaf.

Congratulations of the Senate were extended to Mr. and Mrs. Robert Carrow, Mr. and Mrs. John Obenrader, Josiah Lee Kline and to Nathaniel Scott Beckstead by Senator Hutchinson.

Congratulations of the Senate were extended to Upper Merion Township Library and the Friends of Black History by Senator Leach.

Congratulations of the Senate were extended to William P. Donohue, Seth Fox and to Melmark by Senator McGarrigle.

Congratulations of the Senate were extended to Ian Stead and to Charles LeFevre, Jr., by Senator McIlhinney.

Congratulations of the Senate were extended to Jobie Spencer David Hawksworth by Senator Mensch.

Congratulations of the Senate were extended to Peter Dewey Buccowich, Justin Davis Frey and to Robert Taylor DeGrandis by Senator Rafferty.

Congratulations of the Senate were extended to Joseph A. Mitri by Senators Rafferty, Dinniman, and McGarrigle.

Congratulations of the Senate were extended to Maria A. Hyland by Senators Rafferty, Dinniman, and Mensch.

Congratulations of the Senate were extended to Daniel Allen Smith by Senator Reschenthaler.

Congratulations of the Senate were extended to Leo Dignam by Senator Sabatina.

Congratulations of the Senate were extended to Joanne Furl, James D. Curtis, Tim Holt, Darby Kasper, Goodwill Industries of North Central Pennsylvania, Miller-Raffaele Veterans of Foreign Wars Post No. 6221, The Winery at Wilcox, Inc., and to Cray Hose Volunteer Fire Company by Senator Scarnati.

Congratulations of the Senate were extended to Marvin Walton, William Unruh, John Fellencher, Michael Boucher and to the Eastern Monroe Public Library by Senator Scavello.

Congratulations of the Senate were extended to Brandon Michael Seisler, Skylar Thomas Radka, Nicholas P. Kuzma, Cody A. Kline and to the Berks Catholic Girls' Volleyball Team by Senator Schwank.

Congratulations of the Senate were extended to Patrick McFeeley, Ryan N. Boyer, Margaret R. Brogan and to Catherine Wagner by Senator Tartaglione.

Congratulations of the Senate were extended to Mr. and Mrs. Albert Wentzel by Senator Teplitz.

Congratulations of the Senate were extended to Kevin Wagner, Jaime L. Monreal, Timothy J. Doster, James Carter, John J. Capinas, Jr., Brian McQue, Gerald Ketterer, Robert P. Hickey, Joseph Casey, John G. Brill, George Reese, Gordon Bragg III, Maggie McCoy Lorady, Joseph D. Cimino, James Bolinski, Sr., Steve Weiss, Robert Ilczuk, Fred Resh, Patricia Krippel, John A. Boyle, Joseph McFadden, Christopher Dixon, Virginia Gindele, Alan Moss, Joseph Nean, Maureen L. Nean, Ronald J. Riccobene, Jr., Tyler Riccobene, Mark Steinmuller, Angelique T. Walsh, Cheryl Young, Susan M. Brookes, Ashley P. Kerekes, Thomas O'Brien, Joseph A. White, Anthony J. Chapman and to Danielle N. Gormley by Senator Tomlinson.

Congratulations of the Senate were extended to Virginia W. Bush and to Phyllis Shearer Mowery by Senator Vance.

Congratulations of the Senate were extended to Old Economy Village by Senator Vogel.

Congratulations of the Senate were extended to Ryan Smith and to Gerald R. MacDonald III by Senator Wagner.

Congratulations of the Senate were extended to Jared Skone, Conner Kaye, Jeff Petro, Harley Martchek, Ryan Rodgers, Tony Martino, Alan Harff, Brian Kosanovic, Rodney Mahinske, Garrison Omlor, Mitch Astalos, Clyde Shiring and to Paul Lenhart by Senator Ward.

Congratulations of the Senate were extended to Dakota McCunn, Alexander Wallace and to Kory Dean McConnell by Senator White.

Congratulations of the Senate were extended to Youth Leadership Institute of Erie by Senator Wiley.

Congratulations of the Senate were extended to Douglas Frank Leake III by Senator Williams.

Congratulations of the Senate were extended to Mr. and Mrs. Emerson Lewis, Gordon Hiller and to Thomas Henry Lantz by Senator Yaw.

Congratulations of the Senate were extended to the Honorable Edward M. Lewis and to Rose Randazzo by Senator Yudichak.

CONDOLENCE RESOLUTIONS

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

Condolences of the Senate were extended to the family of the late Anthony John Seccia and to the family of the late Frank L. Peterson by Senator Baker.

Condolences of the Senate were extended to the family of the late Samuel Hughes and to the family of the late Marie A. Patterson by Senator Boscola.

Condolences of the Senate were extended to the family of the late Colleen S. Alexander by Senator Haywood.

Condolences of the Senate were extended to the family of the late Richard J. Adams and to the family of the late Daniel McCreary by Senator McIlhinney.

Condolences of the Senate were extended to the family of the late Neno Sartini by Senators Yudichak and Baker.

POSTHUMOUS CITATION

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

A posthumous citation honoring the late Honorable Thomas M. Tigue was extended to the family by Senator Yudichak.

PETITIONS AND REMONSTRANCES

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

Senator FOLMER. Mr. President, we have all heard the arguments against gun control. Guns are an inanimate object, should not be given a moral attribute, whether good or bad, angel or demon; that actually guns do not kill people but people kill people. As a strong supporter of Second Amendment rights, I agree with this principle. However, Mr. President, I find it ironic that some of my colleagues who express this opinion forget the reasoning when it comes to a plant, an organic, nontoxic plant, part of God's creation. Of course, I am talking about the cannabis plant, or as some call it, marijuana. Regardless of what you call this plant, the goal of Senate Bill No. 3, and its predecessor Senate Bill No. 1182, has been and continues to be focusing on the medical uses of cannabis.

Guns, like cannabis, Mr. President, can help protect and actually save lives when properly used. Consider, Mr. President, all of the protections that are built into Senate Bill No. 3 to insure medical cannabis will be properly used. These protections include licensing of growers, processors, and dispensaries; testing by independent laboratories throughout the process of growing, processing, and dispensing; tracking of the product from the growing to its dispensing to patients with some access by law enforcement; oversight by State agencies aided by the independent board; restricting cannabis facilities using the same protections as Megan's Law; rigorous reporting requirements and prohibitions like the smoking ban. Most importantly, Mr. President, the goal of Senate Bill No. 3, as overwhelmingly passed by the Senate, is to turn a plant into medicine that can be used to

treat diseases like cancer, epilepsy and seizures, ALS - Lou Gehrig's Disease, wasting syndrome, Parkinson's disease, traumatic brain injury and post-concussion syndrome, Multiple Sclerosis, spinocerebellar ataxia, PTSD, severe fibromyalgia, HIV/AIDS, chronic and intractable pain, glaucoma, Crohn's disease, and diabetes. Cannabis does this through what is known as the Entourage Effect, first described in 1998 by two Israeli scientists, Dr. Shimon Ben-Shabat and Dr. Raphael Mechoulam, who noted that cannabinoids within the cannabis plant work together, or possess synergy, to affect the body in positive ways, including the ability to affect multiple targets within the body, improved absorption of active ingredients, overcoming bacteria defense mechanisms, and minimizing adverse side effects.

Mr. President, no one has ever died from an overdose of cannabis, either medically or recreationally. Senate Bill No. 3 is for medical use only and has numerous protections to insure it cannot be abused. So why are we giving this organic plant a moral attribute and referring to it as if it is demonic? I just do not get it. Mr. President, Senate Bill No. 3 passed this Chamber nearly 1 year ago. It is time to stop the hypocrisy and focus on the goal of Senate Bill No. 3, namely helping patients by giving them one more arrow in their quiver to deal with the diseases and their afflictions.

Thank you very much, Mr. President.

The PRESIDENT. The Chair thanks the gentleman again for his advocacy.

ANNOUNCEMENTS BY THE SECRETARY

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

SENATE OF PENNSYLVANIA

COMMITTEE MEETINGS

MONDAY, FEBRUARY 8, 2016

10:00 A.M.	APPROPRIATIONS and FINANCE (joint hearing to take testimony regarding the implementation of the 2015 General Appropriation Act 10-A of 2015)	Hrg. Rm. 1 North Off.
11:00 A.M.	TRANSPORTATION (Follow-up Hearing on The Delay and Delivery of Transportation Projects)	Room 8E-B East Wing

BILL SIGNED

The PRESIDENT (Lieutenant Governor Mike Stack) in the presence of the Senate signed the following bill:

HB 1201.

RECESS

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

Senator GORDNER. Mr. President, I move that the Senate do now recess until Monday, February 8, 2016, at 1 p.m., Eastern Standard Time, unless sooner recalled by the President pro tempore.

The motion was agreed to by voice vote.

The Senate recessed at 1:47 p.m., Eastern Standard Time.