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SESSION OF 2003

187TH OF THE GENERAL ASSEMBLY

No. 107

HOUSE OF REPRESENTATIVES

The House convened at 11 a.m., e.s.t.

**THE SPEAKER PRO TEMPORE
(PATRICIA H. VANCE) PRESIDING**

PRAYER

REV. JULIANN V. WHIPPLE, Chaplain of the House of Representatives, offered the following prayer:

Let us pray:

Thursday already. How could this be? It seems as if we need yet another week to accomplish all we had hoped to have completed by now. Our work piles up, our plans go awry, and we still have not cleared the calendar, but we are here, and if You desire, You could clear our minds and help us to work together to come to a consensus on the matters of most importance. Unwavering in Your power, unflagging in Your zeal, uncompromising in Your position, it is good for us to awaken to Your will of constancy.

We pursue our projects, depart to our private dreams, invest in our deepest hopes. They are fragile and flimsy at best. At worst they are devious and destructive. Either way, they pale before Your dependability. We gladly affirm, past our own inclinations, that You will well-being among us, that You intend justice for the vulnerable, that You command mercy and compassion among us. Turn us, before this day is out, from our will to Yours. Wean us, before we sleep, from our petty hopes. Relocate us in Your eternal resolve, that the world may wreak with Your shalom, that we ourselves may find our true freedom in Your purpose.

The minute we pray these words our minds fill with other worries. So we complete our work here in this chamber, but what about in our homes for the holidays? We have been here before, O Lord. We have experienced the joy of time off for the holidays, but the luster of this exciting time wears off before the celebration actually begins. We do not know exactly what happens. We get tired; our nerves become frayed; some of our plans go sour. The people we wanted most to attend our gatherings cannot make it. A loved one is unhappy with their gift. Suddenly the bottom drops out of our celebration and we can hardly wait until it is all over. Our best effort to create joy misses the mark.

I suppose, sovereign God, that is the point. You and You alone bring us joy. Why do we spend so much time looking down? Teach us to look up and feel the snow as it melts on our eyelashes. Lift our hearts and grant us a new spirit of celebration. Under Your guidance we do not need to settle for any less. Hear these our prayers. Amen.

PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was recited by members and visitors.)

JOURNAL APPROVAL POSTPONED

The SPEAKER pro tempore. Without objection, the approval of the Journal of Wednesday, December 17, 2003, will be postponed until printed.

CALENDAR

BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 1116, PN 1318**, entitled:

An Act providing for the certification of persons conducting hazardous painting; and providing for a penalty.

On the question,

Will the House agree to the bill on third consideration?

BILL TABLED

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. S. SMITH. Madam Speaker, I move that HB 1116 be placed on the table.

On the question,

Will the House agree to the motion?

Motion was agreed to.

BILL REMOVED FROM TABLE

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. S. SMITH. Madam Speaker, I move that HB 1116 be taken off the table.

On the question,

Will the House agree to the motion?

Motion was agreed to.

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The House proceeded to third consideration of **HB 1432, PN 1778**, entitled:

An Act amending the act of December 18, 1984 (P.L.1005, No.205), known as the Municipal Pension Plan Funding Standard and Recovery Act, further providing for the certification of municipal pension costs, for the administration of the General Municipal Pension System State Aid Program and for the continuation of the financially distressed municipal pension system recovery program; adding provisions for the establishment and administration of in-service retirement option plans in local governments; and repealing the financially distressed municipal pension plan determination procedure.

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

BILL TABLED

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. S. SMITH. Madam Speaker, I move that HB 1432 be placed on the table.

On the question,
Will the House agree to the motion?
Motion was agreed to.

BILL REMOVED FROM TABLE

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. S. SMITH. Madam Speaker, I move that HB 1432 be taken off the table.

On the question,
Will the House agree to the motion?
Motion was agreed to.

BILL ON FINAL PASSAGE

The House proceeded to consideration on final passage of **HB 1464, PN 2377**, entitled:

An Act amending the act of July 11, 1990 (P.L.465, No.113), known as the Tax Increment Financing Act, further providing for redevelopment area and for reporting requirements; and making an editorial change.

On the question recurring,
Shall the bill pass finally?

BILL TABLED

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. S. SMITH. Madam Speaker, I move that HB 1464 be placed on the table.

On the question,
Will the House agree to the motion?
Motion was agreed to.

BILL REMOVED FROM TABLE

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. S. SMITH. Madam Speaker, I move that HB 1464 be taken off the table.

On the question,
Will the House agree to the motion?
Motion was agreed to.

BILL REMOVED FROM TABLE

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. S. SMITH. Madam Speaker, I move that the following bill be taken off the table: HB 1969.

On the question,
Will the House agree to the motion?
Motion was agreed to.

BILL TABLED

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. S. SMITH. Madam Speaker, I move that the following bill be placed on the table: HB 1969.

On the question,
Will the House agree to the motion?
Motion was agreed to.

SENATE MESSAGE

HOUSE BILL
CONCURRED IN BY SENATE

The clerk of the Senate, being introduced, returned **HB 999, PN 1172**, with information that the Senate has passed the same without amendment.

SENATE MESSAGE

AMENDED HOUSE BILL RETURNED
FOR CONCURRENCE AND
REFERRED TO COMMITTEE ON RULES

The clerk of the Senate, being introduced, informed that the Senate has concurred in the amendments made by the House of Representatives to Senate amendments by further amending House amendments to **HB 1222, PN 3127**.

Ordered, That the clerk present the same to the House of Representatives for its concurrence.

RULES COMMITTEE MEETING

The SPEAKER pro tempore. The Chair recognizes the majority leader, who calls for an immediate meeting of the Rules Committee.

**BILL REPORTED FROM COMMITTEE,
CONSIDERED FIRST TIME, AND TABLED**

SB 870, PN 1312

By Rep. S. SMITH

An Act amending the act of February 9, 1999 (P.L.1, No.1), known as the Capital Facilities Debt Enabling Act, increasing the limitation on redevelopment assistance capital projects.

RULES.

**BILL ON CONCURRENCE
REPORTED FROM COMMITTEE**

HB 1222, PN 3127

By Rep. S. SMITH

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for identification of incorrect debtor; further defining "other specified offense" for purposes of DNA data and testing; further providing for summary offenses involving vehicles, for law enforcement records, for duration of commitment and review; establishing a cause of action for unauthorized enactment or enforcement of local ordinances governing agricultural operations; providing for certain attorney fees and costs; and further providing for sentence of intermediate punishment and for assessments.

RULES.

LEAVES OF ABSENCE

The SPEAKER pro tempore. Are there requests for leaves of absence?

The Chair recognizes the majority whip, who requests a leave of absence for the gentleman from York, Mr. B. SMITH, and the gentleman from Northumberland, Mr. PHILLIPS, for the day. Without objection, the leaves of absence are granted.

The Chair recognizes the minority whip, who requests a leave of absence for the gentleman from Fayette County, Mr. ROBERTS, and the gentleman from Philadelphia, Mr. JAMES, for the day. Without objection, the leaves of absence are granted.

MASTER ROLL CALL

The SPEAKER pro tempore. The Chair is about to take the master roll call. Members will proceed to vote.

The following roll call was recorded:

PRESENT—198

Adolph	Egolf	Lescovitz	Sainato
Allen	Evans, D.	Levdansky	Samuelson
Argall	Evans, J.	Lewis	Santoni
Armstrong	Fabrizio	Lynch	Sather
Baker	Fairchild	Mackereth	Saylor
Baldwin	Feese	Maher	Scavello
Bard	Fichter	Maitland	Schroder
Barrar	Fleagle	Major	Scrimenti
Bastian	Flick	Manderino	Semmel
Bebko-Jones	Forcier	Mann	Shaner
Belardi	Frankel	Markosek	Smith, S. H.
Belfanti	Freeman	Marsico	Solobay
Benninghoff	Gabig	McCall	Staback
Biancucci	Gannon	McGeehan	Stairs

Bimelin	Geist	McGill	Steil
Bishop	George	McIlhattan	Stern
Blaum	Gergely	McIlhinney	Stetler
Boyd	Gillespie	McNaughton	Stevenson, R.
Browne	Gingrich	Melio	Stevenson, T.
Bunt	Godshall	Metcalfe	Sturla
Butkovitz	Good	Micozzie	Surra
Buxton	Goodman	Miller, R.	Tangretti
Caltagirone	Grucela	Miller, S.	Taylor, E. Z.
Cappelli	Gruitza	Mundy	Taylor, J.
Casorio	Habay	Mustio	Thomas
Causer	Haluska	Myers	Tigue
Cawley	Hanna	Nailor	Travaglio
Civera	Harhai	Nickol	True
Clymer	Harhart	O'Brien	Turzai
Cohen	Harper	Oliver	Vance
Coleman	Harris	O'Neill	Veon
Cornell	Hasay	Pallone	Vitali
Corrigan	Hennessey	Payne	Walko
Costa	Herman	Petrarca	Wansacz
Coy	Hershey	Petri	Washington
Crahalla	Hess	Petrone	Waters
Creighton	Hickernell	Pickett	Watson
Cruz	Horsey	Pistella	Weber
Curry	Hutchinson	Preston	Wheatley
Dailey	Josephs	Raymond	Williams
Daley	Keller	Readshaw	Wilt
Dally	Kenney	Reed	Wojnaroski
DeLuca	Killion	Reichley	Wright
Denlinger	Kirkland	Rieger	Yewcic
Dermody	Kotik	Roebuck	Youngblood
DeWeese	LaGrotta	Rohrer	Yudichak
DiGirolamo	Laughlin	Rooney	Zug
Diven	Leach	Ross	
Donatucci	Lederer	Rubley	Perzel,
Eachus	Leh	Ruffing	Speaker

ADDITIONS—0

NOT VOTING—0

EXCUSED—4

James	Phillips	Roberts	Smith, B.
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LEAVES ADDED—11

Allen	Corrigan	Leach	McNaughton
Bard	DeWeese	Mackereth	Stetler
Cornell	Fleagle	McCall	

LEAVES CANCELED—2

Cornell	Roberts
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CALENDAR

RULES SUSPENDED

The SPEAKER pro tempore. Turning to page 3 of today's calendar, HB 2235, PN 3126.

The Chair recognizes the gentleman, Mr. Nickol, for a motion to suspend.

Mr. NICKOL. Thank you, Madam Speaker.

I would like to move to suspend the rules so we can immediately take up the bill.

The SPEAKER pro tempore. The gentleman, Mr. Nickol, moves that the rules of the House be suspended in order to offer HB 2235, PN 3126.

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

The following roll call was recorded:

YEAS—198

Adolph	Egolf	Lescovitz	Sainato
Allen	Evans, D.	Levdansky	Samuelson
Argall	Evans, J.	Lewis	Santoni
Armstrong	Fabrizio	Lynch	Sather
Baker	Fairchild	Mackereth	Saylor
Baldwin	Feese	Maher	Scavello
Bard	Fichter	Maitland	Schroder
Barrar	Fleagle	Major	Scrimenti
Bastian	Flick	Manderino	Semmel
Bebko-Jones	Forcier	Mann	Shaner
Belardi	Frankel	Markosek	Smith, S. H.
Belfanti	Freeman	Marsico	Solobay
Benninghoff	Gabig	McCall	Staback
Bianucci	Gannon	McGeehan	Stairs
Birmelin	Geist	McGill	Steil
Bishop	George	McIlhattan	Stern
Blaum	Gergely	McIlhinney	Stetler
Boyd	Gillespie	McNaughton	Stevenson, R.
Browne	Gingrich	Melio	Stevenson, T.
Bunt	Godshall	Metcalfe	Sturla
Butkovitz	Good	Micozzie	Surra
Buxton	Goodman	Miller, R.	Tangretti
Caltagirone	Grucela	Miller, S.	Taylor, E. Z.
Cappelli	Gruitza	Mundy	Taylor, J.
Casorio	Habay	Mustio	Thomas
Causar	Haluska	Myers	Tigue
Cawley	Hanna	Nailor	Travaglio
Civera	Harhai	Nickol	True
Clymer	Harhart	O'Brien	Turzai
Cohen	Harper	Oliver	Vance
Coleman	Harris	O'Neill	Veon
Cornell	Hasay	Pallone	Vitali
Corrigan	Hennessey	Payne	Walko
Costa	Herman	Petrarca	Wansacz
Coy	Hershey	Petri	Washington
Crahalla	Hess	Petrone	Waters
Creighton	Hickernell	Pickett	Watson
Cruz	Horsey	Pistella	Weber
Curry	Hutchinson	Preston	Wheatley
Dailey	Josephs	Raymond	Williams
Daley	Keller	Readshaw	Wilt
Dally	Kenney	Reed	Wojnaroski
DeLuca	Killion	Reichley	Wright
Denlinger	Kirkland	Rieger	Yewcic
Dermody	Kotik	Roebuck	Youngblood
DeWeese	LaGrotta	Rohrer	Yudichak
DiGirolamo	Laughlin	Rooney	Zug
Diven	Leach	Ross	
Donatucci	Lederer	Rublely	Perzel,
Eachus	Leh	Ruffing	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—4

James	Phillips	Roberts	Smith, B.
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A majority of the members required by the rules having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 2235, PN 3126**, entitled:

An Act amending the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, further defining “cost of the stamping agent” and “dealer”; and further providing for delivery sales of cigarettes and for violations.

On the question,
Will the House agree to the bill on third consideration?
Bill was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

On that question, the Chair recognizes the gentleman,
Mr. Zug.

Mr. ZUG. Thank you, Madam Speaker.

Could I interrogate the sponsor of the bill, please?

The SPEAKER pro tempore. The gentleman agrees.
You may proceed.

Mr. ZUG. Thank you, Madam Speaker.

Does this bill tax Internet sales?

Mr. NICKOL. Madam Speaker, I am sorry; I could not hear the question.

The SPEAKER pro tempore. Would the gentleman cease just a moment.

The gentleman cannot even hear the question that is being asked of him. Could we please have quiet in the hall.

Would the gentleman, Mr. Zug, please repeat his question.

Mr. ZUG. Does this bill tax Internet sales?

Mr. NICKOL. Currently the State of Pennsylvania technically taxes Internet sales of cigarettes. The problem is in the collection of those sales. There is a Federal act by the name of the Jenkins Act, which authorizes States to tax such sales.

Mr. ZUG. Does anybody pay sales tax on Internet sales of cigarettes or any other product in Pennsylvania?

Mr. NICKOL. I cannot answer definitively that anybody does, but I think it is fair to say that few people currently pay the tax on Internet sales of cigarettes.

Mr. ZUG. Thank you, Madam Speaker.

If I could have a few minutes on the bill?

The SPEAKER pro tempore. You may proceed.

Mr. ZUG. Thank you.

I just think this is really the beginning of a precedent that we are going to tax Internet sales. I do not think that we should be doing that. I am voting “no” because it is a tax bill on the Internet which has never been done, in my opinion, in the Commonwealth, and so I am voting “no,” and I would ask everyone to consider this bill more importantly. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Berks County,
Mr. Rohrer, on final passage.

Mr. ROHRER. Thank you, Madam Speaker.

Could I interrogate the sponsor of the bill, please?

The SPEAKER pro tempore. The gentleman agrees.
You may proceed.

Mr. ROHRER. Thank you, Madam Speaker.

The question would be, the question that was raised by the gentleman from Lebanon County about this being, essentially, an Internet tax, which is something we have not done and unto itself is a major, major issue of debate and a good reason for not considering this now at the moment perhaps, but my question would be, really, what is the real intent of what you are attempting to do by imposing this tax at this time?

Mr. NICKOL. Madam Speaker, currently, to clear up any misapprehension, the Internet Tax Freedom Act that was enacted by the U.S. Congress does not cover cigarette sales. Those are covered under the Jenkins Act, a separate law, and it is legal for States to tax the Internet sale of cigarettes. The problem is in the collection. What is currently occurring, in fact the U.S. Senate by unanimous consent passed what is called the PACT Act – P-A-C-T – and that is an act that is supported by groups as widely diverse as the State Attorneys General, Philip Morris, Tobacco-Free Kids, the National Association of Convenience Stores, and that legislation, if it is followed up on by the House of Representatives – and I understand that these organizations feel quite positive the U.S. House will be passing the same act – what that act will do is it will require the agencies with jurisdiction over the Jenkins Act – the FBI, and Alcohol, Tobacco and Firearms – it will require them to seek the cooperation or force the cooperation of people who make these sales on the Internet, including Indian tribes and others. So if the Federal government is going to start cracking down on their side of things and enforcing the Jenkins Act, there is a large amount of revenue that is potentially available to States like Pennsylvania. So what this legislation is trying to do is to put in place law here in Pennsylvania in anticipation of the Federal act to allow us to collect the tax on the Internet sales. Thank you.

Mr. ROHRER. Is it the maker's assumption that the amount of sales of cigarettes is increasing on the Internet and that is partly why you are attempting to do this?

Mr. NICKOL. That is correct. When the State increased the tax on cigarettes just the other year, I think most people will concede that the Internet sales of cigarettes picked up remarkably, not just from our State but from many other States which increased similar taxes in their jurisdictions.

Mr. ROHRER. Okay.

Thank you, Madam Speaker.

May I speak, please?

The SPEAKER pro tempore. The gentleman is recognized.

Mr. ROHRER. All right.

I appreciate the comments on that.

My comments on this bill relate to the issue that the attempt to tax an increasing amount of sales on tobacco and cigarettes that are moving to the Internet— Madam Speaker, can anybody hear? I do not think.

The SPEAKER pro tempore. The gentleman is absolutely correct. The noise level here is really high. Could we please have a little order and quiet on the floor, please.

The gentleman may proceed.

Mr. ROHRER. Thank you, Madam Speaker.

I think it is important what we are doing here and that members understand. As the sponsor of the bill agreed to, the number of sales and sales volume of cigarettes is increasing on the Internet. The reason for that is that, as was stated, we have

already increased the cigarette taxes significantly in the past, and that is the very point of what I want to state. That is what is happening.

The legitimate sales of tobacco and cigarettes are increasingly seeking those methods that are simply trying to avoid the increased price of cigarettes. By moving towards what we are doing on the Internet, as has been agreed to at this point unenforceable, we do nothing to increase our collections but we do further attempt and in actuality move the entire issue of tobacco sales further underground into a black market's perspective, which is ultimately reducing the amount of revenue we are all hoping to get from cigarettes, and so I think that this does not move us in the right direction, that this does not increase what we hope to get from cigarette taxes. It actually reduces the revenue, and because we have no ability to implement and enforce it only in anticipation of the Feds doing something, which is generally not the way we work it; we will see what they do first and then we respond, I think that this is not appropriate at this point, and I really intend to vote "no" on this tax measure at this point.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Dauphin County, Mr. Payne, on final passage.

Mr. PAYNE. Thank you, Madam Speaker.

Will the gentleman stand for interrogation?

The SPEAKER pro tempore. The gentleman agrees. You may proceed.

Mr. PAYNE. Thank you.

Madam Speaker, what I would like to ask is, in addition to the attempt to, if you will, control sales on the Internet, is there not also an increase in the cost on the stamps, and would that increase in the stamp cost not just affect sales through mail or Internet but also be passed on at the local tobacco and confectionery drugstores?

Mr. NICKOL. There was an amendment added in the Appropriations Committee by Representative LaGrotta which would increase the stamping commissions. So that would marginally, probably, serve to increase the cost of cigarettes.

Mr. PAYNE. Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Luzerne County, Mr. Eachus, on the final passage.

Mr. EACHUS. Thank you, Madam Speaker.

I rise in support of HB – excuse me; my glasses are not on today – 2235. It looked like an 85 from here, but I rise in support of this issue, because part of the issue of what the gentleman is trying to achieve today is continuity of taxation. As we know, Internet sales are having an impact on the ability to collect revenue that goes directly into dealing with issues in the Commonwealth. So I applaud the gentleman's attempt to try and find continuity in an ever more complex tobacco sales regime. We all know that tobacco has an impact on human health. What the gentleman does today is ensure that we do not have people cheating on the collection of tobacco in this Commonwealth.

So I rise in support of this measure. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Lawrence County, Mr. LaGrotta, on final passage.

Mr. LaGROTTA. Thank you, Madam Speaker.

Madam Speaker, I cannot hear.

The SPEAKER pro tempore. The gentleman is absolutely correct. It is really, really noisy in here. Could we please have just a little bit of quiet.

Mr. LaGROTTA. Madam Speaker, I live in a border county. Lawrence County borders Ohio. For years, in order to avoid the taxes in Pennsylvania, people have gone to Ohio and bought cigarettes. It is against the law to do that. What the Internet has done, Madam Speaker, is make every county in Pennsylvania a border county by allowing people to break the law, escape the taxes, and purchase tobacco products online.

Now, the argument, Madam Speaker, is further impressed by the fact that in Pennsylvania it is against the law to sell cigarettes to minors. I do not think anybody in this House of Representatives would support the sale of cigarettes to minors. Unfortunately, those who purchase cigarettes on the Internet neither are asked to or required to validate their age.

The legislation introduced by the gentleman, Mr. Nickol, which I strongly support, does not create any new taxes. It simply requires this Commonwealth and the Department of Revenue and the appropriate enforcement agents to enforce the law as it presently is written, making sure that those who sell cigarettes redeem the legal amount of taxes to this Commonwealth and they do not sell cigarettes to kids who are not of legal age.

How anyone could be against passing a law which simply requires enforcing the law is beyond me. Madam Speaker, I would ask, with all due respect, that everyone support this legislation and support the duly enacted laws of the Commonwealth of Pennsylvania and the enforcement of those laws.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Bucks County, Mr. Steil, on final passage.

Mr. STEIL. Thank you, Madam Speaker.

Members have said that this is a potential violation of the Internet Tax Freedom Act. We need to understand that the Internet Tax Freedom Act, first passed by Congress in the late nineties, 1998 actually, does not say anything about the State's right to collect taxes, sales taxes or any other taxes, on products or commodities which are subject to those taxes. It only prohibits imposition of a tax on access to the Internet.

Number two, we need to ask ourselves whether or not this tax is already due, and in fact it is. This is not a new tax. It is a tax which is already due and payable. We are simply changing the method of collection from the responsibility of the purchaser to the seller.

Thirdly, it becomes a matter of fundamental fairness. In this particular issue, we have to ask ourselves whether or not merchants who operate in our communities, employ our people, pay taxes, do we want to put them at a competitive disadvantage from someone who can sell over the Internet, because there is a 6-percent competitive disadvantage for our local merchants unless we impose these taxes on the seller.

I ask for your support of HB 2235. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the lady from Philadelphia, Ms. Josephs, on final passage.

Ms. JOSEPHS. Thank you, Madam Speaker.

I want to echo and affirm the speeches of the gentleman from Lawrence, the gentleman from Bucks, and point out to all of us here that this is obviously a bipartisan issue, as it should be.

I am very fascinated by the debate though, I have to say, based on previous debates having to do with tobacco products and cigarettes, and I remember so vividly the strenuous cries from people who worried terribly that the mom-and-pop stores, our local merchants, the people in our neighborhoods who sustain the economy on a local level, would be hurt. Now I see a bill before us which would eliminate the competitive disadvantage that these stores have vis-a-vis the Internet, and I am hoping before this debate is over that one of those champions of the small stores and the local convenience marts will rise and be as eloquent as he or she was in previous debates.

I am also extremely, just again, surprised to hear people say, well, if we do this, there will be a black market and we will not be able to collect any money, and I have two responses to that. The first is, we have an Attorney General; we have local and State police forces. We put lots and lots of money into enforcing the laws we pass, and I, for the life of me, cannot see why this is any different than passing legislation that puts together mandatories for certain offenses, passing taxes on other products. It is just totally a mystery to me.

And my second point is that if those people are standing up and saying basically that we cannot enforce our own statutes, if they have had their information from the tobacco manufacturers, I would just like to ask, since when are they credible? Of course they want to say that it is enforceable, but it was not so many years ago that they were telling us, oh, tobacco is not addictive; oh, tobacco does not cause any ill-health problems; oh, we are not aiming our advertisement at youth. That is what they said, all of these executives, under oath, in court, time and time again, and we know that is not true. We know tobacco is the largest cause of preventable disease. We know that marketing was aimed right at teenagers and children, and we know that the younger people start to use tobacco, the harder it is to kick the habit, and we know that the tobacco executives knew that when they were making their statements under oath in court.

And finally, if we are looking for a way to relieve human suffering, to give our State a real, real financial boost, this is the way to go. Enforcing higher prices against cigarettes discourages youth smoking. When youth do not smoke, they become less habituated; they do not die young; we do not spend billions of dollars a year treating tobacco-related illnesses through Medicaid, and I do not see any downside.

I urge a "yes" vote on this bill.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the lady.

The Chair recognizes the gentleman from Mercer County, Mr. Wilt, on final passage. The gentleman, Mr. Wilt, is recognized on final passage.

Mr. WILT. Thank you, Madam Speaker.

I was getting my facts together before I made my comments.

I am reading in the bill summary, and I do have a question for the maker of the bill, if he would stand for a brief interrogation.

The SPEAKER pro tempore. The gentleman agrees. You may proceed.

Mr. WILT. All right. Thank you, Madam Speaker.

I am reading from the bill summary that says, "Each person making a delivery sale shall file a monthly report with the Department of Revenue containing the name and address of individuals receiving delivery sales, the brands..." they purchased, "and the quantity" that they purchased. Does this mean that if I am buying a carton of cigarettes from somebody out of State over the Internet, that my name, my address, and what I purchased is going to be reported to the Pennsylvania Department of Revenue?

Mr. NICKOL. Madam Speaker, that is correct. That is currently required by the Jenkins Act.

Mr. WILT. Okay.

So you are telling me that my name and my address and what I bought is going to be sent to the department. Is the person – and maybe this would not be in this law because we are dealing only with State law – but under Federal law, does the person that I am buying the cigarettes from have to tell me that before they accept my money?

Mr. NICKOL. Madam Speaker, my understanding is that on some of the Internet sites, that information is disclosed, but probably on most of the sites it is not, but that is a provision of the Federal law, the Jenkins Act.

Mr. WILT. Then do you foresee under State law, under this law that you are recommending that we pass, that in that circumstance I would get a letter, a notification, from the Department of Revenue that says, "Dear Mr. Wilt, we have verification that you purchased a couple cartons of cigarettes from an Internet site. Have you paid your taxes?"

Mr. NICKOL. That is what I would anticipate, Madam Speaker.

Mr. WILT. Well, is that outlined in this bill that that is what would occur, and how would that communication come? Would it come in certified letter? Would it come by an e-mail? Would it come regular mail? Are there penalties associated with that if they do not notify me, because if the Internet site does not notify me and the Department of Revenue does not notify me, then how do I know what I owe, and if I do not pay it on time, how much are they going to charge me in interest and penalties?

Mr. NICKOL. Madam Speaker, most of those details would be established by the Department of Revenue. They are not part of the legislation. I would imagine or anticipate that the Department of Revenue, to collect the tax that is due, would in some way, manner, or form contact the individual who made the purchase over the Internet. You know, how exactly they would do it and what form, I am really not sure.

Mr. WILT. I appreciate your answer.

BILL RECOMMENDED

Mr. WILT. Madam Speaker, on final passage.

The SPEAKER pro tempore. The gentleman may proceed.

Mr. WILT. Thank you very much.

I think what we have here is a law that is maybe good intentioned, but I think what it does is it places a tremendous onus on the residents of Pennsylvania, and there are reporting requirements here that I think violate their privacy, and for that reason, I think unless we can get some clearly spelled-out answers to the questions that I just asked, that we should defeat HB 2235 or at least make a motion to put the bill over until we can get these questions answered.

So I would like to make a motion that we send this bill back to the Appropriations Committee until we can get some of these questions answered.

The SPEAKER pro tempore. The gentleman, Mr. Wilt, moves that HB 2235 be recommitted to the Appropriations Committee.

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

The following roll call was recorded:

YEAS—139

Adolph	DeWeese	Kirkland	Rubley
Allen	DiGirolamo	Kotik	Ruffing
Argall	Diven	Laughlin	Samuelson
Armstrong	Donatucci	Leh	Santoni
Baker	Egolf	Lescovitz	Sather
Baldwin	Evans, D.	Levdansky	Scavello
Barrar	Evans, J.	Lewis	Scrimenti
Bastian	Fabrizio	Lynch	Semmel
Bebko-Jones	Fairchild	Maher	Smith, S. H.
Belardi	Feese	Major	Solobay
Belfanti	Fichter	Manderino	Staback
Benninghoff	Flick	Mann	Stairs
Biancucci	Forcier	Marsico	Stern
Bishop	Frankel	McCall	Stetler
Boyd	Gabig	McIlhattan	Stevenson, R.
Browne	Gannon	McNaughton	Surra
Bunt	Geist	Metcalfe	Tangretti
Buxton	George	Micozzie	Taylor, E. Z.
Caltagirone	Gergely	Miller, S.	Thomas
Cappelli	Gingrich	Mustio	Tigue
Casorio	Godshall	Nailor	True
Causer	Good	Oliver	Veon
Cawley	Goodman	Pallone	Vitali
Clymer	Grucela	Payne	Walko
Coleman	Gruitza	Petrarca	Wansacz
Cornell	Habay	Petrone	Weber
Costa	Harhart	Pickett	Wheatley
Coy	Harris	Pistella	Williams
Creighton	Hasay	Preston	Wilt
Dailey	Hennessey	Raymond	Wojnarowski
Daley	Hess	Readshaw	Wright
Dally	Hickernell	Reed	Yewcic
DeLuca	Hutchinson	Reichley	Yudichak
Denlinger	Kenney	Rohrer	Zug
Dermody	Killion	Rooney	

NAYS—57

Bard	Harhai	Melio	Steil
Birmelin	Harper	Miller, R.	Stevenson, T.
Blaum	Herman	Mundy	Sturla
Butkovitz	Hershey	Myers	Taylor, J.
Cohen	Horsey	Nickol	Travaglio
Corrigan	Josephs	O'Brien	Turzai
Crahalla	Keller	O'Neill	Vance
Cruz	LaGrotta	Petri	Washington
Curry	Lederer	Rieger	Waters
Eachus	Mackereth	Roebuck	Watson
Fleagle	Maitland	Ross	Youngblood
Freeman	Markosek	Sainato	
Gillespie	McGeehan	Saylor	
Haluska	McGill	Schroder	Perzel,
Hanna	McIlhinney	Shaner	Speaker

NOT VOTING—1

Civera

EXCUSED—5

James Phillips Roberts Smith, B.
Leach

The majority having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

* * *

The House proceeded to third consideration of **SB 970, PN 1308**, entitled:

An Act amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, providing for revival of an expired authority.

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

The SPEAKER pro tempore. It is the understanding of the Chair that Mr. George has withdrawn his amendment.

On the question recurring,
Will the House agree to the bill on third consideration?
Bill was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?
Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—197

Adolph	Egolf	Levdansky	Samuelson
Allen	Evans, D.	Lewis	Santoni
Argall	Evans, J.	Lynch	Sather
Armstrong	Fabrizio	Mackereth	Saylor
Baker	Fairchild	Maher	Scavello
Baldwin	Feese	Maitland	Schroder
Bard	Fichter	Major	Scrimenti
Barrar	Fleagle	Manderino	Semmel
Bastian	Flick	Mann	Shaner
Bebko-Jones	Forcier	Markosek	Smith, S. H.
Belardi	Frankel	Marsico	Solobay
Belfanti	Freeman	McCall	Staback
Benninghoff	Gabig	McGeehan	Stairs
Biancucci	Gannon	McGill	Steil
Birmelin	Geist	McIlhattan	Stern
Bishop	George	McIlhinney	Stetler
Blaum	Gergely	McNaughton	Stevenson, R.
Boyd	Gillespie	Melio	Stevenson, T.
Browne	Gingrich	Metcalfe	Sturla
Bunt	Godshall	Micozzie	Surra
Butkovitz	Good	Miller, R.	Tangretti
Buxton	Goodman	Miller, S.	Taylor, E. Z.
Caltagirone	Grucela	Mundy	Taylor, J.
Cappelli	Gruitza	Mustio	Thomas
Casorio	Habay	Myers	Tigue
Causser	Haluska	Nailor	Travaglio
Cawley	Hanna	Nickol	True
Civera	Harhai	O'Brien	Turzai
Clymer	Harhart	Oliver	Vance
Cohen	Harper	O'Neill	Veon

Coleman	Harris	Pallone	Vitali
Cornell	Hasay	Payne	Walko
Corrigan	Hennessey	Petrarca	Wansacz
Costa	Herman	Petri	Washington
Coy	Hershey	Petrone	Waters
Crahalla	Hess	Pickett	Watson
Creighton	Hickernell	Pistella	Weber
Cruz	Horsey	Preston	Wheatley
Curry	Hutchinson	Raymond	Williams
Dailey	Josephs	Readshaw	Wilt
Daley	Keller	Reed	Wojnaroski
Dally	Kenney	Reichley	Wright
DeLuca	Killion	Rieger	Yewcic
Denlinger	Kirkland	Roebuck	Youngblood
Dermody	Kotik	Rohrer	Yudichak
DeWeese	LaGrotta	Rooney	Zug
DiGirolamo	Laughlin	Ross	
Diven	Lederer	Rubley	
Donatucci	Leh	Ruffing	Perzel,
Eachus	Lescovitz	Sainato	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—5

James Phillips Roberts Smith, B.
Leach

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same without amendment.

LEAVE OF ABSENCE

The SPEAKER pro tempore. The Chair returns to leaves of absence, and the minority whip requests that the gentleman from Montgomery County, Mr. LEACH, be placed on leave for the remainder of the day.

RESOLUTION

Mr. McCALL called up **HR 518, PN 3100**, entitled:

A Resolution requesting that the President of the United States order a stay of certain "hours-of-service" rules.

On the question,
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—197

Adolph	Egolf	Levdansky	Samuelson
Allen	Evans, D.	Lewis	Santoni
Argall	Evans, J.	Lynch	Sather
Armstrong	Fabrizio	Mackereth	Saylor
Baker	Fairchild	Maher	Scavello
Baldwin	Feese	Maitland	Schroder
Bard	Fichter	Major	Scrimenti
Barrar	Fleagle	Manderino	Semmel
Bastian	Flick	Mann	Shaner

Bebko-Jones	Forcier	Markosek	Smith, S. H.
Belardi	Frankel	Marsico	Solobay
Belfanti	Freeman	McCall	Staback
Benninghoff	Gabig	McGeehan	Stairs
Biancucci	Gannon	McGill	Steil
Birmelin	Geist	McIlhattan	Stern
Bishop	George	McIlhinney	Stetler
Blaum	Gergely	McNaughton	Stevenson, R.
Boyd	Gillespie	Melio	Stevenson, T.
Browne	Gingrich	Metcalfe	Sturla
Bunt	Godshall	Micozzie	Surra
Butkovitz	Good	Miller, R.	Tangretti
Buxton	Goodman	Miller, S.	Taylor, E. Z.
Caltagirone	Grucela	Mundy	Taylor, J.
Cappelli	Gruitza	Mustio	Thomas
Casorio	Habay	Myers	Tigue
Causar	Haluska	Nailor	Travaglio
Cawley	Hanna	Nickol	True
Civera	Harhai	O'Brien	Turzai
Clymer	Harhart	Oliver	Vance
Cohen	Harper	O'Neill	Veon
Coleman	Harris	Pallone	Vitali
Cornell	Hasay	Payne	Walko
Corrigan	Hennessey	Petrarca	Wansacz
Costa	Herman	Petri	Washington
Coy	Hershey	Petrone	Waters
Crahalla	Hess	Pickett	Watson
Creighton	Hickernell	Pistella	Weber
Cruz	Horsey	Preston	Wheatley
Curry	Hutchinson	Raymond	Williams
Dailey	Josephs	Readshaw	Wilt
Daley	Keller	Reed	Wojnaroski
Dally	Kenney	Reichley	Wright
DeLuca	Killion	Rieger	Yewcic
Denlinger	Kirkland	Roebuck	Youngblood
Dermody	Kotik	Rohrer	Yudichak
DeWeese	LaGrotta	Rooney	Zug
DiGirolamo	Laughlin	Ross	
Diven	Lederer	Rubley	
Donatucci	Leh	Ruffing	Perzel,
Eachus	Lescovitz	Sainato	Speaker

NAYS-0

NOT VOTING-0

EXCUSED-5

James	Phillips	Roberts	Smith, B.
Leach			

The majority having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

RESOLUTION PURSUANT TO RULE 35

Mr. STEIL called up **HR 519, PN 3117**, entitled:

A Resolution honoring Coach John Gagliardi on becoming college football's winningest coach.

On the question,
Will the House adopt the resolution?

The following roll call was recorded:

YEAS-197

Adolph	Egolf	Levdansky	Samuelson
Allen	Evans, D.	Lewis	Santoni
Argall	Evans, J.	Lynch	Sather
Armstrong	Fabrizio	Mackereth	Saylor
Baker	Fairchild	Maher	Scavello
Baldwin	Feese	Maitland	Schroder
Bard	Fichter	Major	Scrimenti
Barrar	Fleagle	Manderino	Semmel
Bastian	Flick	Mann	Shaner
Bebko-Jones	Forcier	Markosek	Smith, S. H.
Belardi	Frankel	Marsico	Solobay
Belfanti	Freeman	McCall	Staback
Benninghoff	Gabig	McGeehan	Stairs
Biancucci	Gannon	McGill	Steil
Birmelin	Geist	McIlhattan	Stern
Bishop	George	McIlhinney	Stetler
Blaum	Gergely	McNaughton	Stevenson, R.
Boyd	Gillespie	Melio	Stevenson, T.
Browne	Gingrich	Metcalfe	Sturla
Bunt	Godshall	Micozzie	Surra
Butkovitz	Good	Miller, R.	Tangretti
Buxton	Goodman	Miller, S.	Taylor, E. Z.
Caltagirone	Grucela	Mundy	Taylor, J.
Cappelli	Gruitza	Mustio	Thomas
Casorio	Habay	Myers	Tigue
Causar	Haluska	Nailor	Travaglio
Cawley	Hanna	Nickol	True
Civera	Harhai	O'Brien	Turzai
Clymer	Harhart	Oliver	Vance
Cohen	Harper	O'Neill	Veon
Coleman	Harris	Pallone	Vitali
Cornell	Hasay	Payne	Walko
Corrigan	Hennessey	Petrarca	Wansacz
Costa	Herman	Petri	Washington
Coy	Hershey	Petrone	Waters
Crahalla	Hess	Pickett	Watson
Creighton	Hickernell	Pistella	Weber
Cruz	Horsey	Preston	Wheatley
Curry	Hutchinson	Raymond	Williams
Dailey	Josephs	Readshaw	Wilt
Daley	Keller	Reed	Wojnaroski
Dally	Kenney	Reichley	Wright
DeLuca	Killion	Rieger	Yewcic
Denlinger	Kirkland	Roebuck	Youngblood
Dermody	Kotik	Rohrer	Yudichak
DeWeese	LaGrotta	Rooney	Zug
DiGirolamo	Laughlin	Ross	
Diven	Lederer	Rubley	
Donatucci	Leh	Ruffing	Perzel,
Eachus	Lescovitz	Sainato	Speaker

NAYS-0

NOT VOTING-0

EXCUSED-5

James	Phillips	Roberts	Smith, B.
Leach			

The majority having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

APPROPRIATIONS COMMITTEE MEETING

The SPEAKER pro tempore. The Chair recognizes the gentleman from Schuylkill County, Mr. Argall, for a committee announcement.

Mr. ARGALL. Thank you, Madam Speaker.

At the declaration of the recess, the House Appropriations Committee will meet in room 245.

The SPEAKER pro tempore. The gentleman, Mr. Argall, announces an Appropriations Committee meeting at the declaration of the recess in room 245.

DEMOCRATIC CAUCUS

The SPEAKER pro tempore. The Chair recognizes the gentleman from Philadelphia, Mr. Cohen, for an announcement.

Mr. COHEN. Thank you.

Madam Speaker, at the declaration of the recess, there will be a Democratic caucus.

REPUBLICAN CAUCUS

The SPEAKER pro tempore. The Chair recognizes the lady from Chester, Mrs. Taylor, for the purpose of an announcement.

Mrs. TAYLOR. Thank you, Madam Speaker.

The Republican majority caucus will meet following the recess in the majority caucus room, immediately following the recess. I look for this to be a very important meeting, so I hope you all will be there.

The SPEAKER pro tempore. The Chair thanks the lady.

RECESS

The SPEAKER pro tempore. This House does now stand in recess until 1:30; 1:30.

RECESS EXTENDED

The time of recess was extended until 2 p.m.

AFTER RECESS

The time of recess having expired, the House was called to order.

THE SPEAKER (JOHN M. PERZEL) PRESIDING

BILLS REREPORTED FROM COMMITTEE

HB 2015, PN 2657 By Rep. ARGALL

An Act amending the act of July 10, 1987 (P.L.246, No.47), known as the Municipalities Financial Recovery Act, further providing for the right of a municipality to petition the court for an increase in the rate of taxation.

APPROPRIATIONS.

SB 508, PN 1313 By Rep. ARGALL

An Act amending the act of May 16, 1923 (P.L.207, No.153), referred to as the Municipal Claim and Tax Lien Law, further providing for redemption of property and for challenging foreclosure sales.

APPROPRIATIONS.

SB 877, PN 1307 By Rep. ARGALL

An Act prohibiting employment of certain individuals as law enforcement officers; requiring suspension of law enforcement officers charged with certain crimes; and establishing dismissal procedures for law enforcement officers convicted of certain crimes.

APPROPRIATIONS.

SB 924, PN 1244 By Rep. ARGALL

An Act requiring certifications by tobacco product manufacturers; providing for a directory of cigarettes approved for stamping and sale; conferring powers and imposing duties on the Attorney General and the Department of Revenue; and imposing penalties.

APPROPRIATIONS.

BILLS SIGNED BY SPEAKER

Bills numbered and entitled as follows having been prepared for presentation to the Governor, and the same being correct, the titles were publicly read as follows:

HB 51, PN 3049

An Act amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, further providing for powers and duties of authorities.

SB 850, PN 1315

An Act authorizing the City of Scranton and Redevelopment Authority of the City of Scranton, Lackawanna County, to transfer, sell and convey to the University of Scranton certain Project 70 lands free of restrictions imposed by the Project 70 Land Acquisition and Borrowing Act.

Whereupon, the Speaker, in the presence of the House, signed the same.

THE SPEAKER PRO TEMPORE (PATRICIA H. VANCE) PRESIDING

SENATE MESSAGE

SENATE INSISTS ON AMENDMENTS
NONCONCURRED IN BY HOUSE

The clerk of the Senate, being introduced, informed that the Senate has insisted upon its amendments nonconcurrent in by the House of Representatives to **HB 1018, PN 2303**.

MOTION INSISTING UPON NONCONCURRENCE IN SENATE AMENDMENTS

Mr. S. SMITH moved that the House insist upon its nonconcurrency in Senate amendments to HB 1018, PN 2303, and that a committee of conference on the part of the House be appointed.

On the question,
Will the House agree to the motion?
Motion was agreed to.

CONFERENCE COMMITTEE APPOINTED

The SPEAKER pro tempore. The Chair appoints as a committee of conference on the part of the House on HB 1018, PN 2303:

Messrs. Semmel, Causer, and Tigue.
Ordered, That the clerk inform the Senate accordingly.

PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. For what purpose does the gentleman, Mr. Vitali, rise?

Mr. VITALI. A parliamentary inquiry.

I am trying to figure out what is going on. There was a vote on the screen; there was a call for a vote. I am not really sure what is happening or whether the members should be involved in this.

The SPEAKER pro tempore. There was no call for a vote. There was a conference committee appointed.

Mr. VITALI. Okay. What— May I continue my inquiry? What was it that the members were being called to vote upon, if anything?

The SPEAKER pro tempore. We insisted upon our nonconcurrence with the Senate amendments.

Mr. VITALI. Okay. Now, is that something that the House had to consider and vote one way or the other on?

The SPEAKER pro tempore. No.

Mr. VITALI. I am not sure why you are doing it out loud if it is not something—

The SPEAKER pro tempore. So the members would be aware who was appointed to the conference committee.

Mr. VITALI. Was there some issue about some choice we had to make as to whether we were insisting or noninsisting?

The SPEAKER pro tempore. The clerk informs me that she accidentally had put something up on the board, so that is the error.

Mr. VITALI. Well, I understand the 924 issue, but was there some other question that we had a choice of insisting on or noninsisting on? I am just trying to understand.

The SPEAKER pro tempore. The precedent in the history of the House is it is simply a voice vote when we appoint conferees.

Mr. VITALI. What was the subject matter of what we did, the voice—

The SPEAKER pro tempore. HB 1018.

Mr. VITALI. And what was the subject matter of HB 1018?

The SPEAKER pro tempore. Wireless communications.

Mr. VITALI. Okay. Thank you.

LEAVE OF ABSENCE CANCELED

Mr. COY. Madam Speaker?

The SPEAKER pro tempore. For what purpose does the gentleman, Mr. Coy, rise?

Mr. COY. May we return to the order of business of leaves of absence?

The gentleman, Mr. Roberts, had been on leave and is back on the floor and would like to be put on the master roll.

The SPEAKER pro tempore. The Chair notices the presence of the gentleman, Mr. Roberts, in the hall of the House and asks that his name be added to the master roll.

The Chair thanks the gentleman.

CALENDAR CONTINUED

BILL ON THIRD CONSIDERATION

The House proceeded to third consideration of **SB 940**, **PN 1314**, entitled:

An Act providing for intergovernmental cooperation in cities of the second class; establishing an intergovernmental authority; providing for financing, for bankruptcy and for sovereign immunity; and making an appropriation.

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

Mr. **WALKO** offered the following amendment No. **A4544**:

Amend Title, page 1, line 3, by striking out “and” and inserting a comma

Amend Title, page 1, line 4, by inserting after “immunity”
, for an annual grant program for counties and municipalities relating to tax-exempt real property; establishing a special fund in the State Treasury; imposing powers and duties on the Department of Community and Economic Development

Amend Table of Contents, page 2, by inserting between lines 11 and 12

Chapter 6. Local Tax-exempt Property Grants

Section 601. Short title.

Section 602. Definitions.

Section 603. Tax-exempt property compilation.

Section 604. Local Tax-exempt Property Fund.

Section 605. Allocation of funds and requirement to make grants.

Section 606. County cost reimbursement.

Section 607. Municipal tax-exempt property grants.

Section 608. Regulations.

Amend Bill, page 44, by inserting between lines 11 and 12

CHAPTER 6

LOCAL TAX-EXEMPT PROPERTY GRANTS

Section 601. Short title.

This act shall be known and may be cited as the Local Tax-exempt Property Grant Act.

Section 602. Definitions.

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

“Common level ratio.” The ratio of assessed value to current market value used generally in the county as last determined by the State Tax Equalization Board under the act of June 27, 1947 (P.L.1046, No.447), referred to as the State Tax Equalization Board Law.

“Consumer Price Index for Urban Consumers.” The Consumer Price Index for Urban Consumers computed by the United States Department of Labor, Bureau of Labor Statistics.

“Department.” The Department of Community and Economic Development of the Commonwealth.

“Eligible municipality.” A municipality for which the county has made a report under section 603.

“Fund.” The Local Tax-exempt Property Fund established under section 604.

“Millage rate.” The rate of real property tax levied by a municipality. In the event that a municipality levies differing millage rates on land and improvements, then any reference in this act to the millage rate shall be deemed to refer to a single combined millage rate for both land and improvements which shall result in the collection of the same amount of tax.

“Municipality.” Any of the following:

- (1) A city, borough, incorporated town or township.
- (2) A home rule municipality which is a city, borough, incorporated town or township.

“Qualified tax-exempt property.” Real property which is exempt from local real property taxes and which is owned by one of the following:

- (1) The Federal Government or an instrumentality of the Federal Government.
- (2) The Commonwealth or an instrumentality of the Commonwealth.
- (3) A political subdivision, except:
 - (i) real property owned by the municipality in which the property is located;
 - (ii) real property owned by any authority, corporation or other entity owned or controlled by the municipality in which the property is located.
- (4) An entity which has obtained the exemption from real property taxation pursuant to the authority granted to the General Assembly under section 2(a)(i), (ii), (iv) or (v) of Article VIII of the Constitution of Pennsylvania.

The term does not include real property for which a Federal or State program provides reimbursement to a county or municipality for that tax-exempt real property.

“Realty transfer tax.” The tax imposed on real estate transfers by the Commonwealth under the provisions of Article XI-C of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971. Section 603. Tax-exempt property compilation.

(a) Annual report.—Beginning in calendar year 2004, every county shall submit to the department an annual report providing the information required in subsection (b) and such additional information as required by the department to administer this chapter. The report required under this section shall be filed by June 30.

(b) Contents.—The report required under subsection (a) shall be a compilation of all property located within the county which is exempt from the real property tax as of January 1 in the year the report is required to be filed. The report shall also contain the following:

- (1) The owner of each tax-exempt property.
- (2) The provisions under which the property is tax-exempt, differentiating between qualified tax-exempt property and other property which is tax-exempt.
- (3) The location of the property, including mailing address; name of the municipality where the property is located; and the block and lot designation.
- (4) The assessed value of the property.
- (5) The estimated market value of the property, which shall be determined by dividing the assessed value of the property by the common level ratio.
- (6) An indication whether payment in lieu of tax or other funding is received under any Federal or State program based on that property.
- (7) The millage rate for the tax on real property in effect in the municipality where the property is located as of January 1 of the year in which the report is required to be filed.
- (8) The assessed value of all property in each municipality in the county.
- (9) The market value of all property in each municipality in the county.

(c) Failure to file reports.—

- (1) A county which fails to provide to the department the report required under this section by June 30 shall be penalized 25% of the distribution computed under section 606. The amount

of the penalty shall be redistributed among the municipalities within that county.

(2) Notwithstanding any other provision of this chapter, a county which fails to provide to the department the report required under this section by July 31 shall, together with all municipalities within that county, forfeit the right to share in the next following distribution required to be made pursuant to this chapter.

Section 604. Local Tax-exempt Property Fund.

(a) Establishment.—There is established in the State Treasury a fund to be known as the Local Tax-exempt Property Fund. The money deposited in this fund shall be used exclusively for the purpose of making annual grants pursuant to this chapter.

(b) Funds for base grant program.—Revenues received by the Commonwealth from imposition of the realty transfer tax shall be transferred to the fund as provided in this section.

(1) For fiscal year 2004-2005, \$100,000,000 shall be transferred to the fund.

(2) For fiscal year 2005-2006, and each fiscal year thereafter, the amount to be determined as follows:

(i) Divide:

(A) the Consumer Price Index for Urban Consumers for December of the year prior to the year in which the transfer is required; by

(B) the Consumer Price Index for Urban Consumers for December 2004.

(ii) Multiply:

(A) the quotient under subparagraph (i); by

(B) the amount computed under paragraph (1).

(3) Funds transferred under this subsection shall be distributed as provided in sections 606 and 607(a).

(c) Funds for supplemental grant program.—

(1) In addition to the transfer required by subsection (b), for fiscal year 2004-2005 and 2005-2006, \$25,000,000 of the revenue received by the Commonwealth from imposition of the realty transfer tax shall be transferred to the fund.

(2) For fiscal year 2005-2006 and each fiscal year thereafter, the amount to be determined as follows:

(i) Divide:

(A) the Consumer Price Index for Urban Consumers for December of the year prior to the year in which the transfer is required; by

(B) the Consumer Price Index for Urban Consumers for December 2004.

(ii) Multiply:

(A) the quotient under subparagraph (i); by

(B) the amount computed under paragraph (1).

(3) Funds transferred under this subsection shall be distributed as provided in section 607(b).

(d) Timing of transfers.—Revenue required to be transferred under this section shall be transferred by the Secretary of Revenue in five equal installments before the last day of February, March, April, May and June of each fiscal year in which a transfer is required.

(e) Appropriation.—All money in the fund is hereby appropriated to the department for purposes of making distributions pursuant to this chapter. These funds shall be a continuing appropriation, and the funds shall not lapse at the end of the fiscal year.

(f) Definition.—As used in this section, the Consumer Price Index for Urban Consumers shall be the Consumer Price Index for Urban Consumers computed by the United States Department of Labor, Bureau of Labor Statistics.

Section 605. Allocation of funds and requirement to make grants.

(a) Base grant funds.—Five percent of the money in the fund transferred under section 604(b) shall be set aside for annual

distribution to the various counties under section 606. Ninety-five percent of the money in the fund transferred under section 604(b) shall be set aside for annual distribution to the various municipalities under section 607(a).

(b) Supplemental grant funds.—All the money in the fund transferred under section 604(c) shall be set aside for annual distribution to the various municipalities under section 607(b).

(c) Mandatory grants.—Subject to the allocations made under this section, all money in the fund at the end of a fiscal year shall be distributed by the department by the September 15 next following the end of the fiscal year in the manner required under sections 606 and 607.

Section 606. County cost reimbursement.

The annual distribution to each county shall be equal to the product of:

- (1) the total amount of money set aside for distribution to all counties in section 605(a); and
- (2) the percentage determined by dividing:
 - (i) the market value of all qualified tax-exempt property in the county; by
 - (ii) the market value of all qualified tax-exempt property in all counties reporting.

Section 607. Municipal tax-exempt property grants.

(a) Municipal base grants.—The annual base grant to each eligible municipality shall be the amount calculated in paragraphs (1) through (3).

(1) The market value of the eligible municipality's qualified tax-exempt property shall be reduced, but not below zero, by the amount which is equal to 10% of the total of the market value of all property in the municipality.

(2) The result of paragraph (1) shall be divided by the sum of the values computed under paragraph (1) for all eligible municipalities.

(3) The result of paragraph (2) shall be multiplied by the amount available for distribution to municipalities computed under section 605(a).

(b) Municipal supplemental grants.—The annual supplemental grant to each eligible municipality shall be the amount calculated in paragraphs (1) through (3).

(1) The market value of the eligible municipality's qualified tax-exempt property shall be reduced, but not below zero, by the amount which is equal to 25% of the total of the market value of all property in the municipality.

(2) The result of paragraph (1) shall be divided by the sum of the values computed under paragraph (1) for all eligible municipalities.

(3) The result of paragraph (2) shall be multiplied by the amount available for distribution to municipalities computed under section 605(b).

(c) Maximum grants.—Notwithstanding any other provision of this act, the annual base and supplemental grants for a municipality computed under subsections (a) and (b) shall not exceed 33.3% of the municipal real property tax which would be otherwise due in that calendar year, but for the tax exemption, on the amount calculated in subsection (a)(1).

(d) Definition.—As used in this section, the term "eligible municipality" means a municipality for which the county has made a report under section 603.

Section 608. Regulations.

The department shall promulgate regulations necessary to implement this chapter.

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman, Mr. Walko.

Mr. WALKO. Thank you, Madam Speaker.

This amendment would address the root cause of the problem that has plagued the city of Pittsburgh and plagued cities throughout this Commonwealth from Meadville to Allentown to Bethlehem to York, Washington, McKeesport, McKees Rocks, Altoona, and so many other cities, including the great city of Erie, the land of Mr. Scrimenti and others. This would address the ever-increasing percentages of land in those cities that are tax exempt.

AMENDMENT WITHDRAWN

Mr. WALKO. However, at this time, Madam Speaker, I would like to withdraw the amendment.

Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the bill on third consideration?

The SPEAKER pro tempore. Does the gentleman have any further amendments?

Mr. WALKO. Madam Speaker, I had three other amendments on this legislation, and I would like to say a few words prior to with—

The SPEAKER pro tempore. The gentleman, Mr. Walko, offers the following amendment, which the clerk will read. Which amendment would that be, sir?

Mr. WALKO. 4546.

The SPEAKER pro tempore. Do you want to make a general statement pertaining to all three?

Mr. WALKO. Yes, ma'am.

Thank you, Madam Speaker.

Another problem with the city of Pittsburgh is that its revenue-generating mechanisms are far outdated. Among other things, the very largest employers in the city of Pittsburgh pay little or no corporate taxes. My amendments would have addressed this problem by taking away exemptions from the business privilege tax, and that would have increased the city's revenue sources by \$51 million. That would have addressed the terribly inequitable situation in the city whereby people like my barber, Tom Matrascia, on East Ohio Street on the North Side, pay the business privilege tax but entities like the largest banks, like other corporate, Fortune 500 corporations in the city of Pittsburgh, do not pay the business privilege tax. However, I believe the entire business privilege tax ought to be changed, ought to be thrown out, and there should be meaningful reform in the city of Pittsburgh.

At this time, however, I would like to withdraw this and the other two amendments.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the bill on third consideration?

Mr. **READSHAW** offered the following amendment No. **A4616**:

Amend Title, page 1, line 4, by striking out “and”

Amend Title, page 1, line 4, by removing the period after “appropriation” and inserting
; and making repeals.

Amend Table of Contents, page 2, lines 18 and 19, by striking out all of said lines and inserting

Section 706. Taxing authority.

Section 707. Suspension and repeals.

Section 708. Effective date.

Amend Bill, page 45, line 28, by striking out all of said line and inserting

Section 706. Taxing authority.

Notwithstanding the provisions of section 2 of the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, to the contrary, any city (except cities of the first class), borough, town, township or school district may impose an occupational privilege tax in excess of \$10.

Section 707. Suspension and repeals.

Amend Bill, page 46, line 12, by striking out all of said line and inserting

(c) Inconsistent.—Section 2 of the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, is repealed insofar as it is inconsistent with this act.

Section 708. Effective date.

On the question,

Will the House agree to the amendment?

The **SPEAKER pro tempore**. On that question, the Chair recognizes the gentleman, Mr. Readshaw.

Mr. **READSHAW**. Thank you, Madam Speaker.

Amendment A4616. This amendment could assist local governments throughout the Commonwealth. It would create the absence of the limits on the occupational privilege assessment, and local governments and local officials would be completely responsible and accountable for the process, and I would ask for an affirmative vote.

Thank you.

The **SPEAKER pro tempore**. The Chair recognizes the gentleman from Allegheny County, Mr. Turzai, on the amendment.

Mr. **TURZAI**. We would ask the Assembly to oppose this amendment. This is an amendment that would affect all of the boroughs, towns, townships, school districts, that you represent. It would enable each of those entities to raise an occupational privilege tax in excess of \$10 without any cap.

Please vote against this amendment.

The **SPEAKER pro tempore**. The Chair recognizes the gentleman from Allegheny County, Mr. Frankel, on the amendment.

Mr. **FRANKEL**. Thank you, Madam Speaker.

I rise to support my colleague, Representative Readshaw’s amendment to raise the cap on the occupational privilege tax on a statewide basis. This tax, which we are very familiar with in Allegheny County and our region, was established in 1963. It has remained at \$10 for 40 years.

Now, we are going to be talking about the city of Pittsburgh very shortly, but this is very much a statewide issue. Third-class cities, smaller municipalities, and boroughs that have commercial districts are all facing significant economic challenges. It is not simply the city of Pittsburgh; it is all of our

communities, and they are in Republican and Democratic districts. It is not reasonable, Madam Speaker, it is not reasonable that for 40 years this tax has not even been slightly adjusted, let alone reflect what has happened with inflation.

Communities across Pennsylvania are struggling. Some of our affluent communities in western Pennsylvania, the community of Mount Lebanon, which has a significant commercial district, is facing a significant deficit and considering an increase in its property taxes, and they are going to be laying off police officers. This is one of our affluent districts. This occupational privilege tax needs to be adjusted to reflect the inflationary trend of 40 years, and it is only reasonable that it be increased at this time, and it would be fair and help revitalize our communities across the State.

I urge all my members to take this opportunity to help our cities, our municipalities, and townships and boroughs that have commercial districts and that are struggling to recover and help them with their finances with this bill.

Thank you very much.

The **SPEAKER pro tempore**. The Chair thanks the gentleman and recognizes the gentleman from Luzerne County, Mr. Tigue, on the amendment.

Mr. **TIGUE**. Thank you, Madam Speaker.

Madam Speaker, I would like to interrogate the maker of the amendment, please.

The **SPEAKER pro tempore**. The gentleman agrees. You may proceed.

Mr. **TIGUE**. Madam Speaker, this would allow all taxing jurisdictions who collect that to raise beyond \$10. Is that correct?

Mr. **READSHAW**. That is accurate.

Mr. **TIGUE**. Is there any limit to which they could raise or is there any high limit, or could they make it whatever they choose?

Mr. **READSHAW**. No; this removes the cap, and it lets that decision up to the local municipalities throughout the Commonwealth.

Mr. **TIGUE**. Thank you, Madam Speaker.

I would like to make a statement, please.

The **SPEAKER pro tempore**. The gentleman may proceed.

Mr. **TIGUE**. Madam Speaker, I think that the basis of this amendment is correct in that we should allow cities and all municipalities and school districts to have an occupational privilege tax greater than \$10. However, I also think that we have to have an upper limit. I do not think we should allow municipalities and school districts, regardless of who they are or what size they are or what classification, to determine what the tax rate is for people who do not live or vote for those people. They could actually, as an extreme example, make this a \$1,000 tax and lower taxes for people who live in that municipality.

I think there is a flaw in the drafting of this amendment. I would support increasing it from \$10 but not give all the taxing jurisdictions unlimited range in which to raise it.

Thank you, Madam Speaker.

The **SPEAKER pro tempore**. The Chair thanks the gentleman and recognizes the gentleman from Allegheny County, Mr. Maher, on the amendment.

Mr. **MAHER**. Thank you, Madam Speaker.

This is an important subject, one which is perhaps overdue for consideration on a statewide basis. However, I am not sure

today is the day for the decision. And I note, Madam Speaker, that there does not seem to be a fiscal note accompanying the amendment, and I might ask the maker of the amendment to consider withdrawing the amendment, or – before I make a motion to rule it out of order.

The SPEAKER pro tempore. Does the gentleman have a fiscal note for this amendment?

Mr. READSHAW. No, Madam Speaker, I do not. From my understanding, this represents no cost at all to the Commonwealth.

The SPEAKER pro tempore. The gentleman is correct. It does not need a fiscal note, according to the Parliamentarian.

Would the two gentlemen approach the podium, please.

(Conference held at Speaker's podium.)

The SPEAKER pro tempore. The Chair recognizes the gentleman from Allegheny, Mr. Maher.

Mr. MAHER. Madam Speaker, I am going to withdraw my point of order but renew my encouragement to my good friend, Mr. Readshaw, to consider withdrawing the amendment absent a fiscal note.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Allegheny County, Mr. Readshaw, on the amendment.

Mr. READSHAW. Thank you, Madam Speaker.

Madam Speaker, I will be withdrawing this amendment. However, I would like to make a correction, if I may, on some of the things that have been said, one being, a previous speaker referred to a tax increase. My goal here was to simply return the decisionmaking power on the assessments to local government. It would make them the responsible parties and the accountable parties.

AMENDMENT WITHDRAWN

Mr. READSHAW. So with that much being said, Madam Speaker, I thank you very much, and I will withdraw the amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the bill on third consideration?

Mr. DeWEESE offered the following amendment No. **A4744**:

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

Amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, providing

Amend Table of Contents, page 1, lines 5 through 17; page 2, lines 1 through 19, by striking out all of said lines on said pages

Amend Bill, page 2, lines 22 through 30; pages 3 through 45, lines 1 through 30; page 46, lines 1 through 13, by striking out all of said lines on said pages and inserting

Section 1. Title 53 of the Pennsylvania Consolidated Statutes is amended by adding a chapter to read:

CHAPTER 83

FINANCIAL REVIEW AND INTERGOVERNMENTAL COOPERATION AUTHORITY

Sec.

8301-A. Scope.

8302-A. Policy and legislative intent.

8303-A. Legislative findings.

8304-A. Definitions.

8305-A. Authority established.

8306-A. Governing board.

8307-A. Powers and duties.

8308-A. Term of existence.

8309-A. Fiscal year.

8310-A. Annual budget of authority.

8311-A. Annual report and audit.

8312-A. Financial plan of an assisted city.

8313-A. Issuance and restructuring of debt.

8314-A. Review of annual operating and capital budgets.

8315-A. Withholding of Commonwealth funds.

8316-A. Additional taxing authority.

8317-A. Limitation on assisted cities to file petition for relief under Federal bankruptcy law.

8318-A. Investment of funds.

8319-A. Sovereign immunity.

8320-A. General rights and prohibitions.

8321-A. Nondiscrimination.

8322-A. Limitation of authority powers.

8323-A. Construction.

8324-A. Repeals and savings provisions.

§ 8301-A. Scope.

This chapter provides for the establishment of the Financial Review and Intergovernmental Cooperation Authority for Cities of the Second Class.

§ 8302-A. Policy and legislative intent.

(a) Policy.—It is hereby declared to be a public policy of the Commonwealth to exercise its retained sovereign powers with regard to taxation and matters of Statewide concern in a manner calculated to foster the fiscal integrity of cities of the second class to assure that these cities provide for the health, safety and welfare of their citizens; pay principal and interest owed on their debt obligations when due; meet financial obligations to their employees, vendors and suppliers; and provide for proper financial planning procedures and budgeting practices. The inability of a city of the second class to provide essential services to its citizens as a result of a fiscal emergency is hereby determined to affect adversely the health, safety and welfare not only of the citizens of that municipality but also of other citizens in this Commonwealth.

(b) Legislative intent.—

(1) It is the intent of the General Assembly to:

(i) Provide cities of the second class with the legal tools with which such cities can perform essential municipal services.

(ii) Foster sound financial planning and budgetary practices for cities of the second class, which cities shall be charged with the responsibility to exercise efficient and accountable fiscal practices, such as:

(A) managerial accountability;

(B) consolidation or elimination of inefficient city programs and authorities;

(C) careful evaluation of tax-exemption policies with regard to real property taxes;

(D) increased collection of existing tax revenues;

(E) improvement of procurement practices, including competitive bidding procedures;

(F) review of compensation and benefits of city employees.

(iii) Exercise its powers consistent with the rights of citizens to home rule and self-government.

(2) The General Assembly further declares that this chapter is intended to remedy the apparent fiscal emergency confronting cities of the second class through the implementation of sovereign powers of the Commonwealth. To safeguard the rights of the citizens to the electoral process and home rule, the General Assembly intends to exercise its power in an appropriate manner with the elected officers of cities of the second class.

§ 8303-A. Legislative findings.

It is hereby determined and declared as a matter of legislative finding that:

(1) Cities of the second class have encountered recurring financial difficulties which may affect the performance of necessary municipal services to the detriment of the health, safety and general welfare of residents of such cities.

(2) It is critically important that cities of the second class maintain their creditworthiness.

(3) Due to the economic and social interrelationship among all citizens in our economy, the fiscal integrity of cities of the second class is a matter of concern to residents of this entire Commonwealth, and the financial problems of such cities have a direct and negative effect on this entire Commonwealth.

(4) Because cities of the second class consume a substantial proportion of the products of Pennsylvania's farms, factories, manufacturing plants and service enterprises, economic difficulties confronting cities of the second class detrimentally affect the economy of this Commonwealth as a whole and become a matter of Statewide concern.

(5) Because residents of cities of the second class contribute a substantial proportion of all Commonwealth tax revenues, a disruption of the economic and social life of such cities may have a significant detrimental effect upon Commonwealth revenues.

(6) The financial difficulties of cities of the second class can best be addressed and resolved by cooperation between governmental entities.

(7) The Constitution of Pennsylvania grants municipalities authority to cooperate with other governmental entities in the exercise of any function or responsibility.

(8) The Commonwealth retains certain sovereign powers with respect to cities of the second class, among them the powers to authorize and levy taxes, to authorize the incurring of indebtedness and to provide financial assistance that may be necessary to assist cities in solving their financial problems.

(9) The Commonwealth may attach conditions to grants of authority to incur indebtedness or assistance to cities of the second class in order to ensure that deficits are eliminated and access to capital markets is achieved and maintained.

(10) Such conditions shall be incorporated into financial review and intergovernmental cooperation agreements between the Commonwealth or its instrumentalities and cities of the second class.

(11) Cities of the second class and the Commonwealth will benefit from the creation of an independent authority composed of members experienced in finance and management which may advise such cities, the General Assembly and the Governor concerning solutions to fiscal problems cities of the second class may face.

(12) The creation of such an authority will allow such cities to continue to provide the necessary municipal services for their residents and to contribute to the economy of this Commonwealth.

§ 8304-A. Definitions.

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

"Assisted city." A city of the second class that enters into a financial review and intergovernmental cooperation agreement with the authority. The term includes any municipal authority, other authority or

other corporate entity which performs a governmental function on behalf of the city to which the city contributes funds or for which the city provides services, assumes obligations, incurs debts, pledges its credit or assumes other obligations.

"Authority." The Financial Review and Intergovernmental Cooperation Authority for Cities of the Second Class established in section 8305-A (relating to authority established).

"Board." The governing board of the authority.

"Charity." An institution of purely public charity under the act of November 26, 1997 (P.L.508, No.55), known as the Institutions of Purely Public Charity Act.

"City." A city of the second class.

"City account." A trust fund held for the exclusive benefit of an assisted city.

"Compensation." Salaries, wages, commissions, bonuses and incentive payments, whether based on profits or otherwise, fees, tips and similar remuneration and profits for services rendered, whether directly or through an agent and whether in cash or in property. The term does not mean or include any of the following:

(1) Periodic payments for sickness and disability other than regular wages received during a period of sickness or disability.

(2) Disability, retirement or other payments arising under workers' compensation acts, occupational disease acts and similar legislation by any government.

(3) Payments commonly recognized as old age or retirement benefits paid to persons retired from service after reaching a specific age or after a stated period of employment.

(4) Payments commonly known as public assistance or unemployment compensation payments by any governmental agency.

(5) Payments to reimburse actual expenses.

(6) Payments made by employers or labor unions, including payments made pursuant to a cafeteria plan qualifying under section 125 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.), for employee benefit programs covering hospitalization, sickness, disability or death, supplemental unemployment benefits or strike benefits, provided that the program does not discriminate in favor of highly compensated individuals as to eligibility to participate, payments or program benefits.

(7) Any compensation received by United States servicemen serving in a combat zone.

(8) Payments received by a foster parent for in-home care of foster children from an agency of the Commonwealth or a political subdivision thereof or an organization exempt from Federal tax under section 501(c)(3) of the Internal Revenue Code of 1986 which is licensed by the Commonwealth or a political subdivision thereof as a placement agency.

(9) Payments made by employers or labor unions for employee benefit programs covering Social Security or retirement.

(10) Personal use of an employer's owned or leased property or of employer-provided services.

"Corporate entity." A municipal authority, other authority or other corporate entity that performs a governmental function on behalf of the city or to which the city has power of appointment or has pledged or designated revenues.

"Deficit." Such negative fund balance in any principal operating fund or funds of a city or corporate entity existing or projected to exist as of the close of a fiscal year, as may be more specifically identified, calculated and set forth in financial review and intergovernmental cooperation agreement or financial plan of an assisted city described in section 8314-A (relating to review of annual operating and capital budgets).

"Employee." A person subject to an occupation privilege tax levied by a city under the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act.

“Employer.” An individual, sole proprietor, partnership, limited partnership, association, corporation, S corporation, estate or trust, including a financial employer, a manufacturer and a regulated employer.

“Federal agency.” The United States, the President of the United States and any department or corporation, agency or instrumentality created, designated or established by the United States.

“Financial employer.” An employer that is not a regulated employer but is a private bank or banker; a building and loan association; a savings and loan association; a credit union; a savings bank; a bank; a bank and trust company; a trust company; an employer that is a regulated financial services institution; an investment company registered as such with the Federal Securities and Exchange Commission; a holding company; a person registered under the act of December 5, 1972 (P.L.1280, No.284), known as the Pennsylvania Securities Act of 1972, including a trader; a dealer and broker in money, credits, commercial paper, bonds, notes, securities and stocks and monetary metals; or a factor and commission merchant.

“Financial review and intergovernmental cooperation agreement.” An intergovernmental cooperation agreement made by the authority and a city under the provisions of section 8307-A(d) (relating to powers and duties) for the purpose of providing for the financial review of the budgetary affairs of the city and to provide financial assistance to the city.

“Governing body.” The legislative body of a city.

“Government agency.” The Governor, a department, board, commission, authority or other officer and agency of State government, including any that are not subject to the policy, supervision and control of the Governor, a political subdivision, municipal or other local authority, and an officer or agency of any such political subdivision or local authority. The term does not include a court or other officer or agency of the unified judicial system or the General Assembly or any of its officers and agencies.

“Manufacturer.” A person whose business is the sale of goods, commodities, wares or merchandise of its own manufacture, growth or production, including processors.

“Mayor.” A mayor or other chief executive officer of a city.

“Party officer.” Any of the following members or officers of a political party:

- (1) A member of a national committee.
- (2) A member or counsel of a State committee or member of the executive committee of a State committee.
- (3) A county chairman, vice chairman, counsel, secretary or treasurer of a county committee.
- (4) A chairman, vice chairman, counsel, secretary, treasurer or ward leader of a city or municipal committee.

“Person.” A corporation, partnership, business trust, other association, estate, trust, foundation or natural person.

“Public official.” An elected or appointed official or employee in the executive, legislative or judicial branch of the Commonwealth or any political subdivision thereof. The term does not include a member of an advisory board that has no authority to expend public funds other than reimbursement for personal expense or to otherwise exercise the power of the Commonwealth or any political subdivision thereof. The term does not include an appointed official who receives no compensation other than reimbursement for actual expenses.

“Regulated employer.” Any of the following:

- (1) An employer subject to tax pursuant to Article VII, VIII, IX or XV of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.
- (2) A public utility operating under the laws, rules and regulations administered by the Pennsylvania Public Utility Commission, all or a portion of the activities of which is to furnish or supply service or services at the rates specified in its tariffs.
- (3) An employer which is a health maintenance organization as defined in the act of December 29, 1972

(P.L.1701, No.364), known as the Health Maintenance Organization Act.

(4) An employer which is a preferred provider organization as defined in section 630 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, and 31 Pa. Code § 152.2 (relating to definitions).

(5) An employer licensed under the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code.

“S corporation.” A person with a valid election in effect under Subchapter S of Chapter 1 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.) as of January 1, 1997.

“Sound budgetary practices.” The preparation and adoption of structurally balanced budgets utilizing generally accepted governmental accounting practices consistent with five-year financial plans based upon reasonable revenue estimates prepared by an independent entity approved by the board and maintaining financial reserves consistent with the levels recommended by national organizations such as the Government Finance Officers Association. The term does not include reliance upon the receipt of funds from other governmental entities for which significant changes in existing laws or policies are required and have not been adopted, substantial changes in collective bargaining agreements which have not been approved by the city and any relevant bargaining units, the use of capital budget funds to pay for noncapital items or items which will require maintenance or operating expenses not included in the five-year financial plans approved by the board, or the execution of multiyear contracts or collective bargaining agreements inconsistent with five-year financial plans approved by the board.

“Tax collector.” The receiver of taxes in a city.
§ 8305-A. Authority established.

A body corporate and politic to be known as the Financial Review and Intergovernmental Cooperation Authority for Cities of the Second Class is established as a public authority and instrumentality of the Commonwealth, exercising public powers of the Commonwealth as an agency and instrumentality. The exercise by the authority of the powers conferred by this chapter is hereby declared to be and shall for all purposes be deemed and held to be the performance of an essential public function.

§ 8306-A. Governing board.

(a) Composition.—

(1) The powers and duties of the authority shall be exercised by a governing board composed of five members:

- (i) One member shall be appointed by the Governor.
- (ii) One member shall be appointed by the President pro tempore of the Senate.
- (iii) One member shall be appointed by the Minority Leader of the Senate.
- (iv) One member shall be appointed by the Speaker of the House of Representatives.
- (v) One member shall be appointed by the Minority Leader of the House of Representatives.

(vi) The Secretary of the Budget and the director of finance of each assisted city shall serve as ex officio members of the board. The ex officio members may not vote, shall not be counted for purposes of establishing a quorum and may designate in writing a representative of their respective offices to attend meetings of the board on their behalf.

(2) All members and designees must have substantial experience in finance or management.

(3) All members of the board must be residents of this Commonwealth and, except the Secretary of the Budget or his designee, must either be residents of the assisted city or have their primary places of business or employment in that city.

(b) Term of appointed members.—Appointing authorities shall appoint the initial members of the board within 30 days of the effective date of this chapter. The initial term of the member appointed pursuant

to subsection (a)(i) shall be two years; the initial term of the members appointed pursuant to subsection (a)(ii) and (iii) shall be three years; and the term of the members appointed pursuant to subsection (a)(iv) and (v) and the subsequent term of all other members shall be four years, provided that the member's term shall continue until his or her replacement is appointed, and members shall serve at the pleasure of the respective appointing authority. No appointed board member shall serve more than two consecutive terms. Whenever a vacancy occurs among the appointed members on the board, whether prior to or on the expiration of a term, the appointing authority who originally appointed the board member whose seat has become vacant shall appoint a successor member within 30 days of the vacancy. A member appointed to fill a vacancy occurring prior to the expiration of a term shall serve the unexpired term.

(c) Organization.—The director of finance of the city shall convene the initial organizational meeting of the board within 30 days of the appointment of at least four of the initial voting members of the board. The members shall elect a chairman and such other officers as they may determine. A member may hold more than one office of the board at any time.

(d) Meetings.—After the initial organizational meeting, the board shall meet as frequently as it deems appropriate but at least once during each quarter of the fiscal year. In addition, a meeting of the board shall be called by the chairperson if a request for a meeting is submitted to the chairperson by at least two members of the board. A majority of the board shall constitute a quorum for the purpose of conducting the business of the board and for all other purposes. All actions of the board shall be taken by a majority of the board.

(e) Expenses.—A member shall not receive compensation or remuneration, but shall be entitled to reimbursement for all reasonable and necessary actual expenses.

(f) Employees and agents.—The board may not employ permanent staff but may engage consultants and obtain temporary staff assistance as necessary to fulfill its responsibilities and may delegate to agents such powers of the board as the board deems necessary to carry out the purposes of the authority, subject in every case to the supervision and control of the board. The board may contract for or receive the loan of services of persons in the employ of other government agencies, and other government agencies shall be authorized to make such employees available.

(g) Public officials and party officers.—

(1) Except for the Secretary of the Budget and the director of finance of an assisted city, members of the board shall not seek or hold a position as any other public official within this Commonwealth or as a party officer while in the service of the authority. Members of the board and the executive director shall not seek election as public officials or party officers for one year after their service with the authority. Members of the board may serve as appointive public officials any time after their periods of service with the authority.

(2) Agents of the authority shall not seek or hold other positions as public officials or party officers while in the employ of the authority. The authority may receive the loan of services of persons in other government agencies in accordance with subsection (f), notwithstanding that such persons are public officials.

(h) Statutes applying to authority.—

(1) The authority shall be subject to all applicable laws of this Commonwealth, including:

(i) The act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.

(ii) Except as set forth in paragraph (2), the act of July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest Act.

(iii) The provisions of 65 Pa.C.S. Ch. 7 (relating to open meetings).

(iv) 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure).

(2) Notwithstanding the provisions of the State Adverse Interest Act, the Secretary of the Budget and the director of finance of each assisted city shall, while serving as ex officio members of the board, also serve in their official capacities with respect to the negotiation and execution of financial review and intergovernmental cooperation agreements and other agreements between an assisted city and the authority.

(i) Advisory committees.—To assist in the performance of its duties, the board shall establish a financial leadership committee composed of volunteers to make recommendations for achieving efficiencies and cost reductions in services of the assisted city, merger of services with other units of government and other actions, and the board may appoint additional advisory committees comprised of professionals engaged in municipal management and finance or other experts as it may deem necessary. The members of any advisory committee must reside within an assisted city or a county within the metropolitan statistical area in which the assisted city is located. The provisions of subsection (g) shall be applicable to members of an advisory committee; however, the board may allow city council to designate a liaison from city council to serve on an advisory committee.

§ 8307-A. Powers and duties.

(a) General powers and duties.—The authority is established for the purposes, without limitation, by itself or by agreement in cooperation with others, of assisting cities in solving their budgetary and financial problems.

(b) Specific duties.—The authority shall have the powers and its duties shall be:

(1) To assist cities in achieving financial stability in any manner consistent with the purposes and powers described by this chapter.

(2) To assist cities in avoiding defaults, eliminating and financing deficits, maintaining sound budgetary practices and avoiding the interruption of municipal services.

(3) To negotiate financial review and intergovernmental cooperation agreements as authorized by section 5 of Article IX of the Constitution of Pennsylvania and 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation) with any city subject to this chapter containing such terms and conditions as will enable such cities to eliminate and avoid deficits, maintain sound budgetary practices and avoid interruption of municipal services.

(4) To make annual reports within 120 days after the close of the assisted city's fiscal year, commencing with the fiscal year ending December 31, 2003, to the Governor and the General Assembly describing the city's financial condition and the authority's progress with respect to restoring the financial stability of assisted cities and achieving balanced budgets for assisted cities. Such reports shall be filed with the Governor, with the presiding officers of the Senate and the House of Representatives, with the chairperson and minority chairperson of the Appropriations Committee of the Senate, and the chairperson and minority chairperson of the Appropriations Committee of the House of Representatives, and with the governing body, mayor and controller of the assisted city.

(c) Specific powers.—In addition to the powers and duties set forth in this chapter, the authority shall have the specific powers:

(1) To obtain copies of all reports regarding the revenues, expenditures, budgets, deficits, costs, plans, operations, estimates and any other financial or budgetary matters of an assisted city.

(2) To obtain additional reports on the matters in paragraph (1) in such form as are deemed necessary by the authority.

(3) To make factual findings concerning an assisted city's budgetary and fiscal affairs.

(4) To make recommendations to an assisted city concerning its budgetary and fiscal affairs. Recommendations under this paragraph may include:

(i) Consolidation or merger of services performed by an assisted city, school, county or other surrounding municipality.

(ii) Consolidation of public safety services.

(iii) Appropriate staffing levels of city departments and corporate entities.

(iv) Cooperative agreements or contractual arrangements between health care facilities licensed by the Department of Health.

(v) Financial or contractual obligations of the assisted city.

(vi) Contributions of nonprofit or charitable organizations which receive the benefit of municipal services provided by the assisted city.

(vii) Cooperative agreements between the assisted city and the county in which it is located or municipalities which border on the assisted city.

(viii) Cooperative agreements between the assisted city and the school district serving the residents of the assisted city.

(ix) Elimination, sale or transfer of assisted city services or property.

(x) Implementation of cost-saving measures by the assisted city.

(xi) Increased managerial accountability.

(xii) Performance of government operations and delivery of municipal services.

(xiii) Reevaluation of tax-exemption policies and practices with regard to real property taxation within the assisted city.

(xiv) Improvements in procurement practices.

(xv) Implementation of user fees for services, including sewage, water treatment and refuse collection.

(xvi) Competitive bidding of appropriate assisted city services.

(xvii) Increased collection of fines and costs relating to parking violations or violations of other city ordinances.

(xviii) To recommend, when appropriate, filing for bankruptcy under 11 U.S.C. Ch. 9 (relating to adjustment of debt of a municipality).

(xix) Consideration of reports and proposals published and made available to the public.

(5) To approve issuance, reduction and restructuring of debt obligations.

(6) To make recommendations to the Governor and the General Assembly regarding legislation or resolutions which relate to an assisted city's financial stability.

(7) To exercise powers of review concerning the budgetary and fiscal affairs of the assisted city consistent with this chapter and the city's home rule charter or other optional plan of government.

(8) To receive revenues from any source, directly or by assignment, pledge or otherwise.

(9) To sue and be sued, implead and be impleaded, interplead, complain and defend in all courts.

(10) To adopt, use and alter at will a corporate seal.

(11) To make bylaws for the management and regulation of its affairs and adopt rules, regulations and policies in connection with the performance of its functions and duties which, notwithstanding any other provision of law to the contrary, shall not be subject to review pursuant to the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

(12) To make and enter into contracts and other instruments necessary or convenient for the conduct of its business and the exercise of the powers of the authority.

(13) To appoint officers, agents, employees and servants, to prescribe their duties and to fix their compensation as set forth in section 8306-A(f) (relating to governing board).

(14) To retain counsel and auditors to render such professional services as the authority deems appropriate. The authority shall not be considered either an executive agency or an independent agency for the purposes of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, but shall possess the same status for such purpose as the Auditor General, State Treasurer and the Pennsylvania Public Utility Commission, except that the provisions of section 204(b) and (f) of the Commonwealth Attorneys Act shall not apply to the authority; notwithstanding 42 Pa.C.S. Ch. 85 (relating to matters affecting government units), the authority, through its legal counsel, shall defend actions brought against the authority or its members, officers, officials and employees when acting within the scope of their official duties.

(15) To cooperate with any Federal agency or government agency.

(16) To acquire, by gift or otherwise, purchase, hold, receive, lease, sublease and use any franchise, license, property, real, personal or mixed, tangible or intangible or any interest therein. However, the authority shall be absolutely limited in its power to acquire real property under this chapter to real property that will be used only for the office space in which the authority will conduct its daily business. An assisted city may provide office space to the authority at no cost as part of a financial review and intergovernmental cooperation agreement.

(17) To sell, transfer, convey and dispose of any property, real, personal or mixed, tangible or intangible, or any interest therein.

(18) To enter into contracts for group insurance and to contribute to retirement plans for the benefit of its employees and to enroll its employees in an existing retirement system of a government agency.

(19) To accept, purchase or borrow equipment, supplies, services or other things necessary or convenient to the work of the authority from other government agencies, and all government agencies are authorized to sell, lend or grant to the authority such equipment, supplies, services or other things necessary or convenient to the work of the authority.

(20) To invest any funds held by the authority as set forth in section 8318-A (relating to investment of funds).

(21) To receive and hold assets, moneys and funds from any source, including, but not limited to, appropriations, grants and gifts.

(22) To procure insurance, guarantees and sureties the authority determines necessary or desirable for its purposes.

(23) To pledge the credit of the authority as the authority determines necessary or desirable for its purposes.

(24) To do all acts and things necessary or convenient for the promotion of its purposes and the general welfare of the authority and to carry out the powers granted to it by this chapter or any other acts.

(d) Financial review and intergovernmental cooperation agreements.—The authority shall have the power and its duty shall be to enter into and to implement fully such financial review and intergovernmental cooperation agreements with cities as are approved by a majority of the board. The following shall apply:

(1) A city may enter into a financial review and intergovernmental cooperation agreement in which it, consistent with this chapter, covenants to cooperate or agree in the exercise of any function, power or responsibility with, or delegate or transfer any function, power or responsibility to, the authority

upon the adoption by the governing body of such city of an ordinance authorizing and approving the agreement.

(2) An ordinance that authorizes a city to enter into a financial review and intergovernmental cooperation agreement with the authority shall specify:

- (i) the purpose and objectives of the agreement;
- (ii) the conditions of the agreement; and
- (iii) the term of the agreement, including provisions relating to its termination.

(e) Recommendations for business tax reform.—The authority shall evaluate the competitiveness of the city's business tax structure and make recommendations for reforms to the Governor, the General Assembly, the mayor and the governing body of the city within two years after execution of a financial review and intergovernmental cooperation agreement. In preparing its recommendations, the authority shall solicit input from a broad cross section of the business community in the assisted city and from the members of the Pittsburgh Financial Leadership Committee appointed by the board.

(f) Recommendations regarding merger.—The authority shall commission a study of the merits of a merger of each assisted city with its surrounding county and make recommendations as to whether and how such a merger should be pursued to the General Assembly, the mayor and the governing body of the assisted city and to the chief executive officer and governing body of the county in which the city is located.

(g) Limitation.—Notwithstanding any purpose or general or specific power granted by this chapter or any other act, whether express or implied, the authority shall have no power to pledge the credit or taxing powers of the Commonwealth.

§ 8308-A. Term of existence.

The authority shall exist for a term of at least seven years. If, after seven years, an assisted city has had annual operating budgets and five-year financial plans approved by the board for at least the three immediately preceding years, the Secretary of Community and Economic Development shall certify that the authority is no longer needed and the provisions of this chapter will no longer be in effect 90 days following that certification. Upon termination of the authority, records and documents of the authority shall be transferred to the director of finance of the city. The authority shall submit a final report on its activities and the financial condition of the city and its corporate entities to the Governor and General Assembly within 60 days of its termination.

§ 8309-A. Fiscal year.

The fiscal year of the authority shall be the same as the fiscal year of the Commonwealth.

§ 8310-A. Annual budget of authority.

(a) Budget.—Before March 1 of each year, the authority shall adopt a budget by a majority of the board setting forth in reasonable detail the projected expenses of operation of the authority for the ensuing fiscal year, including proposed payments to consultants of the authority, and the projected revenues of the authority to be derived from investment earnings and any other moneys of the authority which are estimated to be available to pay the operating expenses set forth in the budget. A copy of the authority's budget shall be submitted to the Governor and to the General Assembly. The authority or its designated representatives may be afforded an opportunity to appear before the Governor, the Appropriations Committee of the Senate and the Appropriations Committee of the House of Representatives regarding the authority's budget.

(b) Limit on operating expenses.—Following the submission of the authority's budget to the Governor and the General Assembly and any hearing held by an appropriations committee under subsection (a), the General Assembly, by concurrent resolution with presentment to the Governor, in accordance with section 9 of Article III of the Constitution of Pennsylvania, may limit the operating expenses of the authority. In that event, it shall be unlawful for the authority to spend more for operating expenses than the limit established for that

fiscal year by the concurrent resolution. If the General Assembly does not adopt a concurrent resolution prior to May 30, the authority's budget shall be deemed approved for that fiscal year.

(c) Examination of books.—The chairperson and minority chairperson of the Appropriations Committee of the Senate and the chairperson and minority chairperson of the Appropriations Committee of the House of Representatives shall have the right at any time to examine the books, accounts and records of the authority.

§ 8311-A. Annual report and audit.

The authority shall file an annual report with the chairperson and minority chairperson of the Appropriations Committee of the Senate and the chairperson and minority chairperson of the Appropriations Committee of the House of Representatives, which shall make provisions for the accounting of revenues and expenses. The authority shall have its books, accounts and records audited annually in accordance with generally accepted auditing standards by an independent auditor who shall be a certified public accountant, and a copy of the audit report shall be attached to and be made a part of the authority's annual report. A concise financial statement shall be published annually in the Pennsylvania Bulletin.

§ 8312-A. Financial plan of an assisted city.

(a) Requirement of a financial plan.—Pursuant to a financial review and intergovernmental cooperation agreement executed pursuant to this chapter, the mayor of an assisted city shall develop, implement and periodically revise a financial plan as described in this section.

(b) Elements of plan.—The financial plan shall include:

(1) Projected revenues and expenditures of the principal operating fund or funds of the assisted city for five fiscal years consisting of the current fiscal year and the next four fiscal years.

(2) Plan components that will:

(i) Eliminate any projected deficit for the current fiscal year and for subsequent fiscal years.

(ii) Restore to special fund accounts money from those accounts used for purposes other than those specifically authorized.

(iii) Balance the current fiscal year budget and subsequent budgets in the financial plan through sound budgetary practices, including, but not limited to, reductions in expenditures, improvements in productivity, increases in revenues or a combination of these steps.

(iv) Provide procedures to avoid a fiscal emergency condition in the future.

(v) Enhance the ability of the assisted city to access short-term and long-term credit markets.

(c) Standards for formulation of plan.—

(1) All projections of revenues and expenditures in a financial plan shall be based on reasonable and appropriate assumptions and methods of estimation, all such assumptions and methods to be consistently applied. Except as provided by this chapter, the financial plan of an assisted city shall not include projected revenue that in order to be collected requires the enactment by the General Assembly of new taxing powers for the assisted city.

(2) All revenue and appropriation estimates shall be in accordance with sound budgetary practices and accounting standards applicable to cities as promulgated by the Government Accounting Standards Board. Revenue estimates shall recognize revenues in the accounting period in which they become both measurable and available. Estimates of city-generated revenues shall be based on current or proposed tax rates, historical collection patterns and generally recognized models and estimation methods. Estimates of revenues to be received from the State government shall be based on historical patterns, currently available levels or on levels proposed in a budget by the Governor. Estimates of revenues to be received from the Federal Government shall be based on historical

patterns, currently available levels or on levels proposed in a budget by the President or in a congressional budget resolution. Nontax revenues shall be based on current or proposed rates, charges or fees, historical patterns and generally recognized models and estimation methods. Appropriation estimates shall include, at a minimum, all obligations incurred during the fiscal year and estimated to be payable during the fiscal year or in the 24-month period following the close of the current fiscal year and all obligations of prior fiscal years not covered by encumbered funds from prior fiscal years. Any deviations from these standards of estimating revenues and appropriations proposed to be used by an assisted city shall be specifically disclosed and shall be approved by a majority of the board.

(3) All cash flow projections shall be based upon reasonable and appropriate assumptions as to sources and uses of cash, including, but not limited to, reasonable and appropriate assumptions as to the timing of receipt and expenditure thereof, and shall provide for operations of the assisted city to be conducted within the resources so projected. All estimates shall take due account of the past and anticipated collection, expenditure and service demand experience of the assisted city and of current and projected economic conditions.

(d) Form of plan.—Each financial plan shall, consistent with the requirements of an assisted city's home rule charter or optional plan of government:

(1) be in such form and shall contain:

(i) for each of the two fiscal years covered by the financial plan, such information as shall reflect an assisted city's total expenditures by fund and by lump sum amount for each board, commission, department or office of an assisted city; and

(ii) for the remaining three fiscal years of the financial plan, such information as shall reflect an assisted city's total expenditures by fund and by lump sum amount for major object classification;

(2) include projections of all revenues and expenditures for five fiscal years, including, but not limited to, projected capital expenditures and short-term and long-term debt incurrence and cash flow forecasts by fund for the first year of the financial plan;

(3) include a schedule of projected capital commitments of the assisted city and proposed sources of funding for such commitments; and

(4) be accompanied by a statement describing, in reasonable detail, the significant assumptions and methods of estimation used in arriving at the projections contained in such plan.

(e) Annual submission of plan.—An assisted city shall develop and submit to the authority for review an initial five-year financial plan as soon as practicable after the effective date of this chapter. During each subsequent fiscal year, the mayor of each assisted city shall, at least 70 days prior to the beginning of its fiscal year or on such other date as the authority may approve upon the request of the assisted city, prepare and submit its proposed five-year plan.

(f) Authority review and approval of plan.—

(1) The authority shall review and approve or disapprove the financial plan within 30 days of its submission based on a determination by the board as to whether the plan has been prepared using sound budgetary practices and in accordance with the requirements of this chapter.

(2) If the board disapproves a financial plan submitted by the mayor, the board must do so in writing, stating specific recommendations for corrective actions to be taken by the city.

(3) If the board disapproves a proposed five-year plan, the mayor shall submit a revised financial plan to the board for review within 15 days. The board shall then vote to approve or disapprove the revised financial plan within 15 days.

(g) Effect of plan upon contracts and collective bargaining agreements.—

(1) A contract or collective bargaining agreement in existence in an assisted city prior to the approval by the authority of a financial plan submitted pursuant to this section shall remain effective after approval of such plan until such contract or agreement expires.

(2) After the approval by the authority of a financial plan submitted pursuant to this section, an assisted city shall execute contracts and collective bargaining agreements in compliance with such plan. If an assisted city executes a contract or a collective bargaining agreement which is not in compliance with the plan, the contract or agreement shall not be void or voidable solely by reason of such noncompliance, but the assisted city shall submit to the authority a proposed revision to the plan which demonstrates that revenues sufficient to pay the costs of the contract or collective bargaining agreement will be available in the affected fiscal years of the plan.

(h) Effect of plan upon certain arbitration awards.—

(1) After the approval by the authority of a financial plan submitted pursuant to this section, any determination of a board of arbitration established pursuant to the provisions of the act of June 24, 1968 (P.L.237, No.111), referred to as the Policemen and Firemen Collective Bargaining Act, providing for an increase in wages or fringe benefits of any employee of an assisted city under the plan, in addition to considering any standard or factor required to be considered by applicable law, shall take into consideration and accord substantial weight to:

(i) the approved financial plan; and

(ii) relevant market factors, such as the financial situation of the assisted city, inflation, productivity, size of work force and pay and benefit levels in economically and demographically comparable political subdivisions.

(2) This determination shall be in writing and a copy thereof shall be forwarded to each party to the dispute and to the authority. Any determination of the board of arbitration which provides for an increase in wages or fringe benefits of any employee of an assisted city shall state with specificity in writing all factors which the board of arbitration took into account in considering and giving substantial weight to the factors referred to in paragraph (1).

(3) Any party to a proceeding before a board of arbitration may appeal to the court of common pleas to review:

(i) consideration under paragraph (1); or

(ii) failure of the board of arbitration to issue a determination under paragraph (2).

(4) An appeal under paragraph (3) must be commenced not later than 30 days after the issuance of a final determination by the board of arbitration.

(5) The decision of the board of arbitration shall be vacated and remanded to the board of arbitration if the court finds that the board of arbitration:

(i) failed to take into consideration and accord substantial weight to the factors referred to in paragraph (1); or

(ii) has failed to issue a determination under paragraph (2).

(6) If, after the exhaustion of all appeals, the final arbitration award is not in compliance with the approved financial plan, the award shall not be void or voidable solely by reason of such noncompliance, but the assisted city shall submit to the authority a proposed revision to the plan which demonstrates that revenues sufficient to pay the costs of the award will be available in the affected fiscal years of the plan.

(i) Effect of plan upon certain contracts.—After the approval by the authority of a financial plan submitted pursuant to this section, no contract shall be signed by the city that is inconsistent with or will increase costs beyond the amounts provided in the approved plan,

unless the assisted city submits to the authority a proposed revision to the plan which demonstrates that revenues sufficient to pay the costs of the contract will be available in the affected fiscal years of the plan and the authority approves the revision.

§ 8313-A. Issuance and restructuring of debt.

(a) General rule.—The assisted city and its corporate entities may not incur or restructure debt obligations without the consent of the authority.

(b) Consent of authority required.—The assisted city and its corporate entities shall not enter into any contracts pursuant to the issuance or restructuring of debt obligations without the consent of the authority.

§ 8314-A. Review of annual operating and capital budgets.

(a) Duty of mayor.—On or before December 31 of each year, the mayor shall submit to the authority an operating budget and a capital budget, following their review and approval by the city council or other legislative governing body of the city.

(b) Thirty-day review period.—The authority shall review and may approve or disapprove the annual operating budget of a city within 30 days of approval by the legislative governing body of the city based on a determination by the board as to whether:

- (1) the operating and capital budgets have been prepared using sound budgetary practices; and
- (2) the operating and capital budgets are substantially consistent with the approved five-year plan.

(c) Disapproval.—If the authority disapproves the annual operating budget, the board must do so in writing, stating specific recommendations for corrective action to be taken by the city.

(d) Revised operating or capital budgets.—If the authority disapproves an annual operating budget, the mayor shall, following review and approval by the city council or other legislative governing body of the city, submit a revised budget to the authority for review. The board shall then vote to approve or disapprove the revised operating budget with 15 days. If at any point during the year, the city adopts a revised operating budget, it shall submit it to the authority for approval in accordance with this section. If at any point during the year, the city adopts a revised capital budget that would require operating expenditures different than are included in the approved five-year plan, the city shall submit a revised five-year plan to the authority for its approval in accordance with the procedures in section 8312-A (relating to financial plan of an assisted city).

(e) Authority requirement for revised budget.—At any time following approval of a budget, if the authority has evidence that revenue shortfalls or cost increases have occurred or are likely to occur that will cause a deficit to occur, the authority may require the mayor to prepare and submit a revised budget that incorporates revised revenue or expenditure estimates. If the city fails to submit a revised budget that eliminates the deficit, the authority shall revoke its approval of the current operating budget and financial plan.

(f) Authority may make recommendations.—The authority may at any time issue recommendations as to how an assisted city may achieve compliance with the financial plan and shall provide copies of such recommendations to the mayor or chief executive officer and the governing body of the city and to the officials named in section 8306-A (relating to governing board).

§ 8315-A. Withholding of Commonwealth funds.

(a) Action by Secretary of the Budget.—If a city enters into a financial review and intergovernmental cooperation agreement pursuant to this chapter and the authority certifies that an assisted city is not in compliance with the requirements of this chapter regarding financial plans or capital and operating budgets, the Secretary of the Budget shall notify the city that such certification has been made and that each grant, loan, entitlement or payment to the assisted city by the Commonwealth shall be suspended pending compliance with the requirements of this chapter. Funds withheld shall be held in escrow by the Commonwealth until compliance with the plan is restored as set forth in subsection (c). Funds held in escrow pursuant to this section shall not lapse pursuant to section 621 of the act of April 9, 1929

(P.L.177, No.175), known as The Administrative Code of 1929, or any other law.

(b) Certification by authority.—The authority shall certify to the Secretary of the Budget an assisted city's noncompliance with the requirements of this chapter during any period when the authority has determined by the vote of a majority that the assisted city has not adhered to the plan and has not taken reasonable remedial action during the next quarter following notice of such noncompliance by the authority to the city to come into conformity with the requirements of this chapter.

(c) Noncompliance.—The authority shall certify to the Secretary of the Budget that an assisted city is not in compliance with the requirements of this chapter if the assisted city:

- (1) has failed to submit any financial plans, operating budgets or capital budgets to the authority as required by this chapter; or
- (2) has failed to make reasonable modifications to its financial plans, operating budgets or capital budgets as deemed necessary to obtain approval for the plan by the authority.

(d) Correction of noncompliance.—The authority shall, by majority vote, determine when the conditions which caused an assisted city to be certified as not in compliance with the requirements of this chapter have ceased to exist and shall promptly notify the Secretary of the Budget of such vote. The Secretary of the Budget shall thereupon release all funds held in escrow, together with all interest and income earned thereon during the period held in escrow, and the disbursements of amounts in the city account shall resume.

(e) Exemptions.—Notwithstanding the provisions of subsection (a), the following shall not be withheld from an assisted city:

- (1) funds granted or allocated to an assisted city directly from an agency of the Commonwealth or from the Federal Government for distribution by the Commonwealth after the declaration of a disaster resulting from a catastrophe; and
- (2) pension fund payments required by law.

(f) Effect of Commonwealth's failure to disburse funds.—The provisions of subsection (a) shall not apply and an assisted city shall not be found to have departed from the requirements of this chapter due to the Commonwealth's failure to pay any money, including payment of Federal funds distributed by or through the Commonwealth, due to the assisted city from moneys appropriated by the General Assembly.

§ 8316-A. Additional taxing authority.

(a) Authorization for 2004.—A city may impose the taxes authorized by this section for its budget year beginning in calendar year 2004 if the authority certifies in writing that the following conditions have been satisfied:

- (1) The city has entered into a financial review and intergovernmental cooperation agreement with the authority and has a financial plan and operating budget approved by the authority.
- (2) The city has adopted an annual operating budget for 2004 in which expenditures are at least \$32,500,000 below the level in the annual operating budget for the city's budget year beginning in calendar year 2003 which was adopted by the city prior to the effective date of this subsection and which limits expenditures for fire and emergency medical services to a level at least \$15,000,000 below the actual expenditures on those services in 2003.

(3) The city has taken actions sufficient to implement the expenditure reductions included in the proposed budget. Such actions shall include terminations of personnel, revocation of contracts, sale of assets or other actions that will directly reduce expenditures in the areas in which the budget directs reductions. The adoption of a budget assuming these reductions shall not in and of itself be sufficient to meet this criterion.

(b) Authorization for 2005.—A city may impose the taxes authorized by this section for its budget year beginning in calendar

year 2005 if the authority certifies in writing that the following conditions have been satisfied:

(1) The city continues to have a financial review and intergovernmental cooperation agreement with the authority and has a financial plan and operating budget approved by the authority.

(2) The city satisfied the conditions specified in subsection (a).

(3) The city has adopted an annual operating budget for 2005 in which expenditures are at least \$5,000,000 below the level in the annual operating budget for the budget year beginning in calendar year 2004.

(4) The city has taken actions sufficient to implement the expenditure reductions included in its budget. Such actions shall include terminations of personnel, revocation of contracts, sale of assets or other actions that will directly reduce expenditures in the areas in which the budget directs reductions. The adoption of a budget assuming these reductions shall not in and of itself be sufficient to meet this criterion.

(c) Authorization for 2006 and subsequent years.—A city may impose the taxes authorized by this section for its budget year beginning in calendar year 2006 and for any subsequent year if the authority has been terminated in accordance with the provisions of section 8308-A (relating to term of existence) or if the authority certifies in writing that the following conditions exist:

(1) The city continues to have a financial review and intergovernmental cooperation agreement with the authority and has a financial plan and operating budget approved by the authority.

(2) The city met the conditions specified in subsections (a) and (b).

(d) Additional occupational privilege tax upon employees.—Notwithstanding any provisions of the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, limiting the amount of an occupational privilege tax, a city of the second class may levy and collect an additional occupational privilege tax on a monthly basis not to exceed the limitations provided by subsection (f) upon each employee otherwise subject to an occupational privilege tax levied and collected by the city under The Local Tax Enabling Act. The city shall exempt from such tax on a monthly basis any employee if during the month the employee pays any occupational privilege tax levied and collected on an annual basis or receives total compensation of less than \$833.33.

(e) Additional business privilege tax on employers.—In addition to any other tax a city of the second class is empowered to levy and collect under any existing law, including a business privilege or mercantile tax as authorized by section 2 of The Local Tax Enabling Act, a city of the second class may also levy an additional tax upon each employer for the privilege of employing workers in the city. The tax shall be collected on a monthly basis based on the number of workers subject to an occupational privilege tax levied upon the employee and collected by the city under subsection (d). The amount of the tax shall not exceed the amount determined under subsection (f). To the extent an employee is exempt from the occupational privilege tax pursuant to subsection (d), that employee shall not be included in the computation of the tax. A business privilege tax levied and collected under this subsection shall apply to all employers of persons otherwise subject to the occupational privilege tax, including a financial employer and a regulated employer, but shall not be levied upon any charity.

(f) Limitations.—

(1) During 2004, the maximum amount of the occupational privilege tax on employees authorized in subsection (d) shall be \$5 per month, and the maximum amount of the occupational privilege tax on employers authorized in subsection (d) shall be \$8.25 per month times the number of eligible employees.

(2) No employee required to pay an occupational privilege tax to the city pursuant to this section shall be required

to pay more than \$60 in any calendar year as an occupational privilege tax irrespective of the number of political subdivisions within which such person may be employed in any given calendar year.

(3) In 2005 and subsequent years, the limitations imposed by paragraphs (1) and (2) shall be adjusted upward or downward to the nearest cent by the rate of inflation as calculated by the Consumer Price Index for Urban Areas (CPI-U) during the most recent prior year for which the Index is available. The increases shall be effective as of January 1 of each year.

(4) A city of the second class may levy these taxes in amounts smaller than the maximum authorized level, and no changes in actual tax rates levied shall take effect unless the changes are legally adopted by the governing body of the city.

(5) Notwithstanding any provisions of 53 Pa.C.S. Pt. III Subpt. E (relating to Home Rule and Optional Plan Government) or other law to the contrary, the provisions of this chapter, including the limitations on tax rates, shall apply to any city imposing a tax authorized by this section.

(g) Regulations.—The tax collector for the city shall, in conformity with any resolution or ordinance adopted by the governing body of the city levying occupational privilege taxes under this section, adopt rules and regulations as necessary for the administration and collection of such taxes and for the determination of eligibility for tax exemptions, including rules and regulations authorizing the advance payment of occupational privilege taxes levied and collected pursuant to this section.

(h) Taxpayer rights.—Any tax imposed pursuant to this chapter shall be subject to 53 Pa.C.S. Ch. 84 Subch. C (relating to Local Taxpayers Bill of Rights).

§ 8317-A. Limitation on assisted cities to file petition for relief under Federal bankruptcy law.

(a) Bankruptcy filing approval.—Notwithstanding any other provision of law, no city or assisted city shall be authorized to file a petition for relief under 11 U.S.C. Ch. 9 (relating to adjustment of debts of a municipality), unless such petition has been submitted to and such filing has been approved in writing by the authority and the Governor. The Governor is designated, in accordance with 11 U.S.C. § 109(c)(2) (relating to who may be a debtor), as the organization of the Commonwealth which shall have power to approve or disapprove the filing of any such petition of a city or assisted city and to approve or disapprove any plan of readjustment of the debts of such city or assisted city prepared, filed and submitted with the petition to the court as provided under 11 U.S.C. Ch.9.

(b) Review of bankruptcy petition.—

(1) When any such petition shall be submitted to the Governor for approval, accompanied with a proposed plan of readjustment of the debts of a city, the Governor shall make a careful and thorough investigation of the financial condition of such city, of its assets and liabilities, of its sinking fund and whether the affairs thereof are managed in a careful, prudent and economic manner in order to ascertain whether the presentation of such petition is justified or represents an unjust attempt by such city to evade payment of some of its contractual obligations and, if the Governor believes that such petition should be approved, whether the plan of readjustment submitted will be helpful to the financial condition of the city and is feasible and, at the same time, fair and equitable to all creditors.

(2) The Governor shall also, prior to giving his approval, ascertain the amount, if any, of the obligations of any such petitioning city which is held by any agency or agencies of the State government as trust funds and shall, before approving any such petition and plan of readjustment, consult with and give every such agency an opportunity to be heard and the privilege to examine the findings of the Governor resulting from the investigation required to be made under this chapter, and shall likewise hear any other creditor of such city, whether resident in or outside this Commonwealth, who shall apply therefor.

(3) The Governor, if he approves a petition, shall, before giving his approval, require such modification in the proposed plan for readjusting the debts as to him appears proper.

§ 8318-A. Investment of funds.

Funds of the authority which are not required for immediate use may be invested in obligations of an assisted city or in obligations of the Federal Government or of the Commonwealth or obligations which are legal investments for Commonwealth funds. However, no money may be invested in obligations issued by or obligations guaranteed by an assisted city without the approval of a majority of the board.

§ 8319-A. Sovereign immunity.

Members of the board shall not be liable personally for any obligations of the authority. It is hereby declared to be the intent of the General Assembly that the authority created by this chapter and its members, officers, officials and employees shall enjoy sovereign and official immunity, as provided in 1 Pa.C.S. § 2310 (relating to sovereign immunity reaffirmed; specific waiver), and shall remain immune from suit except as provided by and subject to the provisions of 42 Pa.C.S. §§ 8501 (relating to definitions) through 8528 (relating to limitations on damages).

§ 8320-A. General rights and prohibitions.

Nothing in this chapter shall limit the rights or impair the obligations of any assisted city to comply with the provisions of any contract in effect on the effective date of this chapter or shall in any way impair the rights of the obligees of any assisted city with respect to any such contract.

§ 8321-A. Nondiscrimination.

The authority shall comply in all respects with the nondiscrimination and contract compliance plans used by the Department of General Services to assure that all persons are accorded equality of opportunity in employment and contracting by the authority and its contractors, subcontractors, assignees, lessees, agents, vendors and suppliers.

§ 8322-A. Limitation of authority powers.

Nothing contained in this chapter shall be construed to confer upon the authority any powers with respect to a school district.

§ 8323-A. Construction.

(a) Liberal construction.—The provisions of this chapter providing for security for and rights and remedies of obligees of the authority shall be liberally construed to achieve the purposes stated and provided for by this chapter.

(b) Severability.—If any provision of this chapter, or the application thereof to any person, party, corporation, public or private, shall be judged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any provision of this chapter, or the application of any part thereof to any other person, party, corporation, public or private, or circumstance, and to this end, the provisions of this chapter hereby are declared to be severable. It is hereby declared as the legislative intent that this chapter would have been adopted had any provision declared unconstitutional not been included herein.

(c) Tax exemptions.—The exemptions from occupational privilege and business privilege taxes provided by this chapter are intended to benefit a class of persons of low-income workers in need of tax exemptions or special provisions as authorized by section 2(b)(ii) of Article VIII of the Constitution of Pennsylvania. The exemptions from the business privilege tax are intended to benefit such individuals by avoiding the creation of additional business costs that may impede the provision of wage increases, job training and other benefits to these workers.

§ 8324-A. Repeals and savings provisions.

(a) Inconsistent repeal.—Except as provided in subsection (b), all other acts or parts of acts are repealed insofar as they are inconsistent with this chapter.

(b) Saved from repeal.—The provisions of subsection (a) shall not apply to or be construed to suspend the provisions of the act of

July 10, 1987 (P.L.246, No.47), known as the Municipalities Financial Recovery Act.

Section 2. The sum of \$500,000 is hereby appropriated from the General Fund to the Financial Review and Intergovernmental Cooperation Authority for Cities of the Second Class as a continuing appropriation for the purpose of providing operating funds for the Financial Review and Intergovernmental Cooperation Authority for Cities of the Second Class. This appropriation shall lapse December 31, 2010.

Section 3. This act shall take effect immediately.

On the question,

Will the House agree to the amendment?

AMENDMENT WITHDRAWN

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. DeWeese.

Mr. DEWEESE. Thank you very much, ma'am.

I am going to withdraw that amendment, and I will probably make some comments during final passage that would reflect some of my views relative to this amendment – why I thought it was necessary at one point; why I think it would be a futile political exercise at this juncture – but I appreciate the indulgence of the Chair during final passage.

Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the bill on third consideration?

The SPEAKER pro tempore. The Chair recognizes the gentleman from Allegheny— The gentleman, Mr. Preston, offers the following amendment, which the clerk will read.

Does the gentleman wish to make a statement? The Chair recognizes the gentleman from Allegheny, Mr. Preston.

Mr. PRESTON. Thank you, Madam Speaker.

This issue is very important to a lot of us in Allegheny County, and I am hoping that we will be able to see some fiscal responsibility for the city. That being said, I would like to be noted that I would like to be recognized on final passage, and I would like to withdraw both of my amendments.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the bill on third consideration?

Mr. **TURZAI** offered the following amendment No. **A4706**:

Amend Sec. 210, page 39, line 4, by inserting after "authority;"
or

Amend Sec. 210, page 39, line 7, by inserting a period after "(1)"

Amend Sec. 210, page 39, lines 7 through 11, by striking out "; or" in line 7 and all of lines 8 through 11

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman, Mr. Turzai.

Mr. TURZAI. Madam Speaker, this is just a technical correction in SB 940, and we would ask everybody to vote in the affirmative.

Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—198

Adolph	Egolf	Levdansky	Sainato
Allen	Evans, D.	Lewis	Samuelson
Argall	Evans, J.	Lynch	Santoni
Armstrong	Fabrizio	Mackereth	Sather
Baker	Fairchild	Maher	Saylor
Baldwin	Feese	Maitland	Scavello
Bard	Fichter	Major	Schroder
Barrar	Fleagle	Manderino	Scrimenti
Bastian	Flick	Mann	Semmel
Bebko-Jones	Forcier	Markosek	Shaner
Belardi	Frankel	Marsico	Smith, S. H.
Belfanti	Freeman	McCall	Solobay
Benninghoff	Gabig	McGeehan	Stabay
Bianucci	Gannon	McGill	Stairs
Birmelin	Geist	McIlhattan	Steil
Bishop	George	McIlhinney	Stern
Blaum	Gergely	McNaughton	Stetler
Boyd	Gillespie	Melio	Stevenson, R.
Browne	Gingrich	Metcalfe	Stevenson, T.
Bunt	Godshall	Micozzie	Sturla
Butkovitz	Good	Miller, R.	Surra
Buxton	Goodman	Miller, S.	Tangretti
Caltagirone	Grucela	Mundy	Taylor, E. Z.
Cappelli	Gruitza	Mustio	Taylor, J.
Casorio	Habay	Myers	Thomas
Causer	Haluska	Nailor	Tigue
Cawley	Hanna	Nickol	Travaglio
Civera	Harhai	O'Brien	True
Clymer	Harhart	Oliver	Turzai
Cohen	Harper	O'Neill	Vance
Coleman	Harris	Pallone	Veon
Cornell	Hasay	Payne	Vitali
Corrigan	Hennessey	Petrarca	Walko
Costa	Herman	Petri	Wansacz
Coy	Hershey	Petrone	Washington
Crahalla	Hess	Pickett	Waters
Creighton	Hickernell	Pistella	Watson
Cruz	Horsey	Preston	Weber
Curry	Hutchinson	Raymond	Wheatley
Dailey	Josephs	Readshaw	Williams
Daley	Keller	Reed	Wilt
Dally	Kenney	Reichley	Wojnaroski
DeLuca	Killion	Rieger	Wright
Denlinger	Kirkland	Roberts	Yewcic
Dermody	Kotik	Roebuck	Youngblood
DeWeese	LaGrotta	Rohrer	Yudichak
DiGirolo	Laughlin	Rooney	Zug
Diven	Lederer	Ross	
Donatucci	Leh	Rubley	Perzel,
Eachus	Lescovitz	Ruffing	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—4

James	Leach	Phillips	Smith, B.
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The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question,

Will the House agree to the bill on third consideration as amended?

Mr. HABAY offered the following amendment No. A4737:

Amend Sec. 202, page 12, line 25, by removing the comma after “Budget” and inserting

and

Amend Sec. 202, page 12, lines 26 through 29, by striking out “and any person appointed,” in line 26, all of lines 27 and 28 and “Municipalities Financial Recovery Act” in line 29

Amend Sec. 210, page 38, line 20, by striking out “203(b)(5)” and inserting

203(b)(4)

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman, Mr. Habay.

Mr. HABAY. Thank you, Madam Speaker.

This is merely a technical amendment that I hope the members can consider. It corrects an error that is in the bill.

The SPEAKER pro tempore. Those in favor of the amendment will vote “aye”— Sorry; strike that. I did not see the gentleman.

The Chair recognizes the gentleman, Mr. Samuelson, on the amendment.

Mr. SAMUELSON. Thank you, Madam Speaker.

I would appreciate it if we could have a little more explanation than “this is a technical amendment.” The last speaker said it was a technical amendment, and it looks like we were removing a section from the bill on the previous amendment. The amendment before us now, 4737, the language is on the screen but the notes we have say that the staff has not had a chance to review this. So I wish the speaker, Mr. Habay, could tell us a little bit more about what his amendment does, how it changes the legislation, just so that would be stated for the public record.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Allegheny County, Mr. Habay.

Mr. HABAY. I would allay, Madam Speaker, any fears Mr. Samuelson will have. This simply would change in the bill section 203(b), section (5), to 203(b), section (4). That is about the extent of it.

Thank you.

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Samuelson.

Mr. SAMUELSON. Did you say we are just changing the numbers on the sections or are we changing the substance of those sections? If we are changing the substance of those sections, please state for the record what exactly you are proposing to change.

Mr. HABAY. This simply only corrects a letter and a number, a typographical error only, nothing substantively.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—196

Adolph	Evans, D.	Lynch	Samuelson
Allen	Evans, J.	Mackereth	Santoni
Argall	Fabrizio	Maher	Sather
Armstrong	Fairchild	Maitland	Saylor
Baker	Feese	Major	Scavello
Baldwin	Fichter	Manderino	Schroder
Bard	Flick	Mann	Scrimenti
Barrar	Forcier	Markosek	Semmel
Bastian	Frankel	Marsico	Shaner
Bebko-Jones	Freeman	McCall	Smith, S. H.
Belardi	Gabig	McGeehan	Solobay
Belfanti	Gannon	McGill	Staback
Benninghoff	Geist	McIlhattan	Stairs
Bianucci	George	McIlhinney	Steil
Birmelin	Gergely	McNaughton	Stern
Bishop	Gillespie	Melio	Stetler
Blaum	Gingrich	Metcalfe	Stevenson, R.
Boyd	Godshall	Micozzie	Stevenson, T.
Browne	Good	Miller, R.	Sturla
Bunt	Goodman	Miller, S.	Surra
Butkovitz	Grucela	Mundy	Tangretti
Buxton	Gruitza	Mustio	Taylor, E. Z.
Caltagirone	Habay	Myers	Taylor, J.
Cappelli	Haluska	Nailor	Thomas
Casorio	Hanna	Nickol	Tigue
Causar	Harhai	O'Brien	Travaglio
Cawley	Harhart	Oliver	True
Civera	Harper	O'Neill	Turzai
Clymer	Harris	Pallone	Vance
Cohen	Hasay	Payne	Veon
Coleman	Hennessey	Petrarca	Vitali
Corrigan	Herman	Petri	Walko
Costa	Hershey	Petrone	Wansacz
Coy	Hess	Pickett	Washington
Crahalla	Hickernell	Pistella	Waters
Creighton	Horsey	Preston	Watson
Cruz	Hutchinson	Raymond	Weber
Curry	Josephs	Readshaw	Wheatley
Dailey	Keller	Reed	Williams
Daley	Kenney	Reichley	Wilt
Dally	Killion	Rieger	Wojnaroski
DeLuca	Kirkland	Roberts	Wright
Denlinger	Kotik	Roebuck	Yewcic
Dermody	LaGrotta	Rohrer	Youngblood
DeWeese	Laughlin	Rooney	Yudichak
DiGirolamo	Lederer	Ross	Zug
Diven	Leh	Rubley	
Donatucci	Lescovitz	Ruffing	
Eachus	Levdansky	Sainato	Perzel,
Egolf	Lewis		Speaker

NAYS—0

NOT VOTING—0

EXCUSED—6

Cornell	James	Phillips	Smith, B.
Fleagle	Leach		

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

LEAVES OF ABSENCE

The SPEAKER pro tempore. The Chair recognizes the majority whip, who asks that the gentleman, Mr. FLEAGLE, and the gentleman, Mr. CORNELL, be placed on leave for the remainder of the day. The Chair hears no objection.

CONSIDERATION OF SB 940 CONTINUED

On the question recurring,
Will the House agree to the bill on third consideration as amended?

The SPEAKER pro tempore. It is the Chair's understanding that Mr. Frankel has withdrawn all of his amendments. Is that correct?

Mr. FRANKEL. Madam Speaker, I have withdrawn all my amendments, but I do want to be recognized on final passage, please.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,
Will the House agree to the bill on third consideration as amended?

Bill as amended was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

On that question, the Chair recognizes the gentleman from Allegheny County, Mr. Frankel, on final passage.

Mr. FRANKEL. Madam Speaker, we are about to vote today on a piece of legislation—

The SPEAKER pro tempore. Would the gentleman cease for just one moment, please.

It is almost impossible to hear the speaker. Could we please have some order in the House. Would members please take their seats.

Mr. FRANKEL. Thank you, Madam Speaker.

Madam Speaker, we are about today to vote on a piece of legislation that purportedly is aimed to solve the fiscal dilemma that the city of Pittsburgh is facing and that has been well publicized for many of us. But before we enter that decision, I would like to take this opportunity to inform the members and give you some perspective as to why we are facing this situation today, because it is complicated, it is multifaceted, and press reports and comments have often simplified the nature of the dilemma.

The city of Pittsburgh faces today a critical, very serious financial problem, a structural deficit of such significance that it cannot be resolved internally. But what are the circumstances that bring us to this time? This is not a unique situation, because many, many of our urban areas across the State of Pennsylvania are third-class cities. Some of our municipalities and boroughs face today the same challenges and will face, very shortly in some cases, the same potential solution.

Why are we here? Well, the city of Pittsburgh has undergone tremendous demographic changes in the last 40, 50 years,

the collapse of the steel industry being foremost among them. But sharing the fate of many urban areas, particularly in the Northeast, our population has shifted. Many people have moved out to the suburbs, and the city that was, in 1960, 600,000 people is today a city of 340,000 people. But, Madam Speaker, every single day of the week the city of Pittsburgh is still a city of 600,000 people, as 270,000 people come in to work, to study, to use our medical facilities, and to use our cultural and recreational facilities. The problem is that today, the folks that have to maintain the infrastructure and the quality of life, that tax base has shrunk. There are only 340,000 people paying that tax burden in terms of personal income tax and property taxes. Two out of three people who work in the city of Pittsburgh live outside of the city of Pittsburgh, and by the way, those people who work outside of the city of Pittsburgh earn on average 150 percent of what the folks in the city would make. So we face this dilemma of maintaining our parks, our streets, providing public safety, emergency medical services, fire services, for a city that still is 600,000 people virtually every single day.

Now, that is one of the problems. Part of the other dilemma is a shared responsibility. Many of my colleagues in the city, myself, many leaders of the business community, many of my colleagues here in the chamber today, recognize that the city has not made some of the very difficult decisions it needs to be made. We recognize that. The city of Pittsburgh has work to do. It has done much, and I will talk about that shortly. There is much left to be done. But, Madam Speaker, we ourselves here in the legislature share much of the responsibility for the dilemma that is faced today, not just us here but historically looking back, because some of the actions that we have taken in the past have contributed to the dilemma that not only Pittsburgh is facing but many of our communities across the State are facing. One of the challenges in terms of the city of Pittsburgh's tax base is the fact that one of the fastest growing segments of our economy happens to be the nonprofit sector – our universities, our hospitals. These are some of the fastest growing employers in the region, and they are also some of the fastest growing folks in terms of buildings and property that they have acquired and new projects. So today, more than 30 percent of the city of Pittsburgh's property is tax exempt.

In 1995 this body passed Act 55. Act 55 really put a hard, undebatable requirement that nonprofits not be taxed. Up until that time many of us, cities across the State of Pennsylvania, were able to negotiate with our nonprofits for payments in lieu of taxes, and at one time the city of Pittsburgh was able to get significant payments in lieu of taxes from its nonprofits because there was an area of ambiguity and a point of leverage. Under Act 55 that door was shut and shut closed, and it evaporated any capacity for the city of Pittsburgh to negotiate payments in lieu of taxes from its nonprofit community.

What else have we done? In the city of Pittsburgh, 17 of the 21 largest employers in the city of Pittsburgh pay the city of Pittsburgh zero business taxes because of tax exemptions that have been passed by this body, signed into law by past Governors, that have exempted the largest corporations in the city of Pittsburgh – the U.S. Steels, the Alcoas, the Heinzes, the Mellon Banks, the PNCs. All these corporations, the largest employers, pay the city zero in business taxes, while a prior colleague of mine noted that his drycleaner, my accountant,

they all pay a business privilege tax, but the large corporate folks pay none.

What are the other dilemmas? We passed utility deregulation here in the State of Pennsylvania, and when we passed utility deregulation, we eliminated the public utility real estate transfer tax. That tax, which many of you know funded many of our transit systems across the State, also funded our county governments and our city governments. When we deregulated our utilities, guess what? Our utilities today pay zero in business taxes to the city of Pittsburgh and many of your communities across the State.

Now, there has been a lot of discussion about the city of Pittsburgh's ability to control its expenses, and probably the most significant area the city of Pittsburgh has work to do in is in the area of public safety. Our public safety system costs are out of line. We know that. We need to be able to negotiate fairly with our union, our public safety unions, in order to achieve a reasonable level of staffing and equipment in firehouses and police stations for a city that reflects a city of our size. However, under Act 111, a bill that has been passed by this legislature in the past, the city's ability to negotiate with its collective-bargaining units has been significantly compromised, committing us to a collective-bargaining process that assigns an arbitration system in which the arbitrator is prohibited from considering the city's fiscal condition when it goes to negotiate its collective-bargaining agreements. And to illustrate to you how significant this is, particularly today, in the last year while the city of Pittsburgh was undergoing this traumatic experience and trying to deal with cutting costs and finding additional revenues, the arbitration system awarded our police officers a 4-percent increase in 2 consecutive years, and where they had been contributing to their benefit packages – their health, life, vision, dental coverages in the past – the arbitrator overruled that and made the city responsible for the entire package.

What else have we done? We have also shifted costs to our cities. We have solved some of the State's problems by shifting costs to our municipalities, and I will give you an example. Last year when we were facing the problems of that budget cycle, one of the areas that we found for additional revenue for the State of Pennsylvania was to increase tipping fees for waste disposal in our landfills, \$5 a ton. The impact of that was about a \$1.2 million additional expense to the city of Pittsburgh without any countervailing revenue to make up for it, and that is a pattern that has been shared in the past. We have done things like pension mandates in the past that have increased our pension costs.

Now, as I have said, I do not mean to lay all the blame here. Clearly the city has to face some of these issues, and it has. The city has downsized. In the last 10 years the city has reduced its total workforce from 5,000 employees to 3900 employees. But all of that reduction in workforce has come out of every other segment other than our public safety sector. That burden has been shared by folks who work in public works, folks who work in administration, general services, parks and recreation, and engineering. And to give you an idea, the city's budget on those areas that I just mentioned has not changed in dollar terms at all in 10 years. The costs of those services that the city provided in 1994 were roughly \$100 million. Today, 10 years later, it is \$100 million. The costs that the city has seen go up exponentially have been the costs of public safety, the costs of our pensions, the costs of our benefits, and these things have

really created an enormous burden that our shrinking tax base has not been able to keep up with.

The city has been presented with some challenges in the past. There have been a number of investigations and boards and commissions who have taken a look at the city's finances. The first of those was back in 1996. Paul O'Neill, former Secretary of the Treasury, led a commission to look at the city's expenditures and came up with a number of recommendations for the city. Eighty-five percent of those recommendations have been complied with. There are others that have not been complied with, and they need to be complied with, and the city knows it and needs to act on it.

There was a commission set up by the mayor, PGH 21, that was made up of corporate leaders, chaired by the former CFO (chief financial officer) of Heinz Corporation and the chairperson of the African-American Chamber of Commerce, had business and corporate leaders, citizens of the city of Pittsburgh on it, who took a critical look at the city's expenses and its revenues to come up with proposed solutions on both sides. That commission said, yes, the city of Pittsburgh has got to get its house in order. They identified \$25 million of additional cuts that the city had to make. The city has agreed and has worked on them, again, foremost among them being a reduction in public safety costs through a merger of our fire and emergency medical services, which we believe would save \$15 million.

But it also said at the end of the day that the city cannot cut its way out of this problem. There is no way to balance the budget by cutting services, that new revenue had to be part of the equation. That point of view has been confirmed by subsequent commissions, including the Allegheny Conference, a group of prime business leaders in the city of Pittsburgh, the Pennsylvania Economy League, and the Governor's task force and commission on the city of Pittsburgh, who all agree – all agree – that the city needs to become fiscally responsible, but that while they have identified and confirmed that it has cuts to be made, it cannot do this without significant additional revenue streams that have to be identified.

The last commission was chaired by David Roderick and Elsie Hillman and was asked to be convened by the author of this bill, SB 940. The author of that bill asked these two leaders of the city of Pittsburgh to come together, form a commission, and come up with recommendations as to how the city could rectify its fiscal situation. The Hillman-Roderick commission, again, they looked into every corner. They turned over every rock. They took every opportunity to investigate and interview every person that had a significant role with the city's budget, both internally and externally, its critics and its defenders. They said, guess what? The city may have more work to do. They identified additional cuts. They identified \$40 million worth of expense reductions that could be made, and the city acknowledges that. They say, yes, we have got work to do. Hillman-Roderick also confirmed that the city cannot solve this problem without additional revenue.

Now, the problem with this bill, this bill wants to deal purely with fiscal responsibility and management and oversight, and by the way, I do not think there is a member of this body, including members from Allegheny County and the city of Pittsburgh, who would disagree. We need to have an oversight board for the city of Pittsburgh. SB 940 does that, and we support that aspect. We may have some quibblings with some of the details, but we

absolutely endorse the fact that the city of Pittsburgh needs to have a fiscal oversight board and needs it now.

However, this bill prohibits the city from any opportunity to seek simultaneously enabling legislation that would provide it an opportunity to get additional revenue and create a fairer tax system in which people throughout the region shared in the city's revenue stream. That means commuters who use the city every day, that means tax-exempt businesses, and that means nonprofit tax-exempt entities. There is a sense that revenues for the city need to be shared in a fair, equitable way, and the way the tax system is today, with the exemptions, with the \$10 occupational privilege tax that has been in force for 40 years and not adjusted for inflation, that these things need to be looked at and they need to be addressed, and the city is entitled to realign its taxation system so that we have a fair system in which all the citizens of the city, corporate and personal, and in the region have a stake in the city's fiscal future.

And now let me tell you, because one of the things that is so perplexing to me as we go into this debate is a failure to recognize that there is an umbilical cord that exists between the city of Pittsburgh and the communities of not only Allegheny County but throughout southwestern Pennsylvania and that this is a critical relationship, that if the city cannot sustain a quality of life, that if we are faced with a dilemma of Draconian cuts in services and Draconian increases in our taxes, that we will perpetuate, we will perpetuate the shrinking tax base that exists there and we will have a city that will not be able to survive and thrive, in spite of all the progress that has been made in the city of Pittsburgh in the last 10 years, and there has been tremendous progress.

Let me give you a quote. As you know, the city has applied for relief under Act 47, and the Department of Community and Economic Development hired Public Financial Management to review the city's application and make a determination of whether or not the city of Pittsburgh fits the category of a distressed municipality. This is what they said when they found in favor of them, that Pittsburgh residents face an aggregate tax burden that is one of the highest in the region, and let me say it is simply unfair, it is simply unfair and counterproductive to increase taxes on the narrow base of people and businesses who are now paying that tax base. We need to find a fairer system.

This bill provides fiscal oversight, but through the legislation that has been amended here today, the city is prohibited from seeking redress under Act 47, it is prohibited from seeking enabling legislation for new revenues, and this is just a remedy that will foreclose on our residents and our businesses. The city of Pittsburgh is the cultural and economic core of western Pennsylvania, and more than that, it is part of the community that is the Commonwealth of Pennsylvania. This bill, while it has some aspects that we could probably accept, this bill is no way to treat a member of that community, Madam Speaker.

Madam Speaker, I would urge my colleagues to take a fair look at this, to consider the ramifications for the State, for southwestern Pennsylvania, to consider the ramifications for the State as a whole. This is no way to treat a member of the community of Pennsylvania. We need to come together to find a solution, and I know that many of my colleagues on both sides of the aisle would like to achieve that. We are looking forward to working with them on it, but this bill is not the vehicle to do that.

Please, please, say “no” to SB 940.

Thank you very much.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Allegheny County, Mr. Stevenson, on final passage.

Mr. T. STEVENSON. Thank you, Madam Speaker.

The passage of this legislation is essential to the health, safety, and welfare of the citizens of southwest Pennsylvania. After all, that region needs and relies on the vibrant city of Pittsburgh as a catalyst for economic development. This legislation provides tools to the city in that it needs to right its listing ship. These tools include increased managerial accountability, consolidating or eliminating of inefficient city programs and authorities, reevaluating the tax-exemption policies of the city, increasing collection of existing tax revenues, privatizing appropriate city services, improving procurement practices by including competitive bidding, and reviewing the compensation and benefits of city employees.

This bill is a better alternative than going Act 47, which the Department of Community and Economic Development is looking into right now, because it provides all the tools of Act 47 without the stigma that is attached to Act 47. We definitely do not want to send a message to the rest of the country that Pittsburgh is a place where its elected officials do not govern efficiently and that the city cannot solve its own problems. This legislation is also better than the city declaring chapter 9 bankruptcy, because that would create an even greater stigma on our region.

Pittsburgh has a spending problem, Madam Speaker, not a revenue problem. In fact, it plans to spend more in next year's budget while the revenues have remained flat. The city must cut spending and increase its revenues. As a home-rule-charter municipality, it has the ability to do both and solve its problems. After all, Madam Speaker, Pittsburgh is not a distressed community; it is simply irresponsible.

Madam Speaker, at this point I would like to thank the members on the other side of the aisle for withdrawing their amendments and agreeing to work with us to make this bill a better bill and to solve the city's problems. I now ask for the members' support of SB 940.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Allegheny County, Mr. Preston, on final passage.

Mr. PRESTON. Thank you, Madam Speaker.

I grew up in a rural area about 40 miles outside the city of Pittsburgh in the great city of Vandergrift in Westmoreland County. I can remember, actually when I was 5 years old, trying to catch catfish with my hand in the Kiskiminetas River. I remember hearing about the big city, and at that time, 651,000 people.

We are today here to talk about fiscal responsibility and accountability, and I will agree that we need further clarification. I will agree that we need documentation. I will agree that we need open books and information to be put forward so that people who possibly have more experience than I can gather and make intelligent recommendations so that we can turn the city of Pittsburgh around.

In Allegheny County, if you remember, we just changed the structure of the government, a 200-year-old government that

had to be redone and brought more to a modern light. Obviously, there are problems in the city of Pittsburgh. If we laid off almost everybody except for the police and the fire in this great city, it would still not solve the fiscal deficit. If it basically even stopped all the operations, because of certain pension liabilities and other forms of unfunded mandates that the Federal government and the State has put on it, it would still not solve and become a fiscally balanced budget. We need to actively be able to work together. We need the information so that we can sit back and make intelligent decisions. We need to be able to make the local officials much more accountable and much more responsible.

Now, you have heard a long history of how we got here, and whether I agree with what happened in the past is not the issue. What is important is what we are going to do in the future. Pittsburgh is more than just Allegheny County. It is a region, a statistical metropolitan area, of several million people, a hub that leads through Ohio all the way down through the Mississippi, from agribusiness to finished steel, the glass products to more modern-day technology, health care, education, and technology. To stay on the cutting edge, obviously we are going to need to come together and be able to have a lot more, and again I use the word “information” to be able to make these decisions.

I think the time has come today that we make everybody accountable, including ourselves. To be able to effectively do this, I am hoping that the colleagues, not just on both sides of the aisle but in both Houses, in the higher chamber in the Senate just as well, not to be personal, not to deal with individuals, but to be able to come together so that we can work out the fiscal differences and the problems for the city of Pittsburgh. That is my stance, that is what I am hoping that we as a team will effectively be able to do together, and be able to work for all of the citizens of southwestern Pennsylvania.

Thank you very much, Mr. Speaker.

THE SPEAKER (JOHN M. PERZEL) PRESIDING

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman, Mr. Cappelli.

Mr. CAPPELLI. Thank you, Mr. Speaker.

Mr. Speaker, having previously led a major third-class city in Pennsylvania – a third-class city with a declining population, like Pittsburgh; an ever-increasing percentage of tax-exempt real estate, like Pittsburgh; collective-bargaining intricacies and difficulties, much like the city of Pittsburgh; with pension plans that are seriously underfunded, liabilities that in all likelihood will never be paid off in my lifetime, much like Pittsburgh – we did, I did, the city council and the citizens of my community, found solutions, unlike Pittsburgh.

I am very much interested in and concerned about the future of Pittsburgh, but I have to be candid and say that having listened to the Act 47 hearing recently held in that great city, having looked at numerous reports, listened to opponents and proponents of this legislation, what the city does not need is an excuse, a legislative excuse or a judicially sanctioned excuse, to seek out and spend new revenues.

The city of Pittsburgh has an estimated \$50 million operating deficit going into the next calendar year. I do not believe the citizens of Pittsburgh created that financial quagmire. I do not

believe the commuters, the suburbanites outside of Pittsburgh, created that financial disaster. Pittsburgh's per capita debt, \$2800 per person – per man, woman, and child – is greater, I believe, than any other city in this country. It was not created by the citizens of Pittsburgh or the nonresidents of Pittsburgh; it was created by the men and women elected to serve and govern Pittsburgh.

Now they want to hand credit cards, prepaid credit cards, to every person who works in Pittsburgh and say, here; bail us out. That is wrong for Williamsport. It is wrong for Pittsburgh. Pittsburgh needs managerial oversight and fiscal discipline.

It was mentioned that Act 111 and the union difficulties in Pittsburgh have created uncontrollable expenses. I do not believe an Act 111 arbiter gave the city fire department a no-furlough clause in its contract. They have the same number of firemen today that they had probably 20 years ago, the same number of operating fire facilities as they did 20 years ago, with probably a third fewer city inhabitants. That is not fiscal responsibility. That is not taking care of taxpayers. That is blind management.

Pittsburgh needs SB 940. They need the oversight and the accountability of others not associated with city government. Pittsburgh has, like Williamsport, tax-exempt property abound, but admittedly, they have TIFed themselves, tax incrementally financed their city, into the point of extreme nonrevenue, non-property tax collection.

Mr. Speaker, it is time to help Pittsburgh. It is not time to give them more money from people who do not live there to spend in unaccountable ways. Let us move Pittsburgh in the direction it needs to go in.

I ask for an affirmative vote on SB 940. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Habay.

Mr. HABAY. Thank you, Mr. Speaker.

I am happy to report that over the last few days, there has been a great deal of constructive dialogue between our respective delegations of Republicans and Democrats from Allegheny County. We thanked them for their support in helping to move some bills in this package before and also a resolution to take a look into the Urban Redevelopment Authority and the potential of \$247 million of assets as well as the Pittsburgh Development Fund of \$60 million in there, and I will pledge as a senior member of this delegation to continue to work in that constructive process that we have been doing over the last few weeks to try to find an amicable conclusion that makes sense for the taxpayers and makes sense for the city of Pittsburgh, our leading city of the region.

Today I would like to talk about some excerpts of why we believe in our Republican delegation that Act 47 would not be the way to go. It would hurt our bond rating in Pittsburgh. It would really put a stigma on the city economically. And we wish to try to do what we can to offer a solution that really does not offer Pittsburgh a handout but a handup, and these are just some of the selective excerpts that I will read from our testimony that was submitted to Secretary Yablonsky in DCED (Department of Community and Economic Development) in the Pittsburgh hearing approximately 2 weeks ago:

“We oppose the application of Pittsburgh to be declared a distressed municipality under Act 47.

“We believe that the City has not taken advantage of existing opportunities to increase its efficient use and management of

current resources, and that the City still has sufficient taxing power if it is unwilling to take advantage of cost-saving measures. We also believe that it is inappropriate to seek a remedy by attempting to shift responsibility for city expenditures and tax liabilities to the shoulders of” those who are “non-residents. And, we believe that legislation...under consideration in the General Assembly provides a better mechanism for improving the Pittsburgh situation than the provisions of Act 47.

“The City's request for a determination of municipal distress under the Municipalities Financial Recovery Act states that the City has long had a structural deficit. The request specifically states:” – and I quote – “ ‘For purposes of Section 201 of Act 47, the City's Act 47 expenditures have exceeded its Act 47 revenues for the years 2000, 2001, and 2002....’

“However, the Surveys of Financial Condition filed by the City of Pittsburgh with DCED each year have denied the existence of a deficit for the City, have denied that expenditures have exceeded revenues for a period of 3 years, and have denied that any fiscal problems measured by the Survey were in existence” at that time “in Pittsburgh. Mayor Murphy signed and certified each report stating that the information contained was true and accurate to the best of his knowledge.

“The report filed by the City of Pittsburgh on March 18...” of this year “...contains an optional extra statement:” – and I quote – “ ‘...the City is pursuing the legal authority to levy two new taxes...[t]he City retains legal authority to increase certain existing taxes, which are not capped, should it not be successful at the State.’ This statement clearly indicates that the City has untapped resources in terms of taxing power which could be used to keep it from reaching a position of distress.

“The Mayor and the City Council of Pittsburgh passed a budget for 2003 which relied on 2 taxes for which the City did not have authority. This budget did not comport with the requirements of the city charter that budgets must be balanced. But perhaps even more problematic, the City embarked on a spending program that had no contingencies or back-up plans if...” that “...failed. The City spent more than 6 months spending as if it had all its proposed revenue sources in hand. When the City complains that it has used up its financial reserves, one has to recognize that this action was deliberately taken and was not forced on the City by any outside forces.”

The report goes on to say near the end of the report, “This same...action is within the power of the City of Pittsburgh. Surely one of the benefits of becoming a home rule municipality is that the city escaped the tight standards of state laws that limit property tax rates and earned income tax rates.

“Could the City cut expenditures enough to balance its budget? This again would require tough, unpopular...decisions. When the City finally faced up to the necessity of cutting expenditures in late September of this year, it was projecting a \$40 million shortfall and an expectation of running out of cash before the end of the year. Now, 3 months later, it is anticipating ending the year with \$20 million in reserve. In other words, the City was able to decrease its estimated annual expenditures by 5% (\$20 million/\$386 million of budgeted expenditures)” – is what that would come down to – “in a 3-month period. If the City had seriously addressed cost-cutting starting in July, it is possible that the entire shortfall could have been avoided.

“There have been many studies over several years that have proposed spending cuts, efficiency measures, and service consolidations for the City of Pittsburgh. The Mayor and City Council have either rejected such proposals...” – such as outsourcing trash collection or going and combining some departments of the county and the city, which could be done under a plan that could be promoted by the State legislature and the new county executive. “In order to accomplish the hard work of cutting costs whenever possible, we believe that it will take a longer and more concentrated effort than is practical under Act 47. This is why we have proposed a more stringent oversight board.

“A complicating factor...” resulting in “...Pittsburgh’s debt service problem is the relationship between the City” of Pittsburgh “and various public authorities and public corporations. Under Act 47, it isn’t clear that the Secretary or a coordinator has the power and responsibility to look at the actions of supposed ‘independent’ authorities, but such scrutiny is critical in the present situation.

“We know that the City has ceded a share of the Regional Asset Sales Tax revenues to the Urban Redevelopment Authority. We...know that the city has forgone other tax revenues in order to allow the City to provide tax increment financing, but we have never seen a complete estimate of the lost revenue that is swallowed up by the various public authorities” – i.e., the Urban Redevelopment Authority, the Pittsburgh Parking Authority, the Sports and Exhibition Authority. “We have never seen any hard facts on the actual incremental tax revenues that are supposed to be coming from the Urban Redevelopment Authority investments.”

The regional asset tax, which was passed in 1993, legislation that I have in my hand today, 10 years ago this Assembly, 10 years ago this week, passed the regional asset district, which essentially amounted to a 1-percent sales tax, which in 1994 amounted to \$105 million in additional revenue for the 130 municipalities of Allegheny County, not to mention the city of Pittsburgh.

Within that legislation, within the legislation that I hold in my hand and within the legislative intent of that bill, and by all of the prime sponsors and the many Democrats and Republicans who spoke on this bill at the time of passage exactly 10 years ago this week, there are funding mechanisms that are here to help the city of Pittsburgh. They have the ability to look into the untapped reserves of the regional asset district to go and help the city. It is right in the legislative intent of the bill, and all that we simply said by HR 471, which all of you, almost all of you voted on 2 weeks ago by a vote of 196 to 2, was simply saying that let us take a look at that money, \$247 million, that, according to Pittsburgh City Controller Tom Flaherty in last year’s survey, is contained in there.

Before we raise taxes and before we lay off police and firefighters, close pools in the city of Pittsburgh, close recreation centers, we need to do everything that we can to look under every rock to see what financing is available before we do that and also taxing people not only in Pittsburgh and in the suburbs.

One of the excerpts that I would like to read very quickly is just what commuters pay. There is a misnomer that commuters that go into Pittsburgh are not paying enough.

Very simply, to finish in only a few sentences, first consider if it were not for the large numbers of commuters and visitors,

there would be far less business activity in the city of Pittsburgh. Simply put, commuters provide 60 percent of the workforce to the firms of the city. In turn, these businesses pay taxes to Pittsburgh through a number of levies that are used to fund public services.

Very simply, it is important to remember that the business-related real estate pays 50 percent of the city’s property taxes and all of the business privilege tax. With 60 percent of business activity directly related to commuters, we estimate that the real estate tax that is stemming from the presence of commuters to be \$35 million and the business privilege tax to be \$26 million in 2001. Very simply, in 2001 the combined expenditures for the city, there is so much of that money that is filled in by commuters not only in an amusement tax but in a parking tax for the city as well.

That is why we urge you to support this legislation, and we will continue, and we pledge on our side of the aisle to continue to work in a good, bipartisan fashion with our friends from across the aisle in Pittsburgh, and remember, this legislation has been supported in the Senate in a bipartisan fashion not only by Senator Orie but by Senator Wagner and Senator Logan from across the aisle.

We urge you to vote for this legislation and try to give Pittsburgh a chance to help itself. Thanks to all of you.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Thomas.

Mr. THOMAS. Thank you, Mr. Speaker.

And we are ready; we are ready to roll it, and I appreciate the aggression on the part of my colleagues.

But, Mr. Speaker, in all fairness, I have to say this: Coming from Philadelphia County, you know, some years ago we were facing somewhat the same problems in Philadelphia County, and thankfully, we had a Representative Evans, a Representative DeWeese, a Representative Perzel, a Representative O’Donnell, and we had a bipartisan coalition of people who put their personal interests in their back pocket and focused solely on the interests of the people in Philadelphia County.

And, Mr. Speaker, at the end of the day, at the end of the day, there was a fiscal oversight board established, but along with that fiscal oversight board, Philadelphia County was allowed to raise the sales tax. Some of you remember that. Now, while we did not necessarily like the tax itself, we knew that due diligence required Philadelphia County having the ability to raise revenues to deal with fiscal prudence. PICA (Pennsylvania Intergovernmental Cooperation Authority) provided the vehicle for fiscal prudence. The sales tax provided the impetus for the revenues that were needed.

Mr. Speaker, you cannot bring a city back to fiscal stability without providing that municipality with either direct revenues or the opportunity to generate revenue so that it can deal with its financial obligations, and it does us no good to stand here on the floor of the House and point fingers at the mayor, point fingers at other members of the Pittsburgh leadership. It does no good to do that, because at the end of the day, it is the people of Pittsburgh and the people of Allegheny County that will ultimately benefit or are adversely affected by what we do.

So, Mr. Speaker, I urge my colleagues on both sides of the aisle, and that is to concentrate on outcomes, not process. Let us not provide the city of Pittsburgh with oversight unless we are prepared to provide revenues along with that.

And, Mr. Speaker, I close, I close with something somebody said to me one time that I think kind of crystallizes what our posture should be: It is so much good in the worst of us and so much bad in the best of us, it hardly behooves, it hardly behooves any of us to speak ill of the rest of us.

Let us not point our finger. Let us collaborate, cooperate, and provide Pittsburgh with not just oversight but also the revenues necessary to have fiscal prudence in the long run.

Thank you, Mr. Speaker.

BILL SIGNED BY SPEAKER

Bill numbered and entitled as follows having been prepared for presentation to the Governor, and the same being correct, the title was publicly read as follows:

HB 999, PN 1172

An Act establishing the Reflex Sympathetic Dystrophy Syndrome Education Program; and providing for powers and duties of the Department of Health.

Whereupon, the Speaker, in the presence of the House, signed the same.

CONSIDERATION OF SB 940 CONTINUED

The SPEAKER. The Chair recognizes the gentleman from Butler, Mr. Metcalfe.

Mr. METCALFE. Thank you, Mr. Speaker.

Mr. Speaker, I rise today to make some comments, some brief comments, regarding SB 940 on behalf of my constituents, many of which I have heard from regarding the situation that Pittsburgh finds itself in.

One of the ideas that has been floated out there to try and bring in new revenue for Pittsburgh is a tax on my constituents from Butler County. But one of my constituents wrote this short quiz that was recently published in a newspaper back home, and I wanted to share the questions and answers – it is only four questions – with the members here today. Some of them are multiple choice, and some are true and false, so it is not a real hard quiz.

“Over the last 50 years, Pittsburgh has lost: A. Over 1/4 of its population; B. Over 1/3 of its population”; or “C. Over 1/2 of its population.” The answer is “C. Pittsburgh has gone from almost 700,000 to 320,000 people. Pittsburgh’s Population was higher in 1910 than today.

“Pittsburgh” – this is question No. 2 – “Pittsburgh is a... Top ten market;... Top twenty market”; or “... Top thirty market. ... At one time, Pittsburgh was a top ten market (number 9),” actually. They are now 22d.

“Businesses in Pittsburgh” – third question – “Businesses in Pittsburgh (or for that matter, Pennsylvania) pay more in total Corporate Taxes than businesses in neighboring Ohio, West Virginia, Virginia, Maryland, Delaware, New Jersey and New York” – true or false. True; “Pennsylvania businesses pay a 9.99% Corporate Income Tax, third highest in the U.S., and also pay 6.99 mills in Capital Stock and Franchise Tax,” which is subject to go to 7.24, I believe, if what happens happens that we have been discussing here in the legislature.

Question No. 4 and the last question: “It’s OK to tax suburban commuters, since that’s where most of Pittsburgh’s population has migrated.” The answer to that is true or false. False; “Allegheny County’s population was higher in 1930 than today. Migration out of Pittsburgh has also been a migration out of Allegheny County.”

There were some comments made earlier regarding the public safety expenditure in Pittsburgh. Well, I have some numbers here that were put together by the Allegheny Institute, and they are numbers from 1984, 1992, and 2002.

The public safety expenditure in 1984 was over \$76 million for a population of 402,000, about 402 1/2 thousand people. That was \$188 per capita spending. In 1992 that expenditure rose to \$365 per capita, almost doubling in 1992, and by 2002 it had risen to \$607 per capita spending for Pittsburgh residents to pay for their public safety expenditure. Obviously, the current trend has not been one in which the city has kept its expenditures in line with its population.

The philosophy of the administration in Pittsburgh has been, tax them and we will thrive, to the point that now they cannot tax their residents, they do not believe, any more than what they already are, because they are chasing them out of Pittsburgh and even out of the county, many of them fleeing into Butler County, so now they want to tax my residents, my constituents. Well, we say no. The answer for Pittsburgh is not, tax them and they will thrive; if Pittsburgh gets what they have been asking for, it is, tax them and they will leave, because they will chase more residents not only out of Pittsburgh and Allegheny County but out of the region and out of the State.

So I would ask for an affirmative vote on this legislation to stop the commuter tax that they would like to impose on the constituents of Butler County.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Allegheny, Mr. Mustio.

Mr. MUSTIO. Thank you, Mr. Speaker.

I rise today for the first time on the floor of the House, and I appreciate your indulgence.

I rise not only as a member of this body but as a resident of Allegheny County that has a strong passion for the city of Pittsburgh and a strong passion for our region, and I have worked for 20 years before coming to this body to make sure that this region survives, and I rise not as a finger-pointing member but as someone that wants to see a financial “City of Champions” survive in the western part of this State.

Years ago the city of Pittsburgh was known as the “City of Champions” for sports. We are no longer that, obviously. We have seen that this year. But we are going to make it a city that is financially strong.

There have been a couple comments made, and my comments will be very brief, because I do not want to repeat. However, not only has the city of Pittsburgh lost population, so has our region. So it is a little bit of a misnomer to think that the suburbanites are previously members or residents of the city of Pittsburgh.

We can no longer stand by and watch as our young people continue to leave our region, not just the city of Pittsburgh, and as our tax base shrinks, that tax burden also increases on not only our residents that stay but especially our senior citizens.

Some have called it tough love; others have called it fiscal responsibility. I stand here to tell you that I prefer to call it the fulfillment of the public trust given by the election to office.

It is an inconsistent message, to say the least, to have a multimillion-dollar authority that spends millions of dollars to attract business to the city of Pittsburgh, sometimes losing millions of dollars, only to then turn to this body to request the authority to tax these same businesses and their invited employees under the pretext that these businesses and invitees have created a financial overburden on the government. That is inconsistent.

We have heard about several commissions and studies that have been conducted back to 1996, and I most recently sat on the Hillman-Roderick Commission.

There are millions of dollars of expense cuts that need to be made, and support of this Senate bill will make sure that not only those expense cuts are made but also the overall financial review of the city is taking place.

The facts remain that the city of Pittsburgh is the heart of our region, and if we have a strong financial heart, we will live long and prosper, and I urge you to support SB 940. Thank you.

THE SPEAKER PRO TEMPORE (PATRICIA H. VANCE) PRESIDING

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Allegheny County, Mr. Wheatley, on final passage.

Mr. WHEATLEY. Madam Speaker, I rise today in opposition to SB 940.

Today, Madam Speaker, I think, speaks to a rising dark cloud in our Commonwealth. That dark cloud, to me, Madam Speaker, is SB 940.

Madam Speaker, this occasion reminds me of a poem that I was once taught. Madam Speaker, it reminds me of a poem that I was once taught when it says, when you are up against a trouble, when you are up against a trouble, meet it squarely, face to face; lift your chin, set your feet, set your shoulders, and take a brace; when it is vain to try to dodge it, do the best that you can do; you may fail, you may fail, you may fail, but you may conquer; see it through.

The reason why it reminds me of that is because it seems like the win is already in the works for SB 940 to go through. You are going to force that issue, even though every report, every study, that has been done on the city's financial conditions, every study, every report, that has been done on the city's financial condition, says, yes, the city can do more, the city can do more to help itself out, but it also needs, it also needs a regionwide strategy to make it whole, to make it whole.

Now, I am going to speak, I am going to speak today from what I hope my colleagues can accept. You will hear and you have heard a lot of facts and figures that have been thrown out to you. Some of it may make sense; some of it may not. You may disagree.

I represent the 19th Legislative District, the 19th Legislative District, and when I came here, the first day I was elected, when I came here, I spoke with the former Speaker, K. Leroy Irvis, and he told me, the easiest thing to do while we are up here is to represent our single districts. That is the easiest thing we can do, but what makes us honorable, what makes this body august,

is that we understand the fact that we represent the Commonwealth of Pennsylvania.

He charged me on that day to rise above, to rise above the temptation to just be about the city of Pittsburgh. He asked me that day. Today, today, I would like to do that; I would like to be given the opportunity to rise above that, but unfortunately, the bill that we are about to push would not allow me to do that. I represent the poorest district. If you take the per household, family household income out of Allegheny County, I represent the poorest district. I am being told by this bill, I am being told by this bill, that if the city of Pittsburgh is going to find its way out of this crisis, then my citizens have to take on more of the burden, my residents have to take on more of the burden, to help the city, and I am going to stand here and say, okay; if you want me to do that, what is everybody else in the region doing to help support the city?

Now, I know I probably cannot win this battle; I know I cannot win this battle today, because it is made up, everybody's mind is made up, how you are going to go, but believe me, believe me, I am asking all of my colleagues, all of my colleagues that have any interest in being and doing the honorable thing around here – and I know we are; I know we all are – this is not a fair and equitable bill, nor is it a fair solution to impose on our region. Nobody around here, including myself, wants to be for imposing taxes on people; nobody – any municipality. We need help. Madam Speaker, we need help.

Madam Speaker, I was reared to be a proud man. Today I am coming here humbly to my colleagues, I am coming here humbly to my colleagues, and saying, listen. We can get into a partisan fight and discussion around all types of things, but today should not be the day. This is not the bill to do that. This is not the time to do that. I am asking for mercy from my colleagues to at least get this thing done in a way that is fair and equitable to everybody and everybody can agree that we all will share this pain. We all can share this pain. That is all we are asking.

I would ask my colleagues today to stand and oppose SB 940.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Allegheny County, Mr. Kotik, on final passage.

Mr. KOTIK. Thank you, Madam Speaker.

Madam Speaker, I rise in support of this legislation, mainly because of the hope and expectation that I have that we will finally have final resolution of this issue.

For me, this issue has dragged on for too long. There have been many skeptics who feel that the studies and the groups that have studied this issue do not reflect their views, but if this legislation is successful or some other piece of legislation is successful, we have got to accept those recommendations, and if those recommendations are not what we exactly like or whether they include revenue for the city, then we have got to embrace those solutions.

So I am hopeful today that this legislation, if it is successful, results in a meaningful compromise, a meaningful commonsense plan, to rescue the city of Pittsburgh.

I am very proud of the city of Pittsburgh, I am very supportive of the city of Pittsburgh, and let us put this to bed once and for all by putting some responsible people in charge of

this oversight committee and coming up with a plan that everyone in this General Assembly can accept.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Allegheny County, Mr. Costa, on final passage.

Mr. COSTA. Thank you, Madam Speaker.

I want to make my point clear where I am coming from. Although I do represent the city of Pittsburgh, I have 2 voting districts in the city of Pittsburgh, I actually have 68 outside of it, and my opinion on how this works is, under this Senate bill, there is an oversight board. I have absolutely no problem with the oversight board. The issue that I have with this bill is that you are not permitting the city of Pittsburgh to use the same tools that every other municipality in this Commonwealth, with the exception of Philadelphia, has the ability to use.

I represent four municipalities today that already used Act 47, but now you are telling me my fifth one who wants to use it will not be allowed to use it. I do not think it is fair. I think every municipality should be given the same opportunities to use the tools that they need.

I am asking you to vote “no,” to let the city of Pittsburgh use the tools that are awarded to them. Thank you.

LEAVE OF ABSENCE

The SPEAKER pro tempore. The Chair returns to leaves of absence and recognizes the majority whip, who requests that the lady, Ms. BARD, be put on leave for the remainder of the day. The Chair hears no objection.

CONSIDERATION OF SB 940 CONTINUED

The SPEAKER pro tempore. The Chair recognizes the gentleman from Allegheny County, Mr. Levdansky, on final passage.

Mr. LEVDANSKY. Thank you, Madam Speaker.

Madam Speaker, oh, how I wish passing this legislation would solve the fiscal crisis confronting the city of Pittsburgh, but it will not. Nobody doubts that we need greater financial disclosure, spending controls, and an oversight board. I think everybody in this chamber would agree that it is absolutely critical and essential that we have this component. It is a requisite part of the solution, but it is only part of a solution. It is not the solution in and of itself.

Madam Speaker, I think if anybody that seriously studied this issue, and there have been a number of individuals from the corporate and private and business community that have done numerous studies on Pittsburgh’s financial crisis, and all of them seem to come up with some recommendations that all revolve around several pieces of a comprehensive solution that eventually we are going to have to implement. Those other components, in addition to strong fiscal oversight, include, include, getting the corporate and business community to pay their fair share of taxes. The mercantile tax and the business privilege tax is riddled with loopholes, many of which were created by this very General Assembly over a period of years. Those loopholes have rendered the corporate share of taxes paid to Pittsburgh substantially reduced as an overall share of revenues collected. So there is an understanding that we need to rationalize the mercantile tax and the business privilege tax to

get the corporate community to pay their fair share. And Senator Wagner, one of the prime sponsors of this piece of legislation, just this week in fact, unveiled a proposal to do that. So one of the sponsors of this bill even recognizes that we are going to have to raise additional revenue from the business community to solve the problem. But that proposal is not included in this piece of legislation that we are discussing here today.

Secondly, Madam Speaker, there is a consensus that we do in fact need to address the issue of the nonprofit community and getting them to pay their fair share of taxes to the communities in which they are located. This is a problem not just for the city of Pittsburgh, second-class cities and first-class cities; it is for third-class cities, many of which I represent and those across the Commonwealth.

So business tax rationalization, payment in lieu of taxes, and thirdly, Madam Speaker, everybody understands that sooner or later, we are going to have to raise additional revenue from those people who work in the city of Pittsburgh. Now, my preference would be that we would address that issue statewide in a comprehensive fashion, and yesterday Representative Stetler had an amendment that we tried to do that, but that was defeated overwhelmingly, unfortunately.

Madam Speaker, we are not just simply going to do fiscal oversight and cut spending and get out of this problem. New revenues are going to be necessary, and I know raising new revenues is always a politically unpalatable and difficult thing to do, Madam Speaker.

Madam Speaker, it is kind of like when I was a kid, my mother, when I was sick, would give me castor oil, and every other day when I was healthy, she made me have cod-liver oil. I did not like either one of them, but the fact of the matter is, this is going to be a similar choice between cod-liver oil and castor oil.

The castor oil, the really bitter stuff, would involve an increase in a wage tax. That is going to be extremely unpopular, extremely unpopular, but it is one of the options available to all communities under Act 47.

The other solution, the other solution – the cod-liver oil, if you will – is increasing the OPT, the occupational privilege tax, from \$10. That limit was set in State law in 1965. In 1965 we gave the ability of all municipalities to assess an occupational privilege tax up to \$10. It has not been changed since 1965. Just adjusting for inflation, that \$10 in 1965 would be about \$57 or \$58 today.

Think about that, Madam Speaker. The people who live in the suburban communities that work in downtown Pittsburgh pay 10 bucks a year, and for that, they know that they can turn the water on and flush the toilet, that the snow is going to be plowed, that the potholes are going to be patched, that the red lights are going to work, that the police and fire and EMS (emergency medical services) are going to be there when they dial 911, all for 10 bucks a year. Madam Speaker, 10 bucks a year is 4 cents a day, 4 pennies a day. That is less than one-half a penny per hour for the people who work in the city of Pittsburgh to pay for the infrastructure and the amenities of working there.

Madam Speaker, a lot of the people that rose here earlier to object, the average family income in their districts ranges from \$79,000, to the gentleman from Butler County, to \$104,000, to the Representative from the 28th District, and I ask you, if your

constituents are making between \$80,000 and \$104,000 a year and they work in Pittsburgh, they pay 4 cents a day to support the city of Pittsburgh. Is that fair? I do not think anybody can argue that, and I do not think most of your constituents, if they understood that and they are making \$80,000, \$90,000, \$100,000 a year, would object to raising the OPT beyond \$10.

Madam Speaker, I have heard a lot of people compare – and I am not an advocate of this – but I have heard many Representatives in this chamber over the years compare running government to running a business. Well, Madam Speaker, when corporations approach or declare bankruptcy because they are on hard times, they rarely, if ever, escape the fiscal crisis simply by adopting more oversight like this bill would call for, Madam Speaker. The typical corporate response to bankruptcy and to a fiscal crisis is not just simply to get the board of directors to exercise more control and oversight. It also involves controlling costs, renegotiating contracts, and also, it almost always involves raising new revenue to make critical investments and to retire corporate debt. And what do they do, Madam Speaker, typically? They sell stock, they raise equity contributions from their investors, or they go to the banks and borrow more money. The typical corporate response to a fiscal crisis is to raise revenue, in fact.

Madam Speaker, this legislation is just too simplistic. It is too illusory. It gives false hope to our citizens back in southwestern Pennsylvania that we could simply solve this problem through greater fiscal oversight of the city of Pittsburgh. But oh, how I wish this bill would solve the problem. It will not, so vote “no.”

Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Greene County, Mr. DeWeese, on final passage.

Mr. DeWEESE. Thank you very much, Madam Speaker.

On behalf of the Democratic leadership team, I would ask for a negative vote on SB 940’s final passage.

Thank you very much.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. Frankel, on final passage for the second time.

Mr. FRANKEL. Thank you, Madam Speaker, and I want to thank the members for their indulgence to listening to this debate. I am sure it is not over yet today, but this is obviously a very important moment for our State and certainly for my city and our city, the city of Pittsburgh.

I want to comment on a couple of different things that have been said here today, and certainly I want to compliment my colleague, the former mayor of Williamsport. The fact of the matter is, we are working diligently in the city of Pittsburgh to rectify this problem, but I want you to understand, we are not simply looking for new revenue; we are not asking for a State handout; what we are looking for here and we are demanding, every one of the legislators from the city of Pittsburgh is demanding accountability from the city of Pittsburgh.

We have a proposal out there that includes an oversight board. We believe that the mayor and city council need to be held to a higher standard, and our proposal, which I had withdrawn earlier in deference because I knew it was not going to be approved, but our proposal had an oversight board that would do just that. We know they need to have their feet held to the fire.

However, it seems to me that in order to have effective oversight, to give somebody not only the stick, which would be the oversight board, but the carrot, we need to give the city the tools that it needs to solve its problems. Every single person that has taken a look at this in depth, every panel, every commission, even a commission that was basically identified by the author of this bill, said the city needs to be held accountable, they need to make cuts, but they cannot cut their way out of this problem. There needs to be enabling legislation in conjunction with the oversight board that would provide additional revenue. Now, we do not say you just get a chance to raise taxes. We are saying the oversight board would determine when the city had complied with a level of fiscal responsibility, and then they would be able to access new revenue. That is the way to effectively manage this.

I want to comment on a couple of other things that were said today, because I recognize that we are asking for a fair sharing of the tax burden, including tax-exempt businesses, including nonresidents of the city of Pittsburgh who use the city. But I want to tell you something. Those of us who live in the city of Pittsburgh, we share the burden of suburbanites; we pay county taxes. I pay for county police that I never have access to or have purpose to use, certainly less than anybody who commutes into the city to work or play. I pay for those county police. I pay for county parks, which I rarely utilize. I voted here in this General Assembly with virtually all of you to support volunteer fire departments. That is the right thing to do. But you know what? I pay for my fire departments as well as everybody in the city of Pittsburgh through our taxes. Now, we have work to do with that fire department. We have to downsize it. We know that. But I pay for it, and I have helped to support your volunteer fire departments because it was the right thing to do. This is not the right way to handle the city of Pittsburgh, this legislation.

I want to say something else: Allegheny County, under the past chief executive, had some difficult financial problems as well in balancing the budget. Over the past 4 years, the legislators in Allegheny County, city legislators and county legislators, have been prevailed upon by the Republican county executive at the time and still is that he needed about \$12 million a year of State money to make his budget complete and balance it. We worked in a bipartisan way to do that. I supported that. It had nothing to do with party. I supported County Executive Roddey’s request, as did my Republican and Democratic colleagues. They had a problem. I helped out, and so did they.

So this is just about fairness, about giving the city the tools, not taking away every opportunity to turn. We are being told, you cannot have Act 47; you cannot have enabling legislation; we are going to give you oversight. And then, you know, guess what? We laid off an additional 750 people this last year, 6 months ago, from the city, including 100 police officers. We are going to have to lay off probably another 750 and raise taxes, and by the way, we have the highest tax burden in the region, a 3-percent wage tax between the city and the school district. Nobody in Allegheny County has that or in the region. We cannot afford it because it will be the death knell for our community.

We have been told, sell assets; sell assets. Well, you know what? Selling assets is one of the ways we got in this dilemma. Unfortunately, we have postponed the inevitable. We have

taken the easy way out; there is no doubt about it. But selling assets is not necessarily the answer.

The other answer that some of us have suggested is basically to eradicate the Urban Redevelopment Authority, the development arm of the city. That also would be the death knell for the city, the chance to revitalize itself, which it has done effectively. Our riverfronts have been remediated. There is significant investment, private investment, going on throughout the city of Pittsburgh. New housing starts, more than anywhere else in Allegheny County, are now in the city of Pittsburgh. We cannot take the city's development arm away, and by the way, we are prepared to look at it. You know, we supported Representative Habay's bill that would take a look at the Urban Redevelopment Authority, and we should take that opportunity, but it should not be a prerequisite at this point in terms of trying to balance the city's budget.

I would ask all of you to be fairminded in this process. We are for fiscal responsibility, and we are for fairness for the citizens of the city of Pittsburgh and Allegheny County.

And one final comment. You know, to say that we have not studied this and people do not agree, the business community that the previous Representatives have spoken about who are tax exempt have agreed, they have agreed to come to the table; they have agreed to contribute to the city's tax base. Now, some of us might argue that it may not be enough. But they have come to the conclusion that the city cannot cut its way out of this problem and needs new revenue. They have volunteered and agreed and backed legislation that would take away their exemption and have them contribute to it.

Now, I think that says a great deal about the dilemma here. So I would ask you to join me and my colleagues from the city in voting "no" on SB 940 and working together to find a reasonable solution to the dilemma that faces the city of Pittsburgh as a member of the Pennsylvania community.

Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Allegheny County, Mr. Turzai, on final passage.

Mr. TURZAI. Thank you, Madam Speaker.

Those of us that authored SB 940 and HB 2006 do care about the city of Pittsburgh. I was born and raised in the Pittsburgh area, and I certainly do not want to see it fail, but we take a different approach to correcting its ills.

I am emblematic of a real Pittsburgher. All of my grandparents came over on a boat to the city, worked in the mills, and made life better for my parents and me.

Like many Pittsburghers, in and out of the city, we still know the value of a hard-earned buck. I cannot tell you how many of these real Pittsburghers that I have encountered in the city, outside of the city, working for nonprofits, working in the private sector, business executives and waiters, who have approached me and said, I might not mind giving the city some of my hard-earned money if I knew it was going to an administration that would spend it responsibly; I would not mind if I knew that it was not an administration that was, at best, a sea of mismanagement.

The mayor and his close associates refuse to take any blame for the peril that faces the city. They attack suburbanites, nonprofit organizations, large employers, hospitals, and virtually anyone else who has created a private-sector job in the city or holds a job in the city. For goodness' sake, I love my

wife, but I can tell you, she works in the city and they should be glad my wife is working in the city. She buys the groceries during her lunch break. She does her gift shopping, and she does her clothes shopping and shopping for our three kids. The fact of the matter is, do they want to push individuals like my wife and other people with their hard-earned money outside of the city, because that is what the result is going to be.

Madam Speaker, the city of Pittsburgh has been here over and over again, and they are always asking for money – in 1993, with the RAD (regional asset district) tax; in 1998, with special pension relief that no other municipality in the State has ever had; in 1999, with the stadiums; earlier this year, with a car rental tax; and now, with taxes on businesses or drinks, nonprofits or suburbanites. We do not care who it is, just give us the money, because we do not want to talk about mistakes or fiscal efficiency or cost savings.

The paradigm must change. This fiscal control board bill will do that. We do have Philadelphia as a paradigm to follow, at least in part, and what this board does is it establishes an authority of financial and managerial experts. It removes politics from the decisionmaking process, and it does not provide taxing authority, but says, come up with a plan to do like our colleague, the former mayor of Williamsport, did in his municipality.

Are we about just treading water or are we looking for a better vision? I want a region that does not keep kicking out employers and employees by demonizing them. I want a region that says, come on in and we are going to thrive and get better.

This has been a bipartisan effort. I thank our teammates, Senator Orié, Senator Wagner, Senator Logan; all of the Representatives from Allegheny County; the support from Dan Onorato, the new executive; Jim Roddey, the old executive; and in particular, I want to thank three staff members, Dana Alwine, Diane Warriner, and Lee Derr for all their work.

Please vote "yes" on this important legislation for southwest Pennsylvania.

Thank you very, very much.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,
Shall the bill pass finally?

The SPEAKER pro tempore. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS-116

Adolph	Feese	Lewis	Ross
Allen	Fichter	Lynch	Rubley
Argall	Flick	Mackereth	Sainato
Armstrong	Forcier	Maher	Sather
Baker	Gabig	Maitland	Saylor
Baldwin	Gannon	Major	Scavello
Barrar	Geist	Markosek	Schroder
Bastian	Gergely	Marsico	Semmel
Benninghoff	Gillespie	McGill	Shaner
Bianucci	Gingrich	McIlhattan	Smith, S. H.
Birmelin	Godshall	McIlhinney	Stairs
Boyd	Good	McNaughton	Steil
Browne	Habay	Metcalfe	Stern
Bunt	Hanna	Micozzie	Stevenson, R.
Cappelli	Harhai	Miller, R.	Stevenson, T.

Casorio	Harhart	Miller, S.	Tangretti
Causar	Harper	Mustio	Taylor, E. Z.
Civera	Harris	Nailor	Taylor, J.
Clymer	Hasay	Nickol	True
Coleman	Hennessey	O'Brien	Turzai
Crabella	Herman	O'Neill	Vance
Creighton	Hershey	Payne	Watson
Dailey	Hess	Petrarca	Weber
Dally	Hickernell	Petri	Wilt
DeLuca	Hutchinson	Pickett	Wright
Denlinger	Kenney	Raymond	Zug
DiGirolamo	Killion	Reed	
Egolf	Kotik	Reichley	
Evans, J.	Leh	Rohrer	Perzel,
Fairchild	Lescovitz		Speaker

NAYS-79

Bebko-Jones	Eachus	McCall	Staback
Belardi	Evans, D.	McGeehan	Stetler
Belfanti	Fabrizio	Melio	Sturla
Bishop	Frankel	Mundy	Surra
Blaum	Freeman	Myers	Thomas
Butkovitz	George	Oliver	Tigue
Buxton	Goodman	Pallone	Travaglio
Caltagirone	Grucela	Petrone	Veon
Cawley	Gruitza	Pistella	Vitali
Cohen	Haluska	Preston	Walko
Corrigan	Horsey	Readshaw	Wansacz
Costa	Josephs	Rieger	Washington
Coy	Keller	Roberts	Waters
Cruz	Kirkland	Roebuck	Wheatley
Curry	LaGrotta	Rooney	Williams
Daley	Laughlin	Ruffing	Wojnaroski
Dermody	Lederer	Samuelson	Yewcic
DeWeese	Levdansky	Santoni	Youngblood
Diven	Manderino	Scrimenti	Yudichak
Donatucci	Mann	Solobay	

NOT VOTING-0

EXCUSED-7

Bard	Fleagle	Leach	Smith, B.
Cornell	James	Phillips	

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

SUPPLEMENTAL CALENDAR C

RULES SUSPENDED

The SPEAKER pro tempore. Turning to supplemental calendar C, HB 2015, PN 2657, the Chair recognizes the gentleman from Allegheny County, Mr. Maher.

Mr. MAHER. Madam Speaker, I move to suspend the rules of the House for immediate consideration of the bill.

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

The following roll call was recorded:

YEAS-143

Adolph	Fairchild	Lescovitz	Ross
Allen	Feese	Lewis	Rubley
Argall	Fichter	Lynch	Samuelson
Armstrong	Flick	Mackereth	Sather
Baker	Forcier	Maher	Saylor
Baldwin	Freeman	Maitland	Scavello
Barrar	Gabig	Major	Schroder
Bastian	Gannon	Manderino	Semmel
Bebko-Jones	Geist	Markosek	Smith, S. H.
Belfanti	Gergely	Marsico	Stairs
Benninghoff	Gillespie	McGeehan	Steil
Bianucci	Gingrich	McGill	Stern
Birmelin	Godshall	McIlhattan	Stevenson, R.
Boyd	Good	McIlhinney	Stevenson, T.
Browne	Habay	McNaughton	Taylor, E. Z.
Bunt	Hanna	Metcalfe	Taylor, J.
Butkovitz	Harhai	Micozzie	Thomas
Cappelli	Harhart	Miller, R.	Tigue
Causar	Harper	Miller, S.	True
Cawley	Harris	Mustio	Turzai
Civera	Hasay	Myers	Vance
Clymer	Hennessey	Nailor	Vitali
Coleman	Herman	Nickol	Walko
Crabella	Hershey	O'Brien	Wansacz
Creighton	Hess	O'Neill	Washington
Cruz	Hickernell	Pallone	Watson
Dailey	Horsey	Payne	Weber
Dally	Hutchinson	Petrarca	Williams
DeLuca	Josephs	Petri	Wilt
Denlinger	Keller	Petrone	Wojnaroski
Dermody	Kenney	Pickett	Wright
DiGirolamo	Killion	Raymond	Youngblood
Donatucci	Kirkland	Readshaw	Zug
Eachus	Kotik	Reichley	
Egolf	Lederer	Roberts	Perzel,
Evans, J.	Leh	Rohrer	Speaker
Fabrizio			

NAYS-50

Belardi	Diven	Melio	Solobay
Bishop	Evans, D.	Mundy	Staback
Blaum	Frankel	Oliver	Stetler
Buxton	George	Pistella	Sturla
Caltagirone	Goodman	Preston	Surra
Casorio	Grucela	Rieger	Tangretti
Cohen	Gruitza	Rooney	Travaglio
Corrigan	Haluska	Ruffing	Veon
Costa	LaGrotta	Sainato	Waters
Coy	Laughlin	Santoni	Wheatley
Curry	Levdansky	Scrimenti	Yewcic
Daley	Mann	Shaner	Yudichak
DeWeese	McCall		

NOT VOTING-2

Reed	Roebuck
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EXCUSED-7

Bard	Fleagle	Leach	Smith, B.
Cornell	James	Phillips	

A majority of the members required by the rules having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

BILL ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 2015, PN 2657**, entitled:

An Act amending the act of July 10, 1987 (P.L.246, No.47), known as the Municipalities Financial Recovery Act, further providing for the right of a municipality to petition the court for an increase in the rate of taxation.

On the question,
Will the House agree to the bill on third consideration?
Bill was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

The Chair recognizes the gentleman from Northampton, Mr. Samuelson, on final passage.

Mr. SAMUELSON. Thank you, Madam Speaker.

I rise just to ask the gentleman, Mr. Maher, for a description of this bill. This is a bill that is not listed on the calendar today, and we are considering it under suspension of the rules. So if he would take a moment to summarize HB 2015 for the public record.

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Maher.

Mr. MAHER. Thank you, Madam Speaker.

HB 2015 would establish for cities of the second class the same standing under Act 47 as cities of the second class A, a well-tested approach derived several years ago for consideration making commuter income tax the last resort of an Act 47 circumstance rather than the first resort, and that is the essence of the bill, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Allegheny County, Mr. Frankel, on final passage.

Mr. FRANKEL. Thank you, Madam Speaker.

First, I would like to rise again after the comments on the last bill, and besides, I do look forward, hopefully, to being able to work collaboratively with my colleagues on the other side of the aisle to solve the city of Pittsburgh's problem. I hope we get that opportunity, but this bill also presents, I think, additional obstacles and hoops that the city of Pittsburgh is supposed to jump through. I would never have supported that the city of Scranton should have had to go through additional obstacles in order to deal with its fiscal problems through Act 47. The fact of the matter is that 19 other communities across the State of Pennsylvania that are in Act 47 have not been required to go through this type of process and higher standard, and I would respectfully ask my colleagues to vote "no" on HB 2015.

Thank you.

DECISION OF CHAIR RESCINDED

The SPEAKER pro tempore. Without objection, the Chair rescinds its decision that this bill is on final passage and calls up amendment No. 4806.

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

Mr. **METCALFE** offered the following amendment No. **A4806**:

Amend Sec. 1 (Sec. 123), page 2, line 14, by striking out "second class or"

Amend Sec. 1 (Sec. 123), page 3, by inserting between lines 5 and 6

(4) A petition filed by a city of the second class under this subsection may not include a tax on nonresident income, an increase in a tax on nonresident income or an increase in an occupational privilege tax.

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

PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. For what purpose does the gentleman, Mr. Thomas, rise?

Mr. THOMAS. Question. This bill talks about the Department of Community Affairs. I thought we abolished that 9 years ago. And all I want to know is —

The SPEAKER pro tempore. The gentleman should direct his question to the sponsor of the bill, but the Chair inadvertently said that this was on final passage not realizing there was another amendment. So you will be able to ask the sponsor of this bill a question, but we need to do this amendment first.

Would the gentlemen, Mr. Thomas and Mr. Maher, come to the podium, please.

(Conference held at Speaker's podium.)

The SPEAKER pro tempore. The gentleman, Mr. Thomas, after consultation with the Parliamentarian and Legislative Reference Bureau, has withdrawn his inquiry.

For what purpose does the gentleman, Mr. Horsey, rise?

Mr. HORSEY. So, Madam Speaker, are you saying the bill is gone over?

The SPEAKER pro tempore. I am not saying that.

PARLIAMENTARY INQUIRY

Mr. HORSEY. Well, a parliamentary inquiry, Madam Speaker.

The SPEAKER pro tempore. The gentleman will state his point.

Mr. HORSEY. Should we be considering — can we raise the issue of the appropriateness of the bill even though the amendment is on the floor? Can we challenge the bill even though we are considering the amendment?

The SPEAKER pro tempore. Would you like to speak on final passage? Is that what you mean?

Mr. HORSEY. No. Well, I need to know if the bill is appropriate and if the bill needs to be tabled, but—

The SPEAKER pro tempore. The bill does not need to be tabled, but we need to consider the amendment first.

Mr. HORSEY. That was the question, Madam.

Okay. Then we will work with the amendment and then we will come back to the bill.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Will the House agree to the amendment?

On that question, the Chair recognizes the gentleman, Mr. Metcalfe.

Mr. METCALFE. Thank you, Madam Speaker.

Just a quick summary of the amendment. This amendment actually puts in place into this legislation the ability to stop the commuter tax that has been talked about out in our region and stop the ability for the city to, through the Act 47 distressed status, eventually tax nonresidents of the city, and I would ask for the members' support.

The SPEAKER pro tempore. The Chair thanks the gentleman.

PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. The Chair recognizes the gentleman from Allegheny County, Mr. Maher, on the amendment.

Mr. MAHER. Actually, Madam Speaker, I rise with the inquiry if there is a fiscal note attached to this amendment?

The SPEAKER pro tempore. Does the gentleman, Mr. Metcalfe, have a fiscal note?

Mr. METCALFE. I do not have a fiscal note, but I thought, as one of the previous members was questioned, that the impact, there is no impact to the State with this amendment.

Mr. MAHER. Madam Speaker, I would like to request this amendment be ruled out of order insofar as it addresses taxation and absent a fiscal note.

AMENDMENT RULED OUT OF ORDER

The SPEAKER pro tempore. The Parliamentarian says it definitely needs a fiscal note and is out of order.

PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. For what purpose does the gentleman, Mr. Metcalfe, rise?

Mr. METCALFE. Did we not suspend the rules to consider this bill, which would have suspended the requirement for that also?

The SPEAKER pro tempore. We suspended rule 21 to consider the bill.

Mr. METCALFE. Excuse me?

The SPEAKER pro tempore. That does not do away with the need for a fiscal note.

For a point of clarification, Mr. Metcalfe, if we had suspended the rules specifically for your amendment, you would not have needed one, but the rules were already suspended. We considered the entire bill.

Mr. METCALFE. The rules are suspended to consider the entire bill and that does not include amendments that are attached to the bill. I thought that we had done that the other day. Maybe I was mistaken in what we did just the other day.

MOTION TO SUSPEND RULES

Mr. METCALFE. I would make a motion to suspend the rules for my amendment then.

The SPEAKER pro tempore. The gentleman is correct. You may move to suspend the rules in order to offer amendment No. 4806.

Mr. METCALFE. Thank you, Madam Speaker.

On the question,

Will the House agree to the motion?

Mr. METCALFE. Well, then in the spirit of the season—

The SPEAKER pro tempore. Sir, this is only debatable by the floor leaders, the motion to suspend.

Mr. FEESE. Madam Speaker, I defer to the gentleman, Mr. Metcalfe.

The SPEAKER pro tempore. The gentleman, Mr. Metcalfe, is recognized.

Mr. METCALFE. Thank you, Madam Speaker.

In the spirit of the season, with all of us wanting to be home for Christmas, I would keep my comments short and ask for an affirmative vote and for the consideration and the courtesy to consider this amendment.

So if I could have the members' support to suspend the rules so we can discuss the amendment, it will not take very long in debate, I assure you. Thank you.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Franklin County, Mr. Coy, on the motion to suspend.

Mr. COY. Thank you, Madam Speaker.

Respectfully, I would ask the Democratic Caucus to vote "no" on the suspension of rules and move on with the legislation before us.

On the question recurring,

Will the House agree to the motion?

The following roll call was recorded:

YEAS—67

Adolph	Evans, J.	Leh	Sainato
Armstrong	Fairchild	Lynch	Saylor
Baker	Flick	Markosek	Scavello
Baldwin	Forcier	Marsico	Schroder
Barrar	Gabig	McIlhattan	Scrimenti
Bastian	Geist	McNaughton	Shaner
Benninghoff	Godshall	Metcalfe	Stairs
Boyd	Habay	Micozzie	Stevenson, R.
Browne	Hanna	Mustio	Stevenson, T.
Casorio	Harhart	Nailor	Taylor, J.
Causer	Harper	O'Brien	Tigue
Civera	Hasay	Payne	True
Coleman	Hess	Petrarca	Turzai
Creighton	Hickernell	Reed	Wilt
Dailey	Hutchinson	Reichley	Yewcic
Dally	Kenney	Roberts	Zug
Denlinger	Killion	Rohrer	

NAYS—124

Argall	Feese	Major	Sather
Bebko-Jones	Fichter	Manderino	Semmel
Belardi	Frankel	Mann	Smith, S. H.
Belfanti	Freeman	McCall	Solobay

Biancucci	Gannon	McGeehan	Staback
Birmelin	George	McGill	Steil
Bishop	Gergely	McIlhinney	Stern
Blaum	Gillespie	Melio	Stetler
Bunt	Gingrich	Miller, R.	Sturla
Butkovitz	Good	Miller, S.	Surra
Buxton	Goodman	Mundy	Tangretti
Caltagirone	Grucela	Myers	Taylor, E. Z.
Cappelli	Gruitza	Nickol	Thomas
Cawley	Haluska	Oliver	Travaglio
Clymer	Harris	O'Neill	Vance
Cohen	Hennessey	Pallone	Veon
Corrigan	Herman	Petri	Walko
Costa	Hershey	Petrone	Wansacz
Coy	Horsey	Pickett	Washington
Crahalla	Josephs	Pistella	Waters
Cruz	Keller	Preston	Watson
Curry	Kirkland	Raymond	Weber
Daley	Kotik	Readshaw	Wheatley
DeLuca	LaGrotta	Rieger	Williams
Dermody	Laughlin	Roebuck	Wojnaroski
DeWeese	Lederer	Rooney	Wright
DiGirolamo	Lescovitz	Ross	Youngblood
Diven	Levdanskyy	Rubley	Yudichak
Donatucci	Lewis	Ruffing	
Eachus	Mackereth	Samuelson	
Evans, D.	Maher	Santoni	Perzel,
Fabrizio	Maitland		Speaker

NOT VOTING—3

Egolf	Harhai	Vitali
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EXCUSED—8

Allen	Cornell	James	Phillips
Bard	Fleagle	Leach	Smith, B.

Less than a majority of the members required by the rules having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

LEAVE OF ABSENCE

The SPEAKER pro tempore. The Chair recognizes the majority whip, who moves that the gentleman, Mr. ALLEN, be placed on leave for the remainder of the day. The Chair hears no objection.

CONSIDERATION OF HB 2015 CONTINUED

On the question recurring,
Will the House agree to the bill on third consideration?
Bill was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

On final passage, the Chair recognizes the gentleman, Mr. MAHER, from Allegheny County.

Mr. MAHER. Thank you, Madam Speaker.

Recognizing the extensive discussion we have already had in this general subject area, I would simply observe, for the information of the members, that this proposal as before you

today passed with unanimous bipartisan support in the Urban Affairs Committee, a unanimous vote to report to the floor from the Appropriations Committee, and I would encourage your support of this measure this afternoon consistent with the bipartisan spirit that this is but one step of many that will ultimately be necessary for western Pennsylvania and the city of Pittsburgh to move forward.

Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Allegheny County, Mr. Frankel, on final passage.

Mr. FRANKEL. Thank you, Madam Speaker.

I just want to remind – I do not want to go through the whole argument, but I would ask the members to vote “no” on this bill.

Thank you very much.

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Petrone, on final passage.

Mr. PETRONE. Thank you, Madam Speaker.

Madam Speaker, I urge a positive vote for this legislation. I assure you that both sides have worked this out in a fair and equitable manner, and I can assure you that this will ensure that the city of Pittsburgh is treated like other municipalities, and I urge a positive vote.

Thank you.

LEAVE OF ABSENCE CANCELED

The SPEAKER pro tempore. The Chair recognizes the majority whip, who requests the gentleman, Mr. Cornell, be taken off leave. The Chair hears no objections.

CONSIDERATION OF HB 2015 CONTINUED

On the question recurring,
Shall the bill pass finally?

The SPEAKER pro tempore. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—136

Adolph	Fairchild	Lynch	Rohrer
Argall	Feese	Mackereth	Ross
Armstrong	Fichter	Maher	Rubley
Baker	Flick	Maitland	Ruffing
Baldwin	Forcier	Major	Sainato
Barrar	Gabig	Markosek	Sather
Bastian	Gannon	Marsico	Saylor
Benninghoff	Geist	McGeehan	Scavello
Biancucci	Gergely	McGill	Schroder
Birmelin	Gillespie	McIlhattan	Semmel
Boyd	Gingrich	McIlhinney	Shaner
Browne	Godshall	McNaughton	Smith, S. H.
Bunt	Good	Metcalfe	Stairs
Butkovitz	Habay	Micozzie	Steil
Cappelli	Hanna	Miller, R.	Stern
Casorio	Harhai	Miller, S.	Stevenson, R.
Causar	Harhart	Mustio	Stevenson, T.
Cawley	Harper	Nailor	Tangretti
Civera	Harris	Nickol	Taylor, E. Z.
Clymer	Hasay	O'Brien	Taylor, J.
Coleman	Hennessey	Oliver	Travaglio
Cornell	Herman	O'Neill	True
Costa	Hershey	Pallone	Turzai
Crahalla	Hess	Payne	Vance

Creighton	Hickernell	Petrarca	Waters
Cruz	Horsley	Petri	Watson
Dailey	Hutchinson	Petrone	Weber
Dally	Keller	Pickett	Wilt
DeLuca	Kenney	Pistella	Wright
Denlinger	Killion	Preston	Yudichak
DiGirolamo	Kotik	Raymond	Zug
Diven	Lederer	Readshaw	
Donatucci	Leh	Reed	
Egolf	Lescovitz	Reichley	Perzel,
Evans, J.	Lewis		Speaker

NAYS—59

Bebko-Jones	Evans, D.	Mann	Sturla
Belardi	Fabrizio	McCall	Surra
Belfanti	Frankel	Melio	Thomas
Bishop	Freeman	Mundy	Tigue
Blaum	George	Myers	Veon
Buxton	Goodman	Rieger	Vitali
Caltagirone	Grucela	Roberts	Walko
Cohen	Gruitza	Roebuck	Wansacz
Corrigan	Haluska	Rooney	Washington
Coy	Josephs	Samuelson	Wheatley
Curry	Kirkland	Santoni	Williams
Daley	LaGrotta	Scrimenti	Wojnaroski
Dermody	Laughlin	Solobay	Yewcic
DeWeese	Levdansky	Staback	Youngblood
Eachus	Manderino	Stetler	

NOT VOTING—0

EXCUSED—7

Allen	Fleagle	Leach	Smith, B.
Bard	James	Phillips	

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

LEAVE OF ABSENCE

The SPEAKER pro tempore. The Chair recognizes the minority whip, who requests that the gentleman, Mr. DeWEESE, be placed on leave for the remainder of the day. The Chair hears no objection.

SUPPLEMENTAL CALENDAR A

**BILL ON CONCURRENCE
IN SENATE AMENDMENTS**

The House proceeded to consideration of concurrence in Senate amendments to **HB 1222, PN 3127**, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for identification of incorrect debtor; further defining “other specified offense” for purposes of DNA data and testing; further providing for summary offenses involving vehicles, for law enforcement records, for duration of commitment and review; establishing a cause of action for unauthorized enactment or enforcement of local ordinances governing agricultural operations; providing for certain attorney fees and costs; and further providing for sentence of intermediate punishment and for assessments.

On the question,
Will the House concur in Senate amendments?

The SPEAKER pro tempore. It is moved by the lady, Ms. Weber, that the House concur in the amendments inserted by the Senate.

The Chair recognizes the gentleman from Clearfield County, Mr. George.

Mr. GEORGE. Madam Speaker, thank you very much.

Madam Speaker, this is very tough. No, not what we are trying to do is not so tough, but as most on the other side are aware, that this bill was amended in the Senate, the same bill that we had turned back on the last session several times, but, oh, what a clever idea in that they incorporated it with a bill that deals with child molestation.

So, you know, if you vote “no,” Madam Speaker, those of you that want to be responsible, you could go home and find somebody saying, hey, do you not care about these people that commit these child molestation acts? Wow. They want this very badly. But hear me, the small farmers in my area, they do not want this bill. They do not want a part of this bill. Now, the Farm Organizations and the Senate might say to you, in no way, Madam Speaker, does this bill prevent sludge, but let us talk about this bill.

This is the same bill or a companion to legislation that they attempted to put forth in behalf of these large farms that come in from out of State, take residence in your area, and provide a condition that is not only a bar to your comfort and your concern, but the stench and such makes it virtually impossible for you ever to sell your home at any respectable market value.

Now, they knew, at a time where we do not know yet how many deals have to be made and where we are in the budget, and I, like most of you – and I have been here quite a while – I thought, Madam Speaker, we were going to be dealing with the budget and the matters of Pittsburgh and the matters that affect thousands of people, not a matter that helps a very select few. Let me say this, Madam Speaker: Would you make— Madam Speaker, could I ask— No, we will not roll it. We will roll it when I am ready.

The SPEAKER pro tempore. The gentleman deserves to have quiet. I would ask the gentlemen around the speaker, Mr. George, to please.

Mr. GEORGE. I guess, Madam Speaker, I do not know when to recognize a gift horse, the same horse that put that stench in. I am not against horses or farm animals or any other animal. I am not against anyone in this great country of ours that wants to be a businessperson. I am as receptive to the problems that farmers have from day to day. I am as receptive to any farm, any family farm that has difficulty keeping their kids at home when they can make twice as much money out driving truck than they can on the family farm driving tractor. I can understand what farmers have to go through. I can understand what happens with inclement weather, what happens with a bad season, but is that right that we have a community and there are 20 or 30 homes that have just been built, and those homes are built, nice homes, and one of these big farms comes in with 10,000 hogs and you cannot even get up in the morning and come out on the porch that it does not gag you. Well, that farm has a right, but nevertheless, Madam Speaker, thank you, so do those people.

So some say this bill does not do anything. Oh, yes, it does. It prevents these communities from responsibly coming forward to help these investors, these homeowners, this community, and then they dare, and I am ashamed that they would do that, because the Republicans on the other side are good people, just as good as us, but why be taken in with some kind of an ill-fated action? If you want to talk about child molestation, ask Lynn Herman, my colleague, about the little 11-year-old boy in his district that fell in the sludge. Lynn Herman is not against business. Lynn Herman is for people, and he had an 11-year-old boy that fell in sludge. Two days later he had boils all over his arms.

The SPEAKER pro tempore. Would the gentleman, Mr. George, cease, please.

Please refrain from mentioning the members' names on the floor.

Mr. GEORGE. I agree with you, but I meant to be complimentary. If it was not taken that way, I would certainly apologize to the gentleman, because I followed what he has done on this, and I respect him for it, but I beg your pardon and I beg his pardon. He has the courage to stand up on matters like this. Sure, it might only involve one, but sticking up for that one is important. I feel he is an idealist, and I want to join with him because this just is not right.

When money is so evasive and so pronounced that no one dares to challenge, anymore it is a class action or you do not go anywhere. Anymore if you do not have the money, you do not have the rights. Anymore they talk about constitutional right, where is it?

I do not care what you fellows want to do. It will not bother me to vote "no," and I do not think anybody is going to blame me for favoring child molestation. If anybody was molested, it was that boy that died.

All we are saying, if you want to bring out a bill, and we have been fighting 5 years, then bring out bills that the same concoction that you have today by these brilliant few will bring about a happy medium where we can work together, where we can make everybody understand. It is not how big you are or how rich you are. That does not give you an edge with people like us who supposedly are honest and understand the plight of our constituents. What they are doing today, when we have people running around and want to know if their school is going to close, where people are wondering if they are going to have children's services, we are taking up a bill like this in the ninth hour and scaring people to believe you will be charged with a situation that not one of you would ever be charged with because that is not what you are made of.

Regardless of what your philosophy is, regardless of who you favor, you favor people. You do it in different ways but you favor people, and I am saying to you, do not vote for this bill. You are voting for molestation of people and their properties and their sanctity. I ask you to vote "no."

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Schuylkill County, Mr. Goodman.

Mr. GOODMAN. Thank you, Madam Speaker.

Madam Speaker, I also rise today to join my colleague from Centre County in opposition to HB 1222, and I object to it in its current form. As the members know, July 7 this same legislation passed the House 195 to 0. On December 15 it passed the House 196 to 0, and then last night the Senate inserted legislation in

the form of an amendment that would now address things that were never meant to be addressed by child molestation legislation.

Madam Speaker, I am speaking about factory farms and the use of sludge material or, as it is known in Schuylkill County, biosolids. I live in a county where many farmers experimented years ago with the use of biosolids, and that experimentation was used by large corporations to suddenly convince local townships that this type of material could be brought in to our area with no long-term ramifications. Since that time many of my local townships have learned otherwise. What this legislation would do is it would strip townships from their regulatory control over these factory farms and the spread of biosolids.

MOTION TO RECOMMIT

Mr. GOODMAN. I urge my colleagues to vote against this legislation and ask that it be recommitted back to the Local Government Committee where it can be broken apart and discussed on its merits.

I so move, Madam Speaker.

The SPEAKER pro tempore. Did you say Local Government, sir?

Mr. GOODMAN. Yes, ma'am.

The SPEAKER pro tempore. The gentleman, Mr. Goodman, moves that this bill be recommitted to the Local Government Committee.

On the question,

Will the House agree to the motion?

The SPEAKER pro tempore. This is on the question of recommittal.

The Chair recognizes the gentleman, Mr. O'Brien, from Philadelphia.

Mr. O'BRIEN. Madam Speaker, if this bill were to be recommitted anywhere, I would like it to go to Judiciary, but I strongly oppose that motion.

PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. On the recommittal motion, the Chair recognizes the gentleman, Mr. Blaum.

Mr. BLAUM. Thank you, Madam Speaker.

A parliamentary inquiry, and I am just—

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BLAUM. I guess I am just confused by the motion. It is my understanding – and I would like your help with this – immediately before the gentleman, Mr. Goodman's motion, what was before the House?

The SPEAKER pro tempore. Concurrence.

Mr. BLAUM. Concurrence in what?

The SPEAKER pro tempore. HB 1222.

Mr. BLAUM. Concurrence in Senate amendments to HB 1222.

The SPEAKER pro tempore. That is correct.

Mr. BLAUM. The Senate amendments are the objectionable part. All of the great stuff in this bill, all of us already voted for. The Senate in a sleazy move put this language in, put this

language in which is so offensive to townships throughout Pennsylvania.

If the only thing before us is concurrence or nonconcurrence in only that language the Senate inserted, I am confused then why we would recommit it, and I think you have helped me make my decision on our vote here, because, again, the only thing before us is that Senate amendment to this bill. Is that correct?

The SPEAKER pro tempore. The question is concurrence in Senate amendments.

Mr. BLAUM. And if the motion was withdrawn or defeated, again it would reoccur. The only thing before the House would be that particular objectionable thing that the Senate inserted, and if the House voted “no,” this bill would go to a conference committee. Is that correct, Madam Speaker?

The SPEAKER pro tempore. The latter statement you made is correct.

Mr. BLAUM. Thank you, Madam Speaker.

The SPEAKER pro tempore. Again, on the motion to recommit, the discussion should be on the motion to recommit only.

On the motion to recommit, the Chair recognizes the gentleman from York County, Mr. Saylor.

Mr. SAYLOR. Madam Speaker, I oppose the issue of recommitment.

This issue has been around the House and the Senate for years now. I think it deserves a vote “yes” or “no,” one way or the other. I mean, you can debate about whether it should be in this bill or how it was done, but this has been around. It has been voted in the House and Senate different times, and, you know, I think we should deal with it. It is in this bill. Let us deal with it “yes” or “no.” The members of this House can make a decision whether it is worthwhile. It has been in the Agriculture Committee. It has been voted out of the Agriculture Committee last session. I think it is time for the House to deal with it and move on with the business.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Montgomery County, Mr. Bunt, on the motion to recommit.

Mr. BUNT. Thank you, Madam Speaker.

Madam Speaker, this language is not new. The issue was first raised with the introduction of SB 1413 on April 17, 2002. SB 1413 passed the Senate last session by a vote of 48 to 2, and that was on April 30, 2002. Further, on May 1, SB 1413 was reported from the House Agriculture and Rural Affairs Committee. Then SB 1413 was referred to the House Appropriations Committee on May 7 of 2002, and it was reported out of the House Appropriations Committee on November 26, 2002, with amendments to address concerns raised by interested groups at that time. Then on November 27 of 2002, the Senate amended the language into SB 406 in hopes of getting this amendment done prior to the end of session sine die. However, at this time interested parties raised new concerns to the amendment which resulted in the bill not passing prior to the end of our last legislative session.

Madam Speaker, supporters of this legislation have worked hard. They have worked diligently to address concerns with the bill and have demonstrated a sincere effort to work to make this bill better. That being said, Madam Speaker, the language that is

before us today has been changed yet again in order to address concerns raised by groups during last year’s sine die. For example, you have heard it spoken here today that there were concerns with the initial legislation that township officials would be prone to personal liability for actions brought pursuant to this bill.

The SPEAKER pro tempore. The Chair reminds the gentleman, Mr. Bunt, this is only on the motion to recommit.

Mr. BUNT. Madam Speaker, I was trying to give the members as much information so that they could make an informed judgment on the issue, because there was an allegation made that this was for the new issue and that we have not heard it before, and so, Madam Speaker, it is my only opportunity to address this issue for a lot of our members that are new since January of 2003.

May I proceed, Madam Speaker?

The SPEAKER pro tempore. Absolutely.

Mr. BUNT. Also, Madam Speaker, certain groups raised concerns regarding the exemption from the cap that is currently imposed upon actions against local agencies. And, Madam Speaker, again, this concern has been addressed in this bill as to ensure that any recovery of attorney fees and litigation costs ordered pursuant to these types of actions will be subject to the limits currently provided for in Title 42.

Madam Speaker, both caucuses have had the opportunity to go over this legislation and have had ample time to receive feedback from those persons on both sides of this issue. I believe that a motion to recommit this bill is irresponsible and unnecessary, and I urge the members to vote “no” to recommit.

Finally, Madam Speaker, I would be remiss not to point out that the bill contains many other issues that are important to this Commonwealth. There are provisions in this bill relating to juvenile records which are needed to afford greater protection to juveniles and to the public; there are important changes to the statute concerning juvenile sexually violent predators; there is also a needed change to the DUI (driving under the influence) reform bill that we passed at the end of September, which must be, must be corrected before the new DUI bills go into effect on February 1, 2004.

Therefore, Madam Speaker, I urge the members to vote “no” on recommitment.

The SPEAKER pro tempore. The Chair thanks the gentleman.

PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. The Chair recognizes the gentleman from Lancaster County, Mr. Sturla, on the recommitment motion.

Mr. STURLA. Thank you, Madam Speaker.

Madam Speaker, earlier the question was raised about, procedurally, what would happen if we nonconcurred? My question is procedurally about what happens if this gets sent to committee, rereferred to committee. Assuming that the committee would separate these two issues so that the Megan’s Law portion that we sent over to the Senate in the first place would stay in the bill and the language as found offensive by some would be taken out of the bill and sent back to the floor here, assuming we took it up again on the floor here, would we need to do anything else? What happens to it at that point in time?

The SPEAKER pro tempore. The committee has no power to amend the bill.

Mr. STURLA. The committee has no power to amend the bill. Okay.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Northampton, Mr. Grucela, on the motion to recommit.

Mr. GRUCELA. Thank you, Madam Speaker.

Madam Speaker, with all due respect to my friend and colleague from Montgomery County, I have to rely back on my 30 years of teaching American government in high school. This is not the way I taught American government and this is not the way I think the process ought to work. Pretty relevant during this time of year, though, I did teach about what was sometimes termed as "Christmas-tree bills," and this seems to be one of those examples.

I think we have two separate issues here. So I would favor the motion to recommit, because I just do not believe this is the right way that we should be doing business. And I would further tell you that in keeping contact with those young people in the classroom, this is why, when we do things like this, young people are turned off to the electoral process, why they sometimes feel they should not vote, because we do things like this.

I would respectfully ask the members to vote to do the right thing, separate these issues for what they really are, and they are two separate issues, not to try to tie them together in any way that is political, and I concur with my friend from Wilkes-Barre that this was a sleazy move over there to do something like this.

So I would ask the members to support the motion to recommit so that we can do the right thing the way we teach the kids American government in our high schools.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Elk County, Mr. Surra, on the motion to recommit.

Mr. SURRA. Thank you, Madam Speaker.

Madam Speaker, I rise to support the motion to recommit HB 1222 to the Local Government Committee.

I think it is important and it is key, from one of the previous speaker's comments, that this House rejected this proposal last November, and now we are forced into a situation we are on a concurrence vote. HB 1222 that we all passed unanimously has some very, very good things in it. What the Senate has put in there is a whole different thing, and I think it is appropriate that the Local Government, although they cannot amend that legislation, can review that legislation, send it back to the General Assembly, to the House, and make recommendations as to how this is going to impact on local government. We are tying the hands of local government.

The County Commissioners Association, the Township Supervisors Association are opposed to the Senate amendments. Not only are we tying the hands of local government, we are tying the hands of local government on some very, very important issues, and believe me, when the CAFO comes to your community, when the Concentrated Animal Feeding Operation, the 10,000 hogs, comes to your community, your constituents are going to wonder why you voted for this. Believe me, talk to members that deal with these issues.

When the sludge trucks pull into your township, you are going to be asked, why did you allow them to do that? Why did you not allow our locally elected officials to have the power to protect us? That is what the Senate put in here.

HB 1222 as it left this chamber was a good piece of legislation. It is something altogether different now. I think we should put it back in the Local Government Committee. Let them review how their changes are going to impact on our local governments and send it back with recommendations.

I would ask for an affirmative vote on the motion to recommit.

The SPEAKER pro tempore. The Chair thanks the gentleman.

PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. The Chair recognizes the gentleman from Centre County, Mr. Herman, on the motion to recommit.

Mr. HERMAN. Thank you very much, Madam Speaker.

Before I speak on the motion to recommit, I have a parliamentary inquiry to make, and that is this, that I am looking at now the summary that the Republican Caucus provided to us in caucus today. This bill apparently passed the Senate 48 to nothing recently. It says here it was amended today or, no, on December 8 in the House Rules Committee. Now, if we concur in this bill, does it go to the Governor or is it going back to the Senate for concurrence of amendments?

The SPEAKER pro tempore. The bill was not amended in Rules Committee, so that if we vote to concur, it will go immediately to the Governor for his signature.

Mr. HERMAN. Then some more parliamentary inquiries, Madam Speaker, and that is this: On the motion to recommit, you had indicated that if this was approved by the House today to recommit to the House Local Government Committee, that the committee cannot amend that bill, and therefore, I conclude from that, for those members of the House who find some provisions of this bill objectionable, that the only way to amend those provisions out of the bill would be to nonconcur, eventually nonconcur with the Senate amendments. Is that correct?

The SPEAKER pro tempore. Or you could make a motion to suspend the rules and offer an amendment on the House floor.

Mr. HERMAN. All right. So there are two options then.

May I speak on the motion to recommit, Madam Speaker?

The SPEAKER pro tempore. The gentleman may proceed.

Mr. HERMAN. The gentleman made a motion to recommit to the House Local Government Committee, which I chair. In looking at the bill, it amends the Judicial Code, and maybe a more appropriate motion would have been made to approve this and send it to the Judiciary Committee. But in hearing some of the speakers previously, I have to admit that if you wanted to look at the offensive language of that language that the Senate put in that many of us find offensive, that committee did address these issues last session but the Local Government Committee did not address them at all.

And therefore, Madam Speaker, as the chair, I would be more than happy to have this bill sent to the Local Government Committee.

PARLIAMENTARY INQUIRY

Mr. HERMAN. I have one further inquiry, Madam Speaker, and that is this: If the motion to recommit was passed or approved today, is one of the options we would have as a committee, if we cannot amend the bill, can we rerefer it to the Judiciary Committee? Is that an option?

The SPEAKER pro tempore. The answer is no, because the House by its motion voted to send it to the Local Government Committee.

Mr. HERMAN. All right. Then I support the motion to recommit to the House Local Government Committee.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Northumberland, Mr. Belfanti, on the motion to recommit.

Mr. BELFANTI. Thank you, Madam Speaker.

Madam Speaker, last session when both HB 1413 and subsequent legislation was before this chamber, I spoke against the measures primarily because of the issue that was just alluded to by my colleague, Representative Goodman, sewage and sewage sludge, particularly class B biosolids, and I raised objections to that substance being referred to as typical farming material and an agricultural commodity.

The reason that I would like to see this bill recommitted is that I understand that the latest version of this legislation does make clear that class B biosolids are not affected by this bill. However, Madam Speaker, many other provisions that we had concerns with are still impacted.

Finally, Madam Speaker, the reason I would like to see this bill recommitted is that HB 1413, and I forget what the other bill number was, was brought up on the last day of session. It was sine die, and there was pressure by various constituency groups to get this bill passed because the session was about to close and it would be closed for some 3 or 4 months. We now find ourselves facing what we hope will be a holiday break at some point, but we do have the ability to get the stakeholders together between this period of time and see if we can work out a compromise bill and not muddle up this very good piece of legislation that this amendment was inserted to in the last minute and run it as a separate piece of legislation that it can be supported by the township supervisors and the ag community. As you know, the ag community is split – the Farmers Union on one side and the Farmers' Association on the other on this legislation.

And finally, Madam Speaker, I represent a large portion of rural Pennsylvania, Montour County in particular. My supervisors from Montour County are farmers, and they tell me that they do not want to lose their right to be able to adopt ordinances if it is in the best interest of their constituents, and again, Madam Speaker, they are farmers themselves by and large. So they are for the right to farm.

In any case, I believe that this is being inserted in the last minute, and I was given assurances that I would be involved in the negotiations if this bill were to be brought out again, and that did not occur.

For those reasons I would ask that the bill be recommitted and negotiated by all the parties concerned.

Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Chester County, Mr. Hershey, on the motion to recommit.

Mr. HERSHEY. Thank you, Madam Speaker.

I rise to oppose the motion to recommit. This issue has been around a long time, and contrary to several previous speakers, we never got to vote on it. We never had the opportunity. It was voted in the Senate and sent over, but we never got to vote on the floor. I support the comments made by my colleague from Montgomery County, who spoke very eloquently on why the ag community needs this.

So, Madam Speaker, I oppose and ask you to oppose the motion to recommit.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Northampton, Mr. Samuelson, on the motion to recommit.

Mr. SAMUELSON. Thank you, Madam Speaker.

The speaker who just spoke said we never had an opportunity to vote on it. I have got a novel idea. Why do we not have a bill specifically on one topic, go through the committee process, have public hearings, and it comes out and we vote on that bill on that topic.

Here we are. It is the Christmas season, and we truly are voting on a Christmas-tree bill, as several speakers have noted.

I am speaking now because I heard the gentleman from the 147th District say that it would be irresponsible to recommit this bill to a committee so that the different issues that are melded together in this one bill could be separated out and we could have separate votes on each issue – irresponsible. I think the exact opposite is true. The responsible thing for us to do would be to take this bill, send it back to committee, and then have it come back so that we can vote on the Crimes Code pieces that are in this. We can vote on the factory farming piece that is in this legislation. Why do we have to vote time after time on one bill with everything thrown in the pot?

Take a look on your computer screen at the history of this bill. Back at the beginning of the year the gentledady from the 148th District introduced a bill on the subject of summary offenses of traffic violations. It is a two-page bill. You can actually see it on your computer screen – two pages on a single topic. Since then this bill has been changed four times, and now we are looking at the fifth different version of this legislation. This bill has grown from 2 pages to 13 pages.

Somebody just said this issue has been around awhile. Guess what? The Senate just threw this issue in last night. Less than 24 hours ago we knew that we were going to be talking about whether municipalities had the right to regulate factory farming. This issue has not been around in HB 1222 for a long time. It has been around in HB 1222 for less than 24 hours.

Now this bill, which started dealing with summary offenses involving vehicles, a two-page bill, now involves DNA data and testing, DNA samples, creditors and whether they should follow the Pennsylvania Rules of Civil Procedure – it still does involve the summary offenses involving vehicles – records and files concerning a child, sexually violent offenders and what procedures the Commonwealth can use to keep them incarcerated after their 21st birthday, and also factory farming. This is not the way we are supposed to do business, and that is not just me from the 135th District saying that. You can also look in your Pennsylvania Constitution, Article III, section 3. You will find this sentence: “No bill shall be passed containing

more than one subject, which shall be clearly expressed in its title, except a general appropriation bill or a bill codifying or compiling the law or a part thereof.” “No bill shall be passed containing more than one subject....”

Well, I am not sure, Madam Speaker, what factory farming has to do with summary offenses involving vehicles. I really am not sure. Maybe I should be grateful the Senate stopped there. Maybe they could have last night thrown in the issue of casino gambling to this bill, and then we would be having a vote on one bill. Actually, come to think of it, what they really should have done is thrown in the State budget to this bill. We have been waiting for the Senate to take action on the State budget, and they have not done that so far.

The SPEAKER pro tempore. Would the gentleman please stick to the issue of recommitment.

Mr. SAMUELSON. Thank you, Madam Speaker.

Let me stick to the issue as stated in the Pennsylvania Constitution, Article III, section 3: “No bill shall be passed containing more than one subject....” So I beg to differ with the gentleman from Montgomery County. Sending this bill to committee so that the separate issues can be voted on separately is not the irresponsible thing to do; sending this bill back to committee so that we can vote on each issue separately is the responsible thing to do.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Philadelphia, Mr. Cohen, on the motion to recommit.

Mr. COHEN. Thank you, Madam Speaker.

Madam Speaker, I oppose this bill and therefore support the motion for recommitment, because it sets forth a terrible principle. The principle it sets forth is that legislative bodies are responsible for knowing all of the applicable law over them and have to pay a fine if they pass a law that exceeds their authority. We pass laws all the time that somebody, that some bright lawyer somewhere, figures out violates some Federal law. Now, we probably could do a better job, but it takes resources to do a better job. You have to have more lawyers doing more research to figure out all possible Federal laws.

Now, we have far greater legal resources than do these little boroughs and townships and cities. We already have a problem in many places with borough solicitors or school solicitors or township solicitors billing enormous amounts of hours, and all this is going to do is send a message to every local municipality that what it has to do is have its solicitor bill an enormous amount of hours to make sure that this does not violate any State law anywhere, and that is a very, very tough standard and that is really an unfair standard. We ought not to be held to that standard, and the local governments with only a tiny fraction of the legal resources that we have should not be held to this standard. It is very, very bad public policy, and I therefore support this motion to recommit.

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Horsey, from Philadelphia on the motion to recommit. The gentleman waives off.

The Chair recognizes the gentleman from Philadelphia, Mr. O’Brien, on the motion to recommit.

Mr. O’Brien. Thank you, Madam Speaker.

In response to Representative Samuelson’s assertion that we have too many subjects and that you have to have a single

subject bill, these are all Title 42s; this deals with the judicial process.

If I can, Madam Speaker, restate the point of parliamentary inquiry that was stated earlier. If this bill is recommitted, there is virtually no effect. The committee process cannot respond in any way. We cannot amend it; you cannot refer it to another committee, so that point is moot.

Let me just restate another point that was made by Representative Bud George. We are on the horns of a nasty dilemma, Madam Speaker. There was an amendment put in by the Senate, and that is really the only issue that is at hand before this House, and we should very quickly, in my view, get to that issue and debate that on concurrence.

But let me tell you from my vantage point the horns of a nasty dilemma that I see us in. There are other subjects that are very important that are in this piece of legislation, all of which were in this bill when they left the House and were voted on unanimously by this House, and they were stated earlier and eloquently by Representative Bunt, and I will just go through them very quickly again. They involve the summary offenses involving vehicles requested by the State Police. They close loopholes in confessions of judgment. They make very important changes to our DUI reform bill that must be done before February 1, and we do not have another Title 42 to accomplish that unless we do it here tonight. It changes the reporting of law enforcement records for violent offenders.

But let me tell you one other important issue that is included in this bill. We voted on an important piece of legislation; it was Senator Brightbill’s bill, and it dealt with the Calabrese case in Lebanon County. Let me just remind the members of the House what that case involved. Calabrese was convicted at the age of 17 and he was scheduled to be released at the age of 21. He was convicted of rape; he told authorities he would do it again. In fact, he reportedly said he “likes being a rapist.” He also said “the only thing wrong with rape is that—”

The SPEAKER pro tempore. The gentleman, Mr. O’Brien—

Mr. O’Brien. “—it is against the law.”

The SPEAKER pro tempore. The gentleman, Mr. O’Brien, needs to restrict his remarks to recommitment, the reasons for or against, please.

Mr. O’Brien. Well, Madam Speaker, what I am saying is, if we recommit this bill, we cannot address these important issues at hand, and I believe they are within the scope of this recommitment motion. And there has been latitude by other speakers, and I would ask that I be given equal latitude, and I will be brief.

The SPEAKER pro tempore. The Chair would appreciate it, if you be brief, if you would try and wrap up the reasons. We did give some latitude to other speakers; you are correct. But if you could summarize it, it would be appreciated.

Mr. O’Brien. The testimony by Calabrese himself and by various therapists and counselors whose job it was to rehabilitate him when he was incarcerated at youth detention centers included that he frequently masturbated to fantasies of violent rape. Pictures of young children were torn out of magazines and were found under his mattress. He told therapists that he had specific plans to rape his counselor. He collected hair samples from female staff members at the detention facility and used them as trophies in his self-gratification fantasies. On the basis of this information, Judge Charles in each case ruled that Calabrese’s detention should continue.

Because Calabrese’s original offenses – involuntary deviate sexual intercourse and aggravated indecent assault as well as rape – occurred when he was under the age of 18, he was adjudicated as a juvenile, and as such, he had to be released at the age of 21. What makes it worse is that Megan’s Law does not apply, that sexual offenders must notify authorities when they move so that steps can be taken to protect the community, that did not apply because Calabrese’s offenses were committed before the law was enacted. That is why Judge Charles took the unusual step of releasing his opinion to the public – to protect the public.

Madam Speaker, in this legislation what we are in effect doing is, the assessment board that determines if a juvenile poses a high risk to reoffend, under this legislation we increase the time for the board to complete a thorough assessment, and further, we change the standard so the court, when they receive that assessment—

Mr. COHEN. A point of order, Madam Speaker.

Mr. O’BRIEN. —within 15 days, the court— I am almost finished.

POINT OF ORDER

Mr. COHEN. Point of order.

The SPEAKER pro tempore. The gentleman will state his point of order, please.

Mr. O’BRIEN. I am almost finished, Madam Speaker.

Mr. COHEN. Madam Speaker, in addition to the fact that this is a motion on recommittal, the major subject before us is concurrence in Senate amendments. It is not in order to deal with the rest of the bill. The only question before us is the Senate amendments.

Mr. O’BRIEN. Madam Speaker, if you recommit this bill, you recommit—

The SPEAKER pro tempore. The motion before us is recommittal.

Mr. O’BRIEN. —all of our work that we have in this bill, and you do not have a chance to address it again.

The SPEAKER pro tempore. The Chair thanks—

Mr. O’BRIEN. I would ask for a “no” vote on recommittal.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Centre County, Mr. Benninghoff, on the motion to recommit.

Mr. BENNINGHOFF. Thank you, Madam Speaker.

I am not asking for any latitude.

Very briefly, I think if we vote to recommit this, we are somewhat ducking our own duties. You have an opportunity to vote “yes”; you have an opportunity to vote “no.” I get concerned when we continuously want to recommit things that make us uncomfortable. We have been elected to do things that make us uncomfortable and to make votes that are not necessarily going to be popular. The bottom line is, for those that are afraid of CAFOs, I do not necessarily like Wal-Mart coming in my area either and taking away mom-and-pop stores, local hardware stores, but times change. Do not be afraid of CAFOs. For those of you who want a Christmas ham, it has got to come from somewhere, unless you want peanut butter and jelly for Christmas.

The bottom line is, factory farming is the result of an industry that is changing as well – skyrocketing agricultural

costs, property taxes, and health-care insurance costs for an industry that has very little return. If we recommit this, I feel we turn our backs on the agricultural community and the community that most of you stand up many times and say you want to keep number one.

Please think seriously about not recommitting for the reasons that our previous speaker spoke, some very serious issues, and for the mere fact that we want to keep agricultural communities our number one industry here in Pennsylvania. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,
Will the House agree to the motion?

The following roll call was recorded:

YEAS—53

Argall	Freeman	Manderino	Staback
Bebko-Jones	George	McCall	Surla
Belardi	Goodman	McIlhattan	Surra
Belfanti	Grucela	Melio	Tigue
Bianucci	Gruitza	Mundy	Travaglio
Buxton	Haluska	O’Neill	Veon
Caltagirone	Harhai	Petri	Vitali
Cohen	Hennessey	Petrone	Walko
Corrigan	Herman	Roebuck	Wansacz
Coy	Josephs	Rubley	Weber
Curry	Laughlin	Samuelson	Wheatley
Eachus	Levdansky	Santoni	Williams
Evans, D.	Lynch	Schroder	Yudichak
Fabrizio			

NAYS—138

Adolph	Egolf	Lescovitz	Rooney
Armstrong	Evans, J.	Lewis	Ross
Baker	Fairchild	Mackereth	Ruffing
Baldwin	Feese	Maher	Sainato
Barrar	Fichter	Maitland	Sather
Bastian	Flick	Major	Saylor
Benninghoff	Forcier	Mann	Scavello
Birmelin	Frankel	Markosek	Scrimenti
Bishop	Gabig	Marsico	Semmel
Blaum	Gannon	McGill	Shaner
Boyd	Geist	McIlhinney	Smith, S. H.
Browne	Gergely	McNaughton	Solobay
Bunt	Gillespie	Metcalfe	Stairs
Butkovitz	Gingrich	Micozzie	Steil
Cappelli	Godshall	Miller, R.	Stern
Casorio	Good	Miller, S.	Stevenson, R.
Causer	Habay	Mustio	Stevenson, T.
Cawley	Hanna	Myers	Tangretti
Civera	Harhart	Nailor	Taylor, E. Z.
Clymer	Harper	Nickol	Taylor, J.
Coleman	Harris	O’Brien	Thomas
Cornell	Hasay	Oliver	True
Costa	Hershey	Pallone	Vance
Crahalla	Hess	Payne	Washington
Creighton	Hickernell	Petrarca	Waters
Cruz	Horsey	Pickett	Watson
Dailey	Hutchinson	Pistella	Wilt
Daley	Keller	Preston	Wojnarowski
Dally	Kenney	Raymond	Wright
DeLuca	Killion	Readshaw	Yewcic
Denlinger	Kirkland	Reed	Youngblood
Dermody	Kotik	Reichley	Zug
DiGirolo	LaGrotta	Rieger	
Diven	Lederer	Roberts	Perzel,
Donatucci	Leh	Rohrer	Speaker

NOT VOTING—3

McGeehan Stetler Turzai

EXCUSED—8

Allen DeWeese James Phillips
Bard Fleagle Leach Smith, B.

Less than the majority having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

LEAVE OF ABSENCE

Mr. COY. Madam Speaker?

The SPEAKER pro tempore. For what purpose does the gentleman, Mr. Coy, rise?

Mr. COY. Return to the order of business of leaves of absence and request a leave for the balance of the day for the gentleman from York County, Mr. STETLER.

The SPEAKER pro tempore. The gentleman requests that the gentleman from York County, Mr. Stetler, be placed on leave for the remainder of the day. The Chair hears no objection.

CONSIDERATION OF HB 1222 CONTINUED

On the question recurring,
Will the House concur in Senate amendments?

The SPEAKER pro tempore. On concurrence, the Chair recognizes the lady from Montgomery County, Ms. Weber. The lady waives off.

The Chair recognizes the gentleman from Elk County, Mr. Surra, on concurrence.

Mr. SURRA. Thank you, Madam Speaker.

Madam Speaker, as I said earlier, when HB 1222 left this chamber, it was a very fine piece of legislation that many members worked hard on, and what we were left with was sort of a bait and switch, Madam Speaker, which the Senate did to us. They took a good piece of legislation, put some very controversial language in. It was said earlier that we have never had a chance to vote on this. We have had a chance to vote on this, and this chamber has said no to this legislation. So now it is tucked into a nice piece of legislation, and we are forced with a very difficult vote.

MOTION TO SUSPEND RULES

Mr. SURRA. Now, Madam Speaker, I have a solution. I have an amendment here, amendment A4864, which I need to suspend the rules to run, Madam Speaker, which would strip out the language that the Senate put in and allow us to finally vote on the good piece of legislation that we all passed.

Madam Speaker, if we pass this legislation, we are all going to be bad Santas.

The SPEAKER pro tempore. Did the gentleman, Mr. Surra, make a motion?

Mr. SURRA. Yes, I did, Madam Speaker. I made a motion to suspend the rules to offer amendment A4864.

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

The SPEAKER pro tempore. The motion to suspend the rules is debatable only by the floor leaders.

The gentleman, Mr. Surra, may continue.

Mr. SURRA. Thank you, Madam Speaker.

Madam Speaker, I wish to suspend the rules to withdraw the Senate amendments so we can vote on the good piece of legislation which we all passed. It is Christmastime, Madam Speaker, and if we pass this legislation, what we are going to give the local governments and the constituents that we represent in Pennsylvania for Christmas is a stocking full of sludge, and I would ask that you support my motion to suspend the rules so we can take that language out.

Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Lycoming County, Mr. Feese, on the motion to suspend.

Mr. FEESE. Thank you, Madam Speaker.

Madam Speaker, this issue has been around for a number of years and has generated strong emotions on both sides of the aisle and both sides of the issue. It is time to put an end to this for both sides. Let us get on with the vote. Let us oppose the motion to suspend.

On the question recurring,
Will the House agree to the motion?

The following roll call was recorded:

YEAS—83

Adolph	Frankel	McCall	Schroder
Argall	Freeman	McGeehan	Solobay
Bebko-Jones	George	McIlhattan	Staback
Belardi	Gergely	Melio	Steil
Belfanti	Goodman	Mundy	Sturla
Biancucci	Grucela	Myers	Surra
Blaum	Gruitza	O'Neill	Tangretti
Butkovitz	Haluska	Pallone	Tigue
Buxton	Hanna	Petrarca	Travaglio
Caltagirone	Harhai	Petri	Veon
Casorio	Harper	Petrona	Vitali
Cohen	Hennessey	Pistella	Walko
Corrigan	Herman	Preston	Wansacz
Costa	Josephs	Readshaw	Washington
Coy	Kirkland	Reichley	Weber
Cruz	Kotik	Roebuck	Wheatley
Curry	Laughlin	Ross	Williams
Dermody	Levdansky	Rubley	Wojnaroski
Diven	Maher	Ruffing	Yewcic
Evans, D.	Mann	Samuelson	Yudichak
Fabrizio	Markosek	Santoni	

NAYS—106

Armstrong	Egolf	Leh	Rooney
Baker	Evans, J.	Lescovitz	Sainato
Baldwin	Fairchild	Lewis	Sather
Barrar	Feese	Lynch	Saylor
Bastian	Fichter	Mackereth	Scavello
Benninghoff	Flick	Maitland	Scrimenti
Birmelin	Forcier	Major	Semmel
Bishop	Gabig	Manderino	Shaner
Boyd	Gannon	Marsico	Smith, S. H.
Browne	Geist	McGill	Stairs
Bunt	Gillespie	McIlhinney	Stern

Cappelli	Gingrich	McNaughton	Stevenson, R.
Causar	Godshall	Metcalfe	Stevenson, T.
Cawley	Good	Micozzie	Taylor, E. Z.
Civera	Habay	Miller, R.	Taylor, J.
Coleman	Harhart	Miller, S.	True
Cornell	Harris	Mustio	Turzai
Crahalla	Hasay	Nailor	Vance
Creighton	Hershey	Nickol	Waters
Dailey	Hess	O'Brien	Watson
Daley	Hickernell	Oliver	Wilt
Dally	Horsey	Payne	Wright
DeLuca	Hutchinson	Pickett	Youngblood
Denlinger	Keller	Raymond	Zug
DiGirolamo	Kenney	Reed	
Donatucci	Killion	Roberts	Perzel,
Eachus	Lederer	Rohrer	Speaker

NOT VOTING—4

Clymer	LaGrotta	Rieger	Thomas
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EXCUSED—9

Allen	Fleagle	Leach	Smith, B.
Bard	James	Phillips	Stetler
DeWeese			

Less than a majority of the members required by the rules having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,
Will the House concur in Senate amendments?

PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. On concurrence, the Chair recognizes the gentleman from Northampton, Mr. Freeman.

Mr. FREEMAN. Thank you, Madam Speaker.

Madam Speaker, I would like to ask for a point of parliamentary inquiry.

The SPEAKER pro tempore. State your point of parliamentary inquiry, please.

Mr. FREEMAN. Thank you, Madam Speaker.

Under the rules that govern dealing with the issue of concurrence in Senate amendments, is it possible for us to move to revert to a prior printer's number, thereby taking out the offensive language that was added by the Senate last night?

The SPEAKER pro tempore. That can be done by suspension of the rules, because reversion to a prior printer's number is treated as an amendment.

Mr. FREEMAN. Okay. In that case, I would like to speak to the issue at hand then.

The SPEAKER pro tempore. I honestly did not hear you. Would you repeat that, please?

Mr. FREEMAN. I am sorry. In that case, I would like to speak to the issue at hand rather than making a motion to revert to a prior printer's number.

The SPEAKER pro tempore. The gentleman is in order.

Mr. FREEMAN. However, I will be making a motion at the end of my comments.

Madam Speaker, I find it interesting that whenever we are confronted by this issue of giving factory farm operations the ability to use a legal maneuver to create a chilling effect on our local governments in their operation of their police powers to

protect public health and public safety, that this issue seems to come before us in the eleventh hour of our dealings. Although we did not vote on it last session, it was moving toward a vote in this chamber in the eleventh hour of the sine die session. Now as we grapple with trying to finalize the budget, the amendment that provides for this legal maneuver was inserted into this bill last night by the Senate in another eleventh-hour gesture. I think it is incumbent upon us as a deliberative body to allow greater public input on a matter of this nature before we change the way in which we allow local governments to operate on a very important consideration of their police powers, of their ability to protect public health and public safety within their own communities.

There are many opponents to the proposed factory-farm-legal-maneuver language that we have before us. 10,000 Friends have come out against this. It is my understanding the Sierra Club and PennFuture have expressed their opposition to that language, and most importantly, from the standpoint of how we interact with other governmental units within this Commonwealth, the township association has expressed their strong opposition to this language.

Make no mistake about it, Madam Speaker, the language that was inserted by the Senate has real serious implications, implications that will cause a chilling effect on the ability of local governments to regulate their own public safety and health considerations. It undercuts their ability by allowing large factory farm operations to use a legal procedure that will shut down their ability to put in place good health and safety ordinances governing land-use considerations in this Commonwealth, and that is simply wrong.

I say to the proponents and the opponents of this issue, let us allow for public input. Let us allow for all of us to go home to our districts and talk to our township supervisors and see how they feel about this proposal, to talk to the township solicitors in our communities and get a feel firsthand for their understanding of the true implications of this language on the operation of local government.

We have plenty on our plate today and next week as well dealing with the finalization of our budget and other fiscal matters. We do not need to deal with this issue today. We do not need to deal with this issue next week. I say let us put this issue aside. Let us go back to our districts. Let us get proper public input. Let us allow the public to express their interests and concerns on this bill before we take a vote on concurrence.

MOTION TO POSTPONE

Mr. FREEMAN. And as such, Madam Speaker, I would like to move that we postpone consideration of HB 1222 until Monday, January 26, the year 2004.

The SPEAKER pro tempore. The gentleman makes a motion to postpone consideration until January 26. Is that correct?

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

The SPEAKER pro tempore. The question is on postponement. Those in favor of postponement—

Mr. BLAUM. Madam Speaker, can I talk on this?

The SPEAKER pro tempore. The gentleman, Mr. Blaum, is recognized on the postponement issue.

Mr. BLAUM. Thank you, Madam Speaker.

I was going to and still may make a motion to revert to the prior printer’s number, but I think the gentleman, Mr. Freeman, has probably hit upon the appropriate motion for the day.

There is a lot of great stuff in this bill that the House Judiciary Committee did. You know the work that the House Judiciary Committee does in the protection of children and how much we care about it. It is offensive what the Senate did. They put this sleazy language in which attacks township supervisors and the taxpayers of those townships in a way that should not be approved by this House.

Let us give it until Monday. Perhaps come Monday we will be able to have agreement to remove the offensive language that the Senate inserted and keep all of the good stuff that we have done, that the gentleman, Mr. O’Brien, delineated a few minutes ago. We can have the good parts of this bill and get rid of this bad part. Believe me, in Wilkes-Barre I do not have any farms that are going to be bothered by the language that the Senate put in, so it does not bother my district, but I am offended that they took this bill, which protects kids, and put this stuff in it. That is wrong. We should not let that happen.

The gentleman, Mr. Freeman, has hit upon the appropriate motion for the day. Let us approve it. Let us postpone this until Monday—

The SPEAKER pro tempore. The gentleman, Mr. Blaum—

Mr. BLAUM. —January 26, and the Senate will get the message and perhaps the leadership can do the appropriate thing. We can pass this bill in its original form and accomplish something good for the people. If they do not, they do not. Then the whole thing passes and it becomes law anyway. But let us give it until Monday to see if we cannot work something out to keep the good parts of this bill and get rid of what the Senate did.

I ask for an affirmative vote on postponement.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the motion to postpone until January 26, the Chair recognizes the gentleman from Montgomery County, Mr. Bunt, on the motion to postpone.

Mr. BUNT. Madam Speaker, thank you.

Madam Speaker, I appreciate the remarks made by the Democrat chair of the Judiciary Committee. Madam Speaker, most of these motions that have been introduced seek to prevent us from doing what we should be doing, and that is voting “yes” or voting “no.” This issue has been floating around for quite a few years. And some statements have been made here, and, Madam Speaker, for purposes of establishing the legislative intent, I think I need to correct the record, if you will, and make some remarks for the record for the members to make a conscious and educated vote.

The right-to-farm language does create a cause of action that would permit a person aggrieved by the enactment or enforcement of an unauthorized local ordinance to challenge the adoption of an ordinance. What the right-to-farm language does not do, it does not expand or diminish the authority of local agencies. This includes, among other things, their authority under the Municipal Planning Code and the Second Class Township Code to regulate land use by way of approved zoning plans. This bill does not allow any farming operations, large or small, to circumvent any current Federal or State environmental

laws. This bill does not expand any protections under State law currently afforded agricultural operations of any size or business structure and does not favor, Madam Speaker – this is important – does not favor large or corporate-owned farms over others.

Concerns that had been raised, had – h-a-d – had been raised by the State Association of Township Supervisors in the previous session that we served in, they have been addressed in the current bill. The language that PSATS, which is the Pennsylvania State Association of Township Supervisors, what they felt could be construed to subject a supervisor to personal liability has been removed. There is no mention of an individual elected official. The cause of action and intent elements apply only to the local agencies.

Madam Speaker, there have been four votes in the Senate – four votes in the Senate – on this issue. They have been lopsided votes, Madam Speaker: last night, 45 to 3; 48 to 2 on previous votes; 49 to 1, Madam Speaker. I am not here to defend the Senate, but, Madam Speaker, they represent, I believe, the same constituency that we do, and I do not believe that the Senate would intentionally on four different occasions seek to take away authority of our local governmental officials or to circumvent the environmental laws of this State and of this nation.

Madam Speaker, I urge the members to vote “no” on postponement, and please vote this issue up or vote it down. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Philadelphia, Mr. Thomas, on the motion to postpone. The gentleman waives off.

Those wishing to postpone until January 26 will vote “aye”; those wishing to not postpone will vote “nay.”

On the question recurring,
Will the House agree to the motion?

The following roll call was recorded:

YEAS—65

Adolph	Freeman	McIlhattan	Steil
Argall	George	Melio	Sturla
Bebko-Jones	Goodman	Mundy	Surra
Belardi	Grucela	Nailor	Tangretti
Belfanti	Gruitza	O’Neill	Tigue
Bianucci	Haluska	Pallone	Travaglio
Blaum	Harhai	Petri	Veon
Buxton	Harper	Pistella	Vitali
Caltagirone	Hennessey	Reichley	Walko
Cohen	Herman	Roebuck	Wansacz
Corrigan	Josephs	Ross	Weber
Coy	Laughlin	Rubley	Wheatley
Crahalla	Levdansky	Samuelson	Williams
Curry	Manderino	Santoni	Wojnaroski
Evans, D.	Mann	Schroder	Yewcic
Fabrizio	McCall	Staback	Yudichak
Frankel			

NAYS—125

Armstrong	Eachus	Lederer	Rooney
Baker	Egolf	Leh	Ruffing
Baldwin	Evans, J.	Lescovitz	Sainato
Barrar	Fairchild	Lewis	Sather
Bastian	Feese	Lynch	Saylor
Benninghoff	Fichter	Mackereth	Scavello
Birmelin	Flick	Maher	Scrimenti

Bishop	Forcier	Maitland	Semmel
Boyd	Gabig	Major	Shaner
Browne	Gannon	Markosek	Smith, S. H.
Bunt	Geist	Marsico	Solobay
Butkovitz	Gergely	McGill	Stairs
Cappelli	Gillespie	McIlhinney	Stern
Casorio	Gingrich	McNaughton	Stevenson, R.
Causar	Godshall	Metcalf	Stevenson, T.
Cawley	Good	Micozzie	Taylor, E. Z.
Civera	Habay	Miller, R.	Taylor, J.
Clymer	Hanna	Miller, S.	Thomas
Coleman	Harhart	Mustio	True
Cornell	Harris	Myers	Turzai
Costa	Hasay	Nickol	Vance
Creighton	Hershey	O'Brien	Washington
Cruz	Hess	Oliver	Waters
Dailey	Hickernell	Payne	Watson
Daley	Horsey	Petrarca	Wilt
Dally	Hutchinson	Pickett	Wright
DeLuca	Keller	Preston	Youngblood
Denlinger	Kenney	Raymond	Zug
Dermody	Killion	Readshaw	
DiGirolamo	Kirkland	Reed	Perzel,
Diven	Kotik	Roberts	Speaker
Donatucci	LaGrotta	Rohrer	

NOT VOTING—3

McGeehan	Petrone	Rieger
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EXCUSED—9

Allen	Fleagle	Leach	Smith, B.
Bard	James	Phillips	Stetler
DeWeese			

Less than the majority having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,
Will the House concur in Senate amendments?

The SPEAKER pro tempore. Again on concurrence, the Chair recognizes the gentleman from Lancaster County, Mr. Sturla, on concurrence.

Mr. STURLA. Thank you, Madam Speaker.

Madam Speaker, I would just encourage members to pay attention to what it is that we are voting on. This is simply concurrence in the Senate amendments. This vote has nothing to do with the good work that the Judiciary Committee had done prior to this. This is not about whether or not we agree with that. We already voted on that when we sent it over to the Senate. This is simply, do we believe that we should be concurring in what the Senate added, and I think the sentiment has basically and generally been “no” here.

I would encourage members to vote “no” on concurrence so we can get this to a conference committee, get the offensive language removed, bring this up as a separate subject at a later date. But by voting “no,” there is no way that anyone can claim you were against any of the things that we had originally sent over. That is not what the issue is here. The issue is here, do we concur in Senate amendments, which is the offensive language dealing with sludge.

Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. The Chair recognizes the gentleman from Luzerne County, Mr. Blaum, on concurrence.

Mr. BLAUM. Thank you, Madam Speaker.

For the purposes of making the motion I mentioned earlier, I think we should try one more time, but let me ask a parliamentary inquiry first, Madam Speaker.

I am going to make a motion that we revert to the prior printer’s number before the Senate put this language in, and I am just wondering what vote that requires.

The SPEAKER pro tempore. In order to revert to a prior printer’s number, you first have to suspend the rules.

MOTION TO SUSPEND RULES

Mr. BLAUM. Then, Madam Speaker, I would move to suspend the rules so that the House may consider a reversion to the prior printer’s number.

The SPEAKER pro tempore. Is that PN 3047?

Mr. BLAUM. Yeah; the immediate prior one, yes, before the Senate added their language last night.

The SPEAKER pro tempore. The gentleman, Mr. Blaum, moves to suspend the rules in order to revert to the prior printer’s number of 3047.

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

Mr. BLAUM. I am not going to take a lot of the House’s time; you have heard my pitch, but I think and I believe that the gentleman, Mr. Freeman’s motion may have been the most appropriate. That failed.

The SPEAKER pro tempore. Can I assume that the gentleman is speaking on behalf of the leadership?

Mr. BLAUM. Yes.

The SPEAKER pro tempore. Thank you.

Mr. BLAUM. So a reversion to the prior printer’s number will immediately put before the House all of the good stuff that the House Judiciary Committee did.

It is wrong, it is wrong for the Senate to use this bill and our language as the only way it could possibly get through the language that it inserted last night. They are ruining a very good bill. We have great stuff in here that will help the people of Pennsylvania, and they put things in there that are going to hurt the people of Pennsylvania and township supervisors, who are going to be allowed to be sued now.

It is very important, I believe, that we revert to a prior printer’s number. We will then have before us a great piece of legislation that we can send back to the Senate, and we can get this to the Governor’s desk before we leave in January. So I would so move to suspend the rules so that we might revert to the immediate prior printer’s number.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On suspension, the Chair recognizes the gentleman from Lycoming, Mr. Feese.

Mr. FEESE. Thank you, Madam Speaker.

Madam Speaker, we would oppose the motion.

PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. For what purpose does the gentleman, Mr. Samuelson, rise?

Mr. SAMUELSON. Thank you, Madam Speaker.

A parliamentary inquiry.

The SPEAKER pro tempore. Please state your point.

Mr. SAMUELSON. The earlier statement that a two-thirds vote is required to revert to a prior printer's number, the prior printer's number has been legislation that has been available since we voted on it Monday, 72 hours ago. The language has been out there for at least 72 hours. Why does it need a two-thirds vote to revert to a prior printer's number? Why do we have to suspend the rules to do so?

The SPEAKER pro tempore. The precedent established for quite a while in the House has been to revert to a prior printer's number is the same as an amendment, and thus, you need to suspend the rules.

Mr. SAMUELSON. I guess my question was, why is that the case when the gentleman seeks not to revert to new language but to language that has been around for, in this case, at least 72 hours? It is not to suspend the rules for a brand-new amendment or anything like that.

The SPEAKER pro tempore. This is not based on rule 21 but rather on rule 30, which prohibits the House from doing this.

On the question recurring,

Will the House agree to the motion?

The following roll call was recorded:

YEAS—71

Adolph	Fabrizio	McGeehan	Staback
Argall	Frankel	McIlhattan	Steil
Bebko-Jones	Freeman	Melio	Sturla
Belardi	George	Mundy	Surra
Belfanti	Goodman	Nailor	Tangretti
Biancucci	Grucela	O'Neill	Taylor, E. Z.
Blaum	Gruitza	Pallone	Tigue
Buxton	Haluska	Petri	Travaglio
Caltagirone	Harhai	Petrone	Veon
Casorio	Harper	Pistella	Vitali
Cohen	Hennessey	Readshaw	Walko
Corrigan	Herman	Reichley	Wansacz
Costa	Josephs	Roebuck	Weber
Coy	Laughlin	Ross	Wheatley
Crahalla	Levdansky	Rubley	Wojnaroski
Curry	Manderino	Samuelson	Yewcic
Diven	Mann	Santoni	Yudichak
Evans, D.	McCall	Schroder	

NAYS—120

Armstrong	Egolf	LaGrotta	Roberts
Baker	Evans, J.	Lederer	Rohrer
Baldwin	Fairchild	Leh	Rooney
Barrar	Feese	Lescovitz	Ruffing
Bastian	Fichter	Lewis	Sainato
Benninghoff	Flick	Lynch	Sather
Birmelin	Forcier	Mackeret h	Saylor
Bishop	Gabig	Maher	Scavello
Boyd	Gannon	Maitland	Scrimenti
Browne	Geist	Major	Semmel
Bunt	Gergely	Markosek	Shaner
Butkovitz	Gillespie	Marsico	Smith, S. H.
Cappelli	Gingrich	McGill	Solobay
Causar	Godshall	McIlhinney	Stairs

Cawley	Good	McNaughton	Stern
Civera	Habay	Metcalfe	Stevenson, R.
Clymer	Hanna	Micozzie	Stevenson, T.
Coleman	Harhart	Miller, R.	Taylor, J.
Cornell	Harris	Miller, S.	Thomas
Creighton	Hasay	Mustio	True
Cruz	Hershey	Myers	Turzai
Dailey	Hess	Nickol	Vance
Daley	Hickernell	O'Brien	Washington
Dally	Horsey	Oliver	Waters
DeLuca	Hutchinson	Payne	Watson
Denlinger	Keller	Petrarca	Williams
Dermody	Kenney	Pickett	Wilt
DiGirolo	Killion	Preston	Wright
Donatucci	Kirkland	Raymond	Youngblood
Eachus	Kotik	Reed	Zug

NOT VOTING—2

Rieger	Perzel, Speaker
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EXCUSED—9

Allen	Fleagle	Leach	Smith, B.
Bard	James	Phillips	Stetler
DeWeese			

Less than a majority of the members required by the rules having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,

Will the House concur in Senate amendments?

PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. Continuing with concurrence, the Chair recognizes the lady from— For what purpose does the gentleman, Mr. Levdansky, rise?

Mr. LEVDANSKY. Madam Speaker, a point of parliamentary inquiry.

The SPEAKER pro tempore. State your point, please.

Mr. LEVDANSKY. Your interpretation of the rules is such that you have equated a motion to revert to a prior printer's number, you are saying that a motion to revert is the same as a motion to amend. I recall being elected in 1984, and for many years in the eighties and into the nineties I remember a motion to revert was always in order, as is a motion to postpone or a motion to recommit have always been simple majority votes. But your interpretation is a motion is now the same as an amendment, which I respectfully disagree with, but my question is, when did that precedent happen, because it was not in the 1980s and into the nineties that that was the case.

The SPEAKER pro tempore. It was actually 1972, sir.

Mr. LEVDANSKY. 1972. Then, Madam Speaker, if a bill is amended in the other chamber – okay? – and it comes to the House and there is no, you know, it gets amended there one day, comes over here, you have no opportunity to file an amendment in a timely fashion. Is that essentially what you are saying?

The SPEAKER pro tempore. That is correct.

Mr. LEVDANSKY. I mean, I will follow up with this, Madam Speaker, but, you know, I distinctly remember back in the eighties a lot of debate and a lot of motions to recommit – I am sorry, motions to revert – and those reversionary motions

were always treated as motions, not as amendments. But I will follow up in writing with a question with the Parliamentarian.

Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Returning to concurrence, the Chair recognizes the lady from Montgomery County, Ms. Harper.

Ms. HARPER. Thank you, Madam Speaker.

I have a question on the bill, on the amendments the Senate has inserted. Is there someone who is willing to stand for interrogation?

The SPEAKER pro tempore. The gentleman, Mr. Bunt, is willing to be interrogated. The lady may proceed.

Ms. HARPER. Thank you very much, Madam Speaker.

My question is with regard to the amendments regarding the local government that we have been discussing, and I want to make sure that there is nothing in this bill that would prevent a local government from enacting a zoning ordinance that distinguishes between farming and intensive agriculture.

Mr. BUNT. Would the lady give an example of the two?

Ms. HARPER. Yes, Madam Speaker, I can give an example.

I am familiar with some zoning ordinances that have an agricultural district, but they also have a definition for "intensive agriculture" where they would usually define "intensive agriculture" by the nature of the activity, perhaps the number of animals per acre or something like that, and they generally deal with intensive agriculture sort of like an industrial use, and they classify it differently than pure agriculture. If this bill passes, would a municipality still be able to deal with those two situations that way?

Mr. BUNT. Yes, Madam Speaker.

Ms. HARPER. Thank you very much, Madam Speaker. That was my question.

The SPEAKER pro tempore. On concurrence, the Chair recognizes the gentleman from Somerset— For what purpose does the gentleman, Mr. Vitali, rise?

Mr. VITALI. To speak on the bill.

The SPEAKER pro tempore. You wish to speak? Well, there is quite a long list. I will be happy to put you there.

The Chair recognizes the gentleman from Somerset, Mr. Bastian, on concurrence.

Mr. BASTIAN. Thank you, Madam Speaker.

Madam Speaker, I want to make some comments about what this bill does not do, and then I want to make some comments about what Pennsylvania agriculture has done for all of us for a long, long time.

This bill does not in any way diminish the existing areas of local control over agriculture. It does not circumvent any current Federal or State environmental laws. It does not favor large or corporate-owned farms over any other ones. That is what it does not do.

I would like to tell you what Pennsylvania agriculture has done for us for a long, long time, and I will never forget, about 30 years ago an oldtimer in Somerset County made a statement to me that I will never forget. He said, "Bob, you know, it's almost impossible to eat more than 10 cents' worth of potato." Right here, Madam Speaker, is 10 cents' worth of Pennsylvania white potatoes. I do not care if you mash them; I do not care if you french fry them; I do not care if you scallop them; I do not care if you hash brown them. You cannot eat 10 cents' worth of

potato. That is what Pennsylvania agriculture has done for us for a long, long time. They have given us the cheapest, the purest, the most wide variety, and the safest food this world has ever known.

Today in Pennsylvania we pay less than 9 1/2 percent of our disposable income for our food. That is the best in the world. The most important thing that we ever do, man's number one problem, has been and will be for a long, long time, what do I eat? What do I eat? Pennsylvania agriculture has given us, again, the safest and purest, the widest variety. They have literally dumped a horn of plenty on the Pennsylvania consumer. We need to appreciate that.

We need to help our farmers, and small farmers are just as subject to this rule as anybody else. They need the safety of this piece of legislation. I would hope that all of us can vote for this amendment in the House bill and vote "yes" on concurrence of 1222.

Thank you very much, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

CONSTITUTIONAL POINT OF ORDER

The SPEAKER pro tempore. The Chair recognizes the gentleman from Northampton, Mr. Grucela, on concurrence.

Mr. GRUCELA. Thank you, Madam Speaker.

Madam Speaker, in honor of all my former American government students, I would like to move the question of constitutionality of HB 1222 based on the following article and sections of the Pennsylvania State Constitution. Article III, which had been noted a little earlier, in section 1 says, "No law shall be passed except by bill, and no bill shall be so altered or amended, on its passage through either House, as to change its original purpose," and section 3 which states, "No bill shall be passed containing more than one subject, which shall be clearly expressed in its title, except a general appropriation bill or a bill codifying or compiling the law or a part thereof."

Based on those sections and the article of the Pennsylvania State Constitution, I question the constitutionality and move the question of constitutionality of HB 1222.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The gentleman, Mr. Grucela, raises the point of order that HB 1222 is unconstitutional. The Speaker under rule 4 is required to submit questions affecting the constitutionality of a bill to the House for a decision, which the Chair now does.

On the question,

Will the House sustain the constitutionality of the bill?

The SPEAKER pro tempore. On the issue of constitutionality, the Chair recognizes the gentleman from Philadelphia, Mr. O'Brien.

Mr. O'BRIEN. Madam Speaker, I think I addressed this in my previous remarks so as not to detain this chamber any longer. It is a Title 42. All these subjects are appropriate under the Judicial Code.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Philadelphia, Mr. Thomas, on the issue of constitutionality.

Mr. THOMAS. Madam Speaker, the question of constitutionality does not run to title; it runs to substance, and substantively, there is a collision between what the Senate put in this bill and the bill that we sent over. It is on a collision course that involves multiple subjects that have no nexus between them. Yes, it relates to Title 42; yes, Title 42 relates to the judiciary, but that is not the issue of constitutionality. The issue of constitutionality is multiple subjects contained in the bill that have no reasonable nexus between them, and to that end, Madam Speaker, this HB 1222 is unconstitutional.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Those voting “aye” will vote to declare the bill to be constitutional; those voting “no” will vote to declare the bill to be unconstitutional.

On the question recurring,
Will the House sustain the constitutionality of the bill?

The following roll call was recorded:

YEAS-116

Adolph	Eachus	LaGrotta	Raymond
Armstrong	Evans, J.	Lederer	Reed
Baker	Feese	Leh	Roberts
Baldwin	Fichter	Lescovitz	Rohrer
Barrar	Flick	Lewis	Ruffing
Bastian	Forcier	Lynch	Sainato
Benninghoff	Gabig	Mackereth	Sather
Birmelin	Gannon	Maher	Saylor
Bishop	Geist	Maitland	Scavello
Boyd	Gergely	Major	Schroder
Browne	Gillespie	Manderino	Semmel
Bunt	Gingrich	Mann	Smith, S. H.
Butkovitz	Godshall	Markosek	Solobay
Buxton	Good	Marsico	Stairs
Cappelli	Gruitza	McGill	Stern
Casorio	Habay	McIlhinney	Stevenson, R.
Causar	Hanna	Metcalfe	Stevenson, T.
Cawley	Harhart	Micozzie	Taylor, E. Z.
Civera	Harris	Miller, R.	Taylor, J.
Coleman	Hasay	Miller, S.	True
Creighton	Hershey	Mustio	Turzai
Cruz	Hess	Nickol	Vance
Dailey	Hickernell	O'Brien	Waters
Daley	Horsey	Oliver	Watson
Dally	Hutchinson	Pallone	Wilt
Denlinger	Keller	Payne	Wojnaroski
Dermody	Kenney	Pickett	Wright
DiGirolo	Killion	Pistella	Youngblood
Donatucci	Kotik	Preston	Zug

NAYS-73

Argall	Fairchild	McNaughton	Shaner
Bebko-Jones	Frankel	Melio	Staback
Belardi	Freeman	Mundy	Steil
Belfanti	George	Myers	Sturla
Bianucci	Goodman	Nailor	Surra
Blaum	Grucela	O'Neill	Tangretti
Caltagirone	Haluska	Petrarca	Thomas
Clymer	Harhai	Petri	Tigue
Cohen	Harper	Petrone	Travaglio
Cornell	Hennessey	Readshaw	Veon
Corrigan	Herman	Reichley	Walko
Costa	Josephs	Roebuck	Wansacz
Coy	Kirkland	Rooney	Washington
Crahalla	Laughlin	Ross	Weber
Curry	Levdansky	Rubley	Wheatley
DeLuca	McCall	Samuelson	Williams

Diven	McGeehan	Santoni	Yewcic
Evans, D.	McIlhattan	Scrimenti	Yudichak
Fabrizio			

NOT VOTING-4

Egolf	Rieger	Vitali	Perzel, Speaker
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EXCUSED-9

Allen	Fleagle	Leach	Smith, B.
Bard	James	Phillips	Stetler
DeWeese			

The majority having voted in the affirmative, the question was determined in the affirmative and the constitutionality of the bill was sustained.

LEAVE OF ABSENCE

Mr. COY. Madam Speaker?

The SPEAKER pro tempore. For what purpose does the gentleman, Mr. Coy, rise?

Mr. COY. Once again to return to the order of business of leaves of absence and request a leave for the gentleman from Carbon County, Mr. McCALL, for the balance of today.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The gentleman requests that the gentleman, Mr. McCall, from Carbon County be placed on leave for the remainder of the day. The Chair hears no objection.

CONSIDERATION OF HB 1222 CONTINUED

On the question recurring,
Will the House concur in Senate amendments?

The SPEAKER pro tempore. The gentleman, Mr. Browne, is recognized on concurrence.

Mr. BROWNE. Thank you, Madam Speaker.

On behalf of Chairman Semmel, who is suffering from a small bout of laryngitis today, and myself, I would like to speak on concurrence in Senate amendments, in favor of concurrence in Senate amendments, to HB 1222.

As a lot of the members are aware, recently the Brookings Institute out of Virginia compiled a study and report on the condition of the Commonwealth in relation to its economic development policies, its government policies, and how that is affecting our viability for the future in keeping young people in the State, and they documented the challenges we are having with sprawl and how they are creating an unbelievable, unsustainable condition for taxes and infrastructure costs, and the recommendations they had stated in their report is we must continue to promote policies that reinvest in our traditional communities and our traditional urban areas.

But one thing that is a consistent correlation to this that they did not mention is, in making sure we have a vibrant community and a vibrant State for our young people to stay in that does not include sprawl, we must promote policies that invest in our traditional farming communities, and there are many ways that

we can do that and many ways we try to do that, through reduction of property taxes, through making grants and insurance more affordable for our farming community, but we must make sure that our governmental policies in general give our farmers the tools that are necessary to sustain their operations. So similar to government policies that reinvest in our cities, if they are contrary to the redevelopment of our cities, we must redirect these policies, both at the State and local levels, to ensure that farmers have the tools to sustain their operations and provide for their families in the future.

So for those reasons – to make sure that we are investing in the foundation of Pennsylvania’s economy, our farming community – I ask for concurrence in Senate amendments to HB 1222.

LEAVE OF ABSENCE

The SPEAKER pro tempore. The Chair returns to leaves of absence, and the majority whip requests that the gentleman, Mr. McNAUGHTON, be placed on leave for the remainder of the day.

CONSIDERATION OF HB 1222 CONTINUED

The SPEAKER pro tempore. On concurrence, the Chair recognizes the gentleman from Centre County, Mr. Herman.

Mr. HERMAN. Thank you very much, Madam Speaker.

You know, I am very disappointed that the House did not suspend the rules to allow for the ability for us to revert to a prior printer’s number. We could have dismissed this HB 1222 with an affirmative vote after having done so and gotten home to our families, because this is a very important issue. And I am sorry, but I am going to have to ask the members to nonconcur with this measure so we can send it to a conference committee and hopefully have the offensive language altered or preferably even amended out.

For certain, the issues contained in the language that the Senate adopted do not really take into account the thoughts and concerns of local elected officials who govern our townships on behalf of the constituents they represent and who are equally the constituents we represent. I heard a lot, including the gentleman from Luzerne’s comments, about the offense of how this deal was done. I think there are really serious concerns about lawmaking, Madam Speaker, when the language that the Senate inserted refers to normal farming operations yet this bill does not amend an agricultural bill or even the Right-to-Farm Act. Rather, the bill attempts to amend, it does amend, a judicial bill. The provisions therein are badly misplaced in that they are amendments to the Political Subdivision Tort Claims Act. That act is dedicated, Madam Speaker, to define the responsibilities of local governments for negligently causing injuries to property or persons. These provisions are completely afield from that subject matter, Madam Speaker. They purport to define the legal authority of a local government to act, and they purport to impose penalties for a violation of that authority.

The provisions of this language that we are debating, Madam Speaker, should appropriately be addressed in an agricultural bill, the Right-to-Farm Act, or any other act therein, not a judicial bill. I think that is why we are sitting on this floor, Madam Speaker, with so many attempts to recommit the bill, to revert to a prior printer’s number, its constitutionality, and so

many other motions of parliamentary procedure and questions, because it does not amend the right code in Pennsylvania statutes.

Now, Madam Speaker, just speaking on the merits of the legislation itself and what the amendments are that the Senate adopted. There are townships— You know, in the legislature I have supported the farming community for 21 years, supported it wholeheartedly, appreciate what the farmers do, support the farming community and agribusiness all across this Commonwealth. I think there is a difference, though, when farms are in an area and they have been there for generations and generations and subdivisions develop around them, that they should be able to continue their farming operations. But on the other hand, Madam Speaker, what about the situation they are in when you have subdivisions and housing developments that were there first? There are people in my district in Huston Township who complain about the offensive odor of new hog farms that have just come into the township and are complaining about the odor that was never there before, that disturbs the ambiance and the quality of life that they have. In Rush Township, another area in my district, the local elected officials want to have the ability to test sewage sludge to make sure that it is safe, at least to make sure that it is safe, for the people. The gentleman from Clearfield County spoke very eloquently about an 11-year-old boy losing his life because of possibly his being exposed to deleterious sewage sludge. Should not your local elected officials have that ability? I think there are serious questions and concerns that this measure has regarding the local elected officials being able to govern on behalf of the farming community as well as the other people that they represent, Madam Speaker.

And lastly, Madam Speaker, I was reading previously from some correspondence that I received from the assistant executive director of the Pennsylvania State Association of Township Supervisors, and I would like to submit the balance of this written correspondence for the record so as not to delay this vote on final passage. But I would like the members of this chamber to nonconcur with the provisions adopted by the Senate in HB 1222.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

LETTER SUBMITTED FOR THE RECORD

Mr. HERMAN submitted a letter for the Legislative Journal.

(For letter, see Appendix.)

The SPEAKER pro tempore. The Chair recognizes the lady from Philadelphia, Ms. Josephs, on concurrence.

Ms. JOSEPHS. Thank you, Madam Speaker.

I am going to vote “no” on this bill for some of the following reasons. In spite of our vote on constitutionality, that is just our judgment. In the end, we know that the court is the one that makes the judgment about constitutionality. I do not think that our judges and justices are so naive as to believe that so long as they are in the same title, that it is perfectly okay to do this kind of legerdemain and really sneaky tricks.

I would also like to inform those of you who really worked hard on the underlining bill and, like myself, who would like to

support it, that important members of the women's community who also supported this bill now no longer do because of the procedure that ended up with what is before us.

So for those reasons and for many of the other reasons that have been spoken of here— You know, I would really like to belong to a body that people respected. How can we ask for our voters', taxpayers', constituents' respect when we allow this kind of behind-the-scenes and just unfair, unjust, and really antidemocratic kind of bill to go along and play with that and play the game and just roll over.

We have plenty of time. I was on the Judiciary Committee for many, many years. We know what is needed in 1222. We could vote to nonconcur. We could bring 1222's substance back up and vote on it. It is an important bill. We can do that. We do not have to do it tonight. Please vote "no."

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the lady and recognizes the gentleman from Chester County, Mr. Hennessey, on concurrence.

Mr. HENNESSEY. Thank you, Madam Speaker.

I rise to ask for a vote of nonconcurrence in the Senate amendments.

HB 1222, when we voted on it before, was a good bill. It had DNA protections; it had DUI corrections that we needed to make; it had protections for children. It was a good bill, and I believe it passed unanimously. The changes that have been made in the Senate have turned this from a bill which pulled all of our votes to a bill that is pulling perhaps 55 or 60 percent of the vote. That 40 percent is a very substantial percentage, and it shows, I think, an undercurrent of disagreement with what the Senate has done and sent back to us in largely an unamendable form.

You will hear it said that this bill and the Senate amendments, if it is passed, will protect the mom-and-pop farms, the family farms. Frankly, we all want to help the mom-and-pops and the family farms. You hear that from all of us on both sides of the aisle. But they are not the ones who are likely to sue here. Who are likely to sue? The megafarms, the CAFOs, the factory farms. They are the ones with the deeper pockets. They are the ones that have more money to throw into challenges against any kind of local regulation, arguing, throwing mud against the wall perhaps, arguing that this is particularly unreasonable and hoping that some judge somewhere will agree that they have overstepped their bounds. What that does, essentially, is put local government officials at risk in handling the taxpayers' money, because it is the taxpayers' money that will then be turned over to pay for those challenges brought against the township action.

We have over 2500 different municipalities in Pennsylvania, and in 25 years of working with township supervisors, I have always found them to be conscientious and hardworking and interested in the various complaints and interests of their citizens, and they oftentimes have to balance competing interests. Do some of them occasionally overstep their bounds? Yes, and when they do, there is available court redress under the present law. But actions which local officials take in good faith should not subject them to putting the township taxpayers' money at risk, if some court disagrees with their interpretation.

If this new language was limited to the mom-and-pops, it would be much more palatable, but it is not, and I think we are kidding ourselves if we think that this language was put in to

protect the mom-and-pops. It was put in to protect the large corporate farms. As I said, they are the ones with the deep pockets; they are the ones that are much more likely to take the township supervisors to task and question anything at all that they might want to question about the regulations, and that will, as a previous speaker has said, have a chilling effect on township officials trying to do a good job and adopt what they believe to be very reasonable regulations, because it will subject them to having some judge throw his opinion in there or her opinion in there and upset that whole appellate.

The Senate amendment, by adding this particular provision, spoiled what was a very, very good bill, but frankly, the provisions of 1222, if we nonconcur today, the original provisions in 1222 will pass again probably with the tremendous support, the unanimous support, of this House once again.

So I ask you, let us not adopt a very onerous provision that is going to put our local government officials at risk and the local government coffers at risk by concurring in the Senate amendments. Please nonconcur. We will deal with the other issues as we can, probably very early in the next year.

Thank you.

LEAVE OF ABSENCE

The SPEAKER pro tempore. The Chair thanks the gentleman and returns to leaves of absence and recognizes the majority whip, who requests that the lady, Mrs. MACKERETH, from York County be placed on leave for the remainder of the day. The Chair hears no objection.

CONSIDERATION OF HB 1222 CONTINUED

The SPEAKER pro tempore. On concurrence, the Chair recognizes the gentleman from Delaware County, Mr. Vitali.

Mr. VITALI. Thank you, Madam Speaker.

I am going to be brief, because I think my sentiments have been echoed by the immediately preceding speaker from Chester County.

I rise to urge nonconcurrence in this because of the farm-type amendments that were just added in the Senate.

I think one thing people need to know about is, what this language really is about is attorney's fees. It is about attorney's fees, and more specifically, it is about exposing your townships and boroughs and municipalities to attorney's fees. If you vote for this, you are, let me say – please listen – if you vote for this, you are exposing your municipalities to a greater risk of paying the attorney's fees of people who sue them. That is different from current law, whereas the normal course of business is, each side pays their own attorney's fees. So really, what this is about is attorney's fees.

Now, the problem is, with smaller municipalities, municipalities that do not have the big, you know, \$20 million annual budget, the much smaller municipalities, and when they are faced with a deep pocket's agribusiness who does have a lot of money to fund lawyers, that is a very intimidating situation for a municipality like that, and it in effect chills the ability of that small municipality to defend its very legitimate rights to make laws for the good of the community, such as setback requirements and other zoning-type ordinances.

So what I am asking you to do is vote against this, because you are voting for your municipalities, for your constituents, and really against exposing your constituents and municipalities to having to pay lawyer's fees, so I would ask for a vote of nonconcurrence.

The SPEAKER pro tempore. The Chair thanks the gentleman.

VOTE CORRECTION

The SPEAKER pro tempore. The Chair recognizes the gentleman from Perry County, Mr. Egolf, on concurrence. The gentleman, Mr. Egolf, is recognized.

Mr. EGOLF. Madam Speaker, I just wanted to correct the record.

On the vote for constitutionality, I did not get to my button on time, so it should be recorded in the affirmative. Thank you.

The SPEAKER pro tempore. The gentleman's remarks will be spread across the record.

CONSIDERATION OF HB 1222 CONTINUED

The SPEAKER pro tempore. The Chair recognizes the gentleman from Northampton, Mr. Samuelson, on concurrence.

Mr. SAMUELSON. Thank you, Madam Speaker.

There has been a lot of discussion on the floor tonight about what the Senate did last night, the amendment that the Senate added to this very worthy bill that really has nothing to do with the substance of this bill that we have previously voted on unanimously, and I know there have been several attempts to try to fix what the Senate did.

First we had a motion on whether to recommit the bill to a committee; then we had a motion to suspend the rules to try to strip out the language the Senate inserted less than 24 hours ago; then a motion to postpone for a few weeks so that we could fix this bill that the Senate amended; we had a motion to revert to the prior printer's number before the Senate added this language; and finally, a motion on the constitutionality of adding in these disparate subjects to one bill.

I think I found a solution. I note in my Pennsylvania Manual that the House of Representatives has met since the year 1682 and the Senate was created in the year 1790, so I would like to make a motion to revert to the year 1789, a year before the Senate was created.

The SPEAKER pro tempore. There may not be any opposition to that motion.

The Chair recognizes the gentleman from Philadelphia, Mr. Roebuck, on concurrence.

Mr. ROEBUCK. Thank you, Madam Speaker.

This issue is not an issue about the quality of agriculture in the State of Pennsylvania. Certainly, all of us support the farm community; all of us appreciate the good work that farmers do; all of us value the fact that they produce the food we eat. This is an issue of concurrence in Senate amendments. This is an issue about the quality of life in rural communities. It is an issue about the right of government to protect the citizens that create that government and that elect people to serve in office.

We talked about factory farms, which clearly impact upon the quality of life in many areas of the State. Let me as an urban Representative say that if the situation involved an urban community, urban legislators would understand this very

clearly. If we were talking about the right of someone to do something in our neighborhoods that created odor, that affected the quality of life, we would object to it. If we talked about a business enterprise that had a negative impact upon the quality of life in our neighborhoods – a nuisance bar, for example, or a nuisance deli that affected the quality of life – we would understand that, Madam Speaker. If you were to talk about something that affected the quality of water that we drank, that polluted our water sources, we would understand that, Madam Speaker.

So I would challenge my urban colleagues particularly to vote not to concur in the Senate amendments, not to affect the quality of life in rural communities in the same way we do not want the quality of life in our communities affected. We owe that, Madam Speaker, to the Commonwealth, to the citizens of the Commonwealth. We owe it to set a standard about the quality of life that we all want to live in.

I urge that we do not concur in the Senate amendments.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from York County, Mr. Saylor, on concurrence.

Mr. SAYLOR. Thank you, Madam Speaker.

I want to reiterate a few things that I heard on this floor here today that were totally and completely inaccurate. I mean, if you read the bill, this bill is not about sludge, because it clearly states in here, if you read it, under section (C), it says, "EFFECT ON OTHER POWERS AND DUTIES.—NOTHING IN THIS SECTION SHALL BE CONSTRUED TO DIMINISH, EXPAND OR OTHERWISE AFFECT THE AUTHORITY PROVIDED TO ANY MUNICIPALITY:...TO REGULATE...CLASS A OR B...SLUDGE." So where we get sludge at in this bill, I have no idea, from the point that it takes that power away from local government. That is completely false.

The other issue I think people need to understand is, this bill is about family farms, not about large farming operations such as CAFOs. You know, if it was about CAFOs, we would not have to worry about lawsuits at all, because those guys can afford to hire an attorney and go fight these local regulations, but the little family guy cannot.

What I find amazing is how many of us want to defend the rights of the poor but we are not willing to stand up for the farmer, who in this Commonwealth makes on the average about \$26,000 a year and works 7 days a week and 18-hour-long days. All we can seem to get past is to scare the people in this Commonwealth that any legislation that has to do with farming is about CAFOs. That is truly unbelievable that we stand here and do the same thing they do nationally about the Social Security system.

This is truly about the family farmer. This is about the little guy who when he is 65 years of age and says I want to retire and he decides he does not want to move off the farm yet but he does not want to have the dairy herd there anymore, so he decides, he eliminates the dairy herd and he lets the neighbor farmer farm his land. Then all of a sudden he decides he wants to move off the farm 5, 6 years later, and then he goes to sell the farm, and that township ordinance says, sure, you can sell your farm, but you know what? This cannot be a dairy farm anymore because you have not had dairy cattle on here for the last year or two.

Those are the kinds of regulations this is about. This is not about CAFOs. Let us quit exaggerating what this legislation is about. Let us be honest with the people of this Commonwealth. This changes no local authority over any kind of farming in this Commonwealth, other than to say that you as townships are going to be held accountable if you violate State law.

You know, it is amazing how often we try on the floor of this House to scare people in telling them what things are when they are truly not. Let me tell you what this bill is not. This bill does not take away any existing authority that municipalities have under the Municipal Planning Code; none at all. This bill does not allow any farming operation, large or small, to circumvent any Federal or State environmental laws, not any laws under the environmental laws of this Commonwealth or of this nation.

And finally, this bill does not expand any provisions under the State law currently afforded agricultural operations of any size or business structure and does not favor large corporate farms, period; does not favor large corporate farms. This bill has nothing to do with that. It has to do with protecting the little guy, the little guy who cannot afford to go hire an attorney and fight every local ordinance that comes about, which our large business farmers can. Let us start sticking up for the family farmer. We spend millions of dollars in this Commonwealth to preserve land. Is it not about time we start preserving family farmers?

The SPEAKER pro tempore. The Chair thanks the gentleman.

LEAVE OF ABSENCE

The SPEAKER pro tempore. The Chair returns to leaves of absence, and the Democrat whip requests that the gentleman from Bucks County, Mr. CORRIGAN, be placed on leave for the remainder of the day. The Chair hears no objections.

CONSIDERATION OF HB 1222 CONTINUED

The SPEAKER pro tempore. The Chair recognizes the lady from Montgomery County, Ms. Weber, on concurrence.

Ms. WEBER. Thank you, Madam Speaker.

Up until this morning when I read the amendments added by the Senate last evening, I was the prime sponsor of HB 1222. However, as a result of the amendments filed by the Senate last night, I am no longer and have withdrawn as the prime sponsor of 1222.

That is not to say that I agree, we had many good pieces of legislation contained within HB 1222 prior to last evening, and I appreciate the comments and the procedural attempts made by my colleagues on both sides of the aisle who recognize that this is a bill that had the original intent – and I will clarify what the intent of this bill was – it was to ease and create judicial efficiency, judicial consistency, and clarity. It dealt with municipalities, in the police departments, and the efficiency in filing citations in a court. It dealt with assessments and brought in or specified the timeframe for those assessments to be filed. It dealt with the opening of public records of court proceedings of juveniles. It dealt with intermediate punishment in correcting the conjunction “and” versus “or” as it related to the judicial process of intermediate punishment for DUI offenders.

As you can tell from the comments, the common thread through all of those amendments is consistent with the original intent of the bill, which was judicial efficiency, consistency, and clarity. The amendment passed by the Senate does not address those issues, and without getting into the merits of that, because I do not come from a rural area and while, yes, I have farmers in my area, this is not something that impacts them.

But I am not voting against the farmers when I vote to nonconcur. My record for protecting children, for protecting the quality of life, in the first 12 months of my tenure here has been established. I am voting to nonconcur because the amendments by the Senate affect negatively what we intended to do with HB 1222, and that is why I would ask my fellow colleagues to nonconcur.

The SPEAKER pro tempore. On concurrence, the Chair recognizes the gentleman from Cumberland County, Mr. Gabig. Mr. GABIG. Thank you, Madam Speaker.

Just very briefly. I know we have beat this hog to death tonight.

Certainly in my district, this is a very significant issue. I appreciated the debate we had earlier today on Pittsburgh. As a former resident of Pittsburgh, I listened very intently and tried to vote my conscience on that.

But this issue, what it does, as I understand this piece of legislation, if somebody willfully and wantonly violates the law, the aggrieved party can ask the court for attorney’s fees if they prevail, either party. Either the local agency or the agriculture farmer, if they were aggrieved, they can go to court and say, the other party willfully and wantonly violated the law and we should have our attorney’s fees and we should not have that come out of our pocket.

For example, there was a recent case in my district in which the municipality denied an agricultural interest, a farmer, the right to have a hog farm on his property. That was appealed to the court, and I guess if it was a willful, wanton violation, the municipality could have gone and said, we need our attorney’s fees. Now, I am not saying it was willful or wanton. It was a dispute on the law and facts.

But this does not take away local control. It is an easy balance. I previously had offered last session a law. This is called a loser-pay provision. I offered that for all lawsuits. I think the loser should have to pay the party that prevailed.

So that is why I am supporting this, Madam Speaker. It is not to take away local control. I very much believe in local control, but I also believe that the aggrieved party should have the right to attorney’s fees if there was a willful and wanton violation of the law.

Thank you very much.

The SPEAKER pro tempore. The Chair thanks the gentleman.

REMARKS SUBMITTED FOR THE RECORD

The SPEAKER pro tempore. The Chair recognizes the gentleman from Clinton County, Mr. Hanna.

Mr. HANNA. Thank you, Madam Speaker.

I would just like to submit comments for the record.

The SPEAKER pro tempore. The Chair really thanks the gentleman.

Mr. HANNA submitted the following remarks for the Legislative Journal:

Madam Speaker, it is with deep regret that I speak on HB 1222, but I feel compelled to express my dissatisfaction with this bill.

The House of Representatives passed this bill on two previous occasions, but last night at the last minute, the State Senate decided to insert certain amendments taking away rights of local governments to protect their citizens.

The State Senate did this without public hearings and without regard to the environmental community, the hundreds of local municipalities or thousands of people that would be affected or even the entire agricultural community. That is not the way to pass legislation. We must listen to what our constituents think about the legislation we produce because they are the ones that are ultimately affected.

In conclusion, I would like to point out that there was nothing democratic about the way our State Senate inserted their amendment into HB 1222, and I firmly oppose that.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Washington County, Mr. Daley, on concurrence.

Mr. DALEY. Thank you, Madam Speaker.

For the last 10 years, we have had one of the strongest statutes regulating large farms and water quality in the country, and that is Act 6, and with adequate enforcement, our waters are safe from the dangers of manure spills, as we all know.

The conflict over large farms has been going on, as we all know, for several years, and that has been at the local level, and there are legitimate fears that communities have about these operations that current law does not address – namely, the odors and the flies and so forth.

Large-scale farms can do much to control and inhibit odors and flies, but under current law, they are not required to do so. Because of these fears, local governments have attempted to do what we have already said they cannot do – prohibit or regulate normal farming practices – and the courts have made clear that a large-scale farm is within the definition of “normal farming practices.” The remedy proposed by this bill, aimed at chilling further local illegal ordinances, is not the final solution to the problem. It may bring some uneasy peace to the local conflict, but the problem will not go away.

At some point we as a legislature will have to step up to the plate and give rural communities a remedy if a large farm is not being a good neighbor. Earlier this year, after the failure of SB 1413, I proposed to the other three agricultural chairmen that we work together on a more balanced bill that includes remedies for rural neighbors as well as the best management practices code for large farms. We have agreed to that principle, with the support of significant industry representatives, and will work together on that model over the holidays.

In the interim, however, the largest industry in the Commonwealth feels besieged by the proliferation of these illegal ordinances and asks that we clarify State law that prohibits such actions. The right place to make policy for the major industry is here and not in the townships.

Before everyone rushes on my side of the aisle and the other side of the aisle to push the red button or the green button on this issue, I want you to think about the consequences of your vote.

I am sure the electorate is going to look at this vote, and they are not going to discern if you voted against agriculture in this

bill or you voted against people that are child predators. They will not be able to differentiate why, and you will not be able to differentiate why to the electorate when you make that vote.

The SPEAKER pro tempore. The gentleman does deserve to be heard. I know it has been a very long day. We have several more speakers on this bill and three more bills to go, so if we could have your attention, it would be appreciated.

Mr. DALEY. Thank you, Madam Speaker.

You all heard who is opposed to this bill. You heard the county commissioners are opposed to this bill; the township supervisors are opposed to this bill; PennFuture is opposed to this bill and the Sierra Club.

Well, let me tell you who is for this bill and for this language: the Grange; the Pennsylvania Farm Bureau; PennAg Industries; Penn Dairy Co-ops; Pennsylvania Professional Dairy Managers; Pennsylvania Dairy Stakeholders; Livestock Association; Pennsylvania Beef Council; Pennsylvania Poultry Association; Pennsylvania Pork Producers; Pennsylvania Landscape & Nursery Association; Land O’Lakes; CropLife America; and our Secretary of Agriculture, Secretary Wolff.

So before you vote “yes” or “no,” you need to think about the consequences of your vote.

I ask for an affirmative vote.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. Blaum, from Luzerne County for the second time. The gentleman waives off.

The Chair recognizes the gentleman from Clearfield, Mr. George, for the second time.

Mr. GEORGE. Thank you, Madam Speaker.

I will not be long. I know you are tired. I wish that I could complete what I would like to say, but I do not want to do that at this time.

I want to compliment the lady, the chief sponsor, not only on her brilliance of mind but on her integrity. I would like to thank the gentleman from Chester, who put it much better than I could when he said, we have taken a good bill and we have not made it better; we have diminished the purpose.

And I take issue with the minority chairman of the Agriculture Committee when he says that beware of the consequences. I would like to say to him, you should be as concerned as I on the consequences of what we are doing, and where one gentleman stood up and said, you know, this does not do anything to stop anything, the truth of the matter is, it does not do anything to help anything.

So while these people are all speaking for this bill and how it will help the little guy, if you want to help your little guy, I would just ask you and urge you to help our little guy.

I am still going to vote “no,” because it is wrong and for no other reason, and God willing, I will be back, and so will the courageous people that have stuck with us today, will be back. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,

Will the House concur in Senate amendments?

The SPEAKER pro tempore. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—134

Armstrong	Eachus	Leh	Roberts
Baldwin	Egolf	Lescovitz	Rohrer
Barrar	Evans, J.	Lewis	Ruffing
Bastian	Fabrizio	Lynch	Sainato
Benninghoff	Fairchild	Maher	Santoni
Birmelin	Fichter	Maitland	Sather
Bishop	Flick	Major	Saylor
Blaum	Forcier	Mann	Scavello
Boyd	Gabig	Markosek	Scrimenti
Browne	Gannon	Marsico	Semmel
Bunt	Gaest	McGeehan	Shaner
Butkovitz	Gergely	McGill	Solobay
Buxton	Gillespie	McIlhinney	Stairs
Caltagirone	Gingrich	Metcalfe	Stern
Casorio	Godshall	Micozzie	Stevenson, R.
Causer	Good	Miller, R.	Stevenson, T.
Cawley	Gruitza	Miller, S.	Tangretti
Civera	Habay	Mustio	Taylor, E. Z.
Clymer	Harhai	Myers	Taylor, J.
Coleman	Harhart	Nickol	Tigue
Cornell	Harris	O'Brien	True
Costa	Hasay	Oliver	Turzai
Coy	Hershey	Pallone	Washington
Creighton	Hess	Payne	Waters
Cruz	Hickernell	Petrarca	Watson
Dailey	Horsey	Petrone	Williams
Daley	Hutchinson	Pickett	Wilt
Dally	Keller	Pistella	Wojnaroski
DeLuca	Kenney	Preston	Wright
Denlinger	Killion	Raymond	Yewcic
Dermody	Kirkland	Readshaw	Youngblood
DiGrolamo	Kotik	Reed	Yudichak
Diven	LaGrotta	Reichley	Zug
Donatucci	Lederer		

NAYS—53

Adolph	Freeman	McIlhattan	Staback
Argall	George	Melio	Steil
Baker	Goodman	Mundy	Sturla
Bebko-Jones	Grucela	Nailor	Surra
Belardi	Haluska	O'Neill	Thomas
Belfanti	Hanna	Petri	Travaglio
Biancucci	Harper	Roebuck	Vance
Cappelli	Hennessey	Rooney	Veon
Cohen	Herman	Ross	Vitali
Crahalla	Josephs	Rubley	Walko
Curry	Laughlin	Samuelson	Wansacz
Evans, D.	Levdansky	Schroder	Weber
Feese	Manderino	Smith, S. H.	Wheatley
Frankel			

NOT VOTING—2

Rieger	Perzel, Speaker
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EXCUSED—13

Allen	Fleagle	Mackereth	Phillips
Bard	James	McCall	Smith, B.
Corrigan	Leach	McNaughton	Stetler
DeWeese			

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the amendments were concurred in.

Ordered, That the clerk inform the Senate accordingly.

SUPPLEMENTAL CALENDAR B

BILL ON THIRD CONSIDERATION

The House proceeded to third consideration of **SB 924, PN 1244**, entitled:

An Act requiring certifications by tobacco product manufacturers; providing for a directory of cigarettes approved for stamping and sale; conferring powers and imposing duties on the Attorney General and the Department of Revenue; and imposing penalties.

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

The SPEAKER pro tempore. The lady from Philadelphia, Ms. Josephs, asks that the rules of the House be suspended in order to offer amendment No. 4172.

On the suspension motion, the Chair recognizes the gentleman, Mr. Feese, from Lycoming County.

Mr. FEESE. Thank you, Madam Speaker.

The SPEAKER pro tempore. Will the gentleman just hold one second; I am sorry.

The amendment is in order. There is no need to suspend.

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

Ms. JOSEPHS offered the following amendment No. **A4172**:

Amend Title, page 1, line 4, by inserting after "Revenue;" providing for the incidence and rate of tax;

Amend Table of Contents, page 2, by inserting between lines 5 and 6

Chapter 5. Rate of Tax

Section 501. Incidence and rate of tax.

Section 502. Revenues.

Section 503. Notice.

Amend Bill, page 15, by inserting between lines 12 and 13

**CHAPTER 5
RATE OF TAX**

Section 501. Incidence and rate of tax.

An excise tax is hereby imposed and assessed upon the sale or possession of cigarettes within this Commonwealth at the rate of six cents per cigarette.

Section 502. Revenues.

Revenues resulting from the increase of the tax under section 501 shall be deposited in the Tobacco Settlement Fund and shall be allocated for the same health-related programs and in the same proportions as provided in section 306 of the act of June 26, 2001 (P.L.755, No.77), known as the Tobacco Settlement Act.

Section 503. Notice.

The Department of Revenue shall publish a notice in the Pennsylvania Bulletin at such time as any participating cigarette manufacturer whose Relative Market Share as defined in section II(mm) of the Master Settlement Agreement is greater than 1%, fails to make a payment when due under the Master Settlement Agreement as defined in section 102 of the act of June 26, 2001 (P.L.755, No.77), known as the Tobacco Settlement Act.

Amend Sec. 2102, page 15, by inserting between lines 25 and 26

(2) Sections 501 and 502 shall take effect 15 days following the date of publication in the Pennsylvania Bulletin of the notice required under section 503.

Amend Sec. 2102, page 15, line 26, by striking out “(2)” and inserting

(3)

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

The SPEAKER pro tempore. The Chair recognizes the lady, Ms. Josephs, on the amendment.

Ms. JOSEPHS. Thank you, Madam Speaker.

What my amendment does is makes sure that the money, the fund, the appropriations – well, they are not appropriations – the money and the funds that are in the Tobacco Settlement Fund are not diminished.

What has been happening here is that cigarette manufacturers, under the 2000 law, who choose not to participate in the Master Settlement Agreement must establish and maintain an escrow fund approved by the Attorney General. However, it has been discovered that many nonparticipating cigarette manufacturers have been selling cigarettes without following through on their escrow obligations to the State.

You know, Madam Speaker, I am very reluctant to ask people to be quiet and listen, because I consider this a really bad exercise, again, in democracy. I do not know how many hours we have been on this floor. I do not know how many people have the flu or a cold. I do not know how many people are like ready to collapse in a heap. You know, I think this is not fair, but given that, please let me ask for folks to listen. I will try to be clear, and I will try to be brief.

The SPEAKER pro tempore. The lady may continue.

Ms. JOSEPHS. Many of the nonparticipating cigarette manufacturers have been selling cigarettes without following through on their escrow obligations to the State. They are underpricing their product, and they are reducing the settlement payments to Pennsylvania – and we certainly need that money – and to 45 other States that are involved in the Master Settlement Agreement.

This amendment will protect Pennsylvania’s financial interests by ensuring that it continues to receive every penny that it is entitled to from cigarette manufacturers. The measure would require nonparticipating manufacturers to show that they have created a properly funded escrow account before they can sell cigarettes in Pennsylvania.

Again, we have discussed this in other contexts today. We have a statute. This is only trying to make sure that it gets enforced.

In addition, the amendment will take steps to ensure that any manufacturer participating in the Master Settlement Agreement continues to make its settlement payments by imposing a 20-cent-per-pack contingency tax on cigarettes sold in the State. The tax would only go into effect if a large cigarette manufacturer fails to meet its settlement obligations in Pennsylvania.

Madam Speaker, I said before in another part of this debate today, we know tobacco manufacturers testified under oath. They uttered blatant falsehoods. They claimed not to know their product was habituating. They claimed not to say that they were marketing to children and juveniles. They claimed not to know that these products cause serious disease, death, and millions and billions of dollars to our health-care system here in Pennsylvania.

Tobacco use, cigarette use, is the largest preventable health care. We cannot do better than to help our people be healthy and to make sure that if these folks try and get out from under the Master Settlement Agreement, we hit them with a tax and we make sure that the escrow account that they have set up is one which is required under the Master Settlement Agreement.

In April, you may remember, Philip Morris threatened to file for bankruptcy and not make its annual payments to the States. I do not know why anybody believed them, given their previous bad record of credibility. This legislation will prevent Philip Morris and other tobacco companies from blackmailing the States for special protection or just completely jumping out from under, slipping away from, the legal obligations that we have imposed on them.

This is a piece of legislation they will love back home; they really will. People are tired of the tobacco companies getting away with everything. It can be adopted by the Senate. It will not hold up anything. We know how quickly the Senate can act when it wants to.

I urge a “yes” vote on amendment No. 4172.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the lady.

The Chair recognizes the gentleman from Lycoming County, Mr. Feese, on the amendment.

Mr. FEESE. Thank you, Madam Speaker.

Madam Speaker, I rise to oppose the lady’s \$1.20-per-pack tax on cigarettes. The legislation as drafted will ensure that Pennsylvania complies with the Master Tobacco Settlement Agreement. It came out of committee in the House without amendment. If we pass this legislation now and send it to the Governor, it will ensure that Pennsylvania is in compliance and that we continue to receive the full amount of tobacco settlement moneys that we are entitled to without the proposed tax in the lady’s amendment.

Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Is the gentleman, Mr. Vitali, seeking recognition?

Mr. VITALI. No; I am not.

On the question recurring,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS-7

Bishop	Curry	Manderino	Thomas
Cawley	Josephs	Melio	

NAYS-177

Adolph	Evans, J.	Lescovitz	Sainato
Argall	Fabrizio	Levdansky	Samuelson
Armstrong	Fairchild	Lewis	Santoni
Baker	Feese	Lynch	Sather
Baldwin	Fichter	Maher	Saylor
Barrar	Flick	Maitland	Scavello
Bastian	Forcier	Major	Schroder
Bebko-Jones	Frankel	Mann	Scrimenti
Belardi	Freeman	Markosek	Sammel
Belfanti	Gabig	Marsico	Shaner
Benninghoff	Gannon	McGeehan	Smith, S. H.
Bianucci	Geist	McGill	Solobay
Birmelin	George	McIlhattan	Staback

Blaum	Gergely	McIlhinney	Stairs
Boyd	Gillespie	Metcalfe	Steil
Browne	Gingrich	Micozzie	Stern
Bunt	Godshall	Miller, R.	Stevenson, R.
Butkovitz	Good	Miller, S.	Stevenson, T.
Buxton	Goodman	Mundy	Sturla
Caltagirone	Grucela	Mustio	Surra
Cappelli	Gruitza	Myers	Tangretti
Casorio	Habay	Nailor	Taylor, E. Z.
Causer	Haluska	Nickol	Taylor, J.
Civera	Hanna	O'Brien	Tigue
Clymer	Harhai	Oliver	Travaglio
Cohen	Harhart	O'Neill	True
Coleman	Harper	Pallone	Turzai
Cornell	Harris	Payne	Vance
Costa	Hasay	Petrarca	Veon
Coy	Hennessey	Petri	Vitali
Crahalla	Herman	Petrone	Walko
Creighton	Hess	Pickett	Wansacz
Cruz	Hickernell	Pistella	Washington
Dailey	Horsley	Preston	Watson
Daley	Hutchinson	Raymond	Weber
Dally	Keller	Readshaw	Wheatley
DeLuca	Kenney	Reed	Williams
Denlinger	Killion	Reichley	Wilt
Dermody	Kirkland	Roberts	Wojnaroski
DiGirolamo	Kotik	Rohrer	Wright
Diven	LaGrotta	Rooney	Yewcic
Donatucci	Laughlin	Ross	Youngblood
Eachus	Lederer	Rubley	Yudichak
Egolf	Leh	Ruffing	Zug
Evans, D.			

NOT VOTING—5

Hershey	Roebuck	Perzel,
Rieger	Waters	Speaker

EXCUSED—13

Allen	Fleagle	Mackereth	Phillips
Bard	James	McCall	Smith, B.
Corrigan	Leach	McNaughton	Stetler
DeWeese			

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

On the question recurring,
Will the House agree to the bill on third consideration?
Bill was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—188

Adolph	Evans, J.	Lewis	Santoni
Argall	Fabrizio	Lynch	Sather
Armstrong	Fairchild	Maher	Saylor
Baker	Feese	Maitland	Scavello
Baldwin	Fichter	Major	Schroder
Barrar	Flick	Manderino	Scrimenti

Bastian	Forcier	Mann	Semmel
Bebko-Jones	Frankel	Markosek	Shaner
Belardi	Freeman	Marsico	Smith, S. H.
Belfanti	Gabig	McGeehan	Solobay
Benninghoff	Gannon	McGill	Staback
Bianucci	Geist	McIlhatten	Stairs
Birmelin	George	McIlhinney	Steil
Bishop	Gergely	Melio	Stern
Blaum	Gillespie	Metcalfe	Stevenson, R.
Boyd	Gingrich	Micozzie	Stevenson, T.
Browne	Godshall	Miller, R.	Sturla
Bunt	Good	Miller, S.	Surra
Butkovitz	Goodman	Mundy	Tangretti
Buxton	Grucela	Mustio	Taylor, E. Z.
Caltagirone	Gruitza	Myers	Taylor, J.
Cappelli	Habay	Nailor	Thomas
Casorio	Haluska	Nickol	Tigue
Causer	Hanna	O'Brien	Travaglio
Cawley	Harhai	Oliver	True
Civera	Harhart	O'Neill	Turzai
Clymer	Harper	Pallone	Vance
Cohen	Harris	Payne	Veon
Coleman	Hasay	Petrarca	Vitali
Cornell	Hennessey	Petri	Walko
Costa	Herman	Petrone	Wansacz
Coy	Hershey	Pickett	Washington
Crahalla	Hess	Pistella	Waters
Creighton	Hickernell	Preston	Watson
Cruz	Horsley	Raymond	Weber
Curry	Hutchinson	Readshaw	Wheatley
Dailey	Josephs	Reed	Williams
Daley	Keller	Reichley	Wilt
Dally	Kenney	Roberts	Wojnaroski
DeLuca	Killion	Roebuck	Wright
Denlinger	Kirkland	Rohrer	Yewcic
Dermody	Kotik	Rooney	Youngblood
DiGirolamo	LaGrotta	Ross	Yudichak
Diven	Laughlin	Rubley	Zug
Donatucci	Lederer	Ruffing	
Eachus	Leh	Sainato	
Egolf	Lescovitz	Samuelson	Perzel,
Evans, D.	Levdansky		Speaker

NAYS—0

NOT VOTING—1

Rieger

EXCUSED—13

Allen	Fleagle	Mackereth	Phillips
Bard	James	McCall	Smith, B.
Corrigan	Leach	McNaughton	Stetler
DeWeese			

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same without amendment.

ANNOUNCEMENT BY SPEAKER PRO TEMPORE

The SPEAKER pro tempore. For purposes of the Sunshine Act, the Chair announces a meeting of the HB 1018 conference committee at 8 p.m. tonight in room 148, Main Capitol.

SUPPLEMENTAL CALENDAR D

RESOLUTION PURSUANT TO RULE 35

Mr. CRUZ called up **HR 520, PN 3128**, entitled:

A Resolution expressing support for the National Defense Authorization Act for Fiscal Year 2004 (H.R. 1588) and the protections it confers on certain noncitizen military personnel.

On the question,
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—183

Adolph	Evans, J.	Lynch	Sather
Argall	Fabrizio	Maher	Saylor
Baker	Fairchild	Maitland	Scavello
Baldwin	Feese	Major	Schroder
Barrar	Fichter	Manderino	Scrimenti
Bastian	Flick	Mann	Semmel
Bebko-Jones	Forcier	Markosek	Shaner
Belardi	Frankel	Marsico	Smith, S. H.
Belfanti	Freeman	McGeehan	Solobay
Benninghoff	Gabig	McGill	Staback
Biancucci	Gannon	McIlhattan	Stairs
Birmelin	Geist	McIlhinney	Steil
Bishop	George	Metcalfe	Stern
Blaum	Gergely	Micozzie	Stevenson, R.
Boyd	Gillespie	Miller, R.	Stevenson, T.
Browne	Gingrich	Miller, S.	Sturla
Bunt	Godshall	Mundy	Surra
Butkovitz	Good	Mustio	Tangretti
Buxton	Goodman	Myers	Taylor, E. Z.
Caltagirone	Grucela	Nailor	Taylor, J.
Cappelli	Gruitza	Nickol	Thomas
Casorio	Habay	O'Brien	Tigue
Causer	Haluska	Oliver	Travaglio
Cawley	Hanna	O'Neill	True
Civera	Harhai	Pallone	Turzai
Clymer	Harhart	Payne	Vance
Cohen	Harper	Petrarca	Veon
Coleman	Harris	Petri	Vitali
Cornell	Hasay	Petrone	Walko
Costa	Hennessey	Pickett	Wansacz
Coy	Herman	Pistella	Washington
Crahalla	Hershey	Preston	Waters
Creighton	Hess	Raymond	Watson
Cruz	Hickernell	Readshaw	Weber
Curry	Hutchinson	Reed	Wheatley
Dailey	Keller	Reichley	Williams
Daley	Kenney	Roberts	Wilt
Dally	Killion	Roebuck	Wojnaroski
DeLuca	Kirkland	Rohrer	Wright
Denlinger	Kotik	Rooney	Yewcic
Dermody	LaGrotta	Ross	Youngblood
DiGirolamo	Laughlin	Rubley	Yudichak
Diven	Lederer	Ruffing	Zug
Donatucci	Leh	Sainato	
Eachus	Levdansky	Samuelson	Perzel,
Egolf	Lewis	Santoni	Speaker
Evans, D.			

NAYS—0

NOT VOTING—6

Armstrong	Josephs	Melio	Rieger
Horsley	Lescovitz		

EXCUSED—13

Allen	Fleagle	Mackereth	Phillips
Bard	James	McCall	Smith, B.
Corrigan	Leach	McNaughton	Stetler
DeWeese			

The majority having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

CALENDAR CONTINUED

RULES SUSPENDED

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Sturla.

Mr. STURLA. Madam Speaker, I move that the House rules be suspended in order to have immediate consideration of HB 1321.

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

The following roll call was recorded:

YEAS—180

Adolph	Egolf	Levdansky	Santoni
Argall	Evans, D.	Lewis	Sather
Armstrong	Evans, J.	Lynch	Saylor
Baker	Fabrizio	Maher	Schroder
Baldwin	Fairchild	Maitland	Scrimenti
Barrar	Feese	Major	Semmel
Bastian	Fichter	Manderino	Shaner
Bebko-Jones	Flick	Mann	Smith, S. H.
Belardi	Frankel	Markosek	Solobay
Belfanti	Freeman	Marsico	Staback
Benninghoff	Gabig	McGeehan	Stairs
Biancucci	Gannon	McGill	Steil
Birmelin	Geist	McIlhattan	Stern
Bishop	George	McIlhinney	Stevenson, R.
Blaum	Gergely	Melio	Stevenson, T.
Boyd	Gillespie	Micozzie	Sturla
Browne	Gingrich	Miller, R.	Surra
Bunt	Godshall	Mundy	Tangretti
Butkovitz	Good	Mustio	Taylor, E. Z.
Buxton	Goodman	Myers	Taylor, J.
Caltagirone	Grucela	Nailor	Thomas
Cappelli	Gruitza	O'Brien	Tigue
Casorio	Haluska	Oliver	Travaglio
Causer	Hanna	O'Neill	True
Cawley	Harhai	Pallone	Vance
Civera	Harhart	Payne	Veon
Clymer	Harper	Petrarca	Vitali
Cohen	Harris	Petri	Walko
Coleman	Hasay	Petrone	Wansacz
Cornell	Hennessey	Pickett	Washington
Costa	Herman	Pistella	Waters
Coy	Hershey	Preston	Watson
Crahalla	Hess	Raymond	Weber
Creighton	Hickernell	Readshaw	Wheatley
Cruz	Horsley	Reed	Williams
Curry	Josephs	Reichley	Wilt
Dailey	Keller	Rieger	Wojnaroski
Daley	Kenney	Roberts	Wright
Dally	Killion	Roebuck	Yewcic
DeLuca	Kirkland	Rooney	Youngblood
Denlinger	Kotik	Ross	Yudichak
Dermody	LaGrotta	Rubley	Zug

DiGirolamo	Laughlin	Ruffing	
Diven	Lederer	Sainato	
Donatucci	Leh	Samuelson	Perzel,
Eachus	Lescovitz		Speaker

NAYS—9

Forcier	Metcalf	Nickol	Scavello
Habay	Miller, S.	Rohrer	Turzai
Hutchinson			

NOT VOTING—0

EXCUSED—13

Allen	Fleagle	Mackereth	Phillips
Bard	James	McCall	Smith, B.
Corrigan	Leach	McNaughton	Stetler
DeWeese			

A majority of the members required by the rules having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

BILL ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 1321, PN 1629**, entitled:

An Act amending the act of October 6, 1998 (P.L.705, No.92), known as the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act, further providing for definitions; providing for keystone innovation zones; and further providing for other State tax credits.

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

Mr. **D. EVANS** offered the following amendment No. **A4905**:

Amend Title, page 1, lines 13 through 15, by striking out all of said lines and inserting

providing for expansion of existing improvement subzones; and further providing for business relocation.

Amend Bill, page 1, lines 18 through 24; pages 2 through 5, lines 1 through 30; page 6, lines 1 and 2, by striking out all of said lines on said pages and inserting

Section 1. Sections 301.2(b) and 307(b) of the act of October 6, 1998 (P.L.705, No.92), known as the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act, amended or added December 9, 2002 (P.L.1727, No.217), are amended to read:
Section 301.2. Keystone opportunity improvement zones.

* * *

(b) Proposal.—

(1) By January 1, 2003, and notwithstanding any designation under sections 301 and 301.1, the Governor may, by executive order, designate deteriorated property in this Commonwealth as a proposed improvement subzone. The executive order shall specify the period of time, not to exceed 15 years, for which the tax exemptions, deductions, abatements or credits provided by this act may be granted.

(2) By February 1, 2004, the Governor may, by executive order, expand existing improvement subzones located within cities of the first class. The executive order shall designate

the deteriorated property to be included within the proposed expanded improvement subzone. The expansion shall not exceed three sites with a total area of 85 acres of which at least 70 acres must be designated as any class of industrial district classification pursuant to local zoning ordinances in effect on the effective date of this paragraph.

(3) The department shall immediately notify political subdivisions located within the area designated. Within 90 days after the date of notification from the department that the Governor has extended a subzone in a city of the first class, the political subdivision may apply to the department for approval of the extension of the improvement subzone in the manner described in subsection (c).

* * *

Section 307. Qualified businesses.

* * *

(b) Relocation.—Any business that relocates from outside a subzone, improvement subzone or expansion subzone into a subzone, improvement subzone or expansion subzone shall not receive any of the exemptions, deductions, abatements or credits set forth in this act unless that business [either] does one of the following:

(1) increases full-time employment by at least 20% in the first full year of operation within the subzone, improvement subzone or expansion subzone; [or]

(2) makes a capital investment in the property located within [a] the subzone, improvement subzone or expansion subzone at least equivalent to 10% of the gross revenues of that business in the immediately preceding calendar or fiscal year[.]; or

(3) enters into a lease agreement for property located within the subzone, improvement subzone or expansion subzone:

(i) for a term at least equivalent to the duration of the subzone, improvement subzone or expansion subzone; and

(ii) with aggregate payment under the lease agreement to support new capital investment at least equivalent to 5% of the gross revenues of that business in the immediately preceding calendar or fiscal year.

The department, in consultation with the Department of Revenue, may waive or modify the requirements of this subsection, as appropriate.

Section 2. This act shall take effect immediately.

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

The SPEAKER pro tempore. The gentleman, Mr. Evans, is recognized on the amendment.

Mr. D. EVANS. Thank you, Madam Speaker.

Madam Speaker, the amendment that I am offering is an amendment that would remove current language dealing with the KIZ zone (keystone innovation zone), similar to language that is contained in SB 778. In addition, Madam Speaker, this would give the authority to the Governor to expand existing KOZ zones (keystone opportunity zones) in Philadelphia, limited to three sites and 85 acres. In addition, Madam Speaker, this is something that Governor Schweiker, we also gave the power to him. That was in Act 217 of 2002.

What this basically would do, Madam Speaker, is that it provides new qualifications for businesses to locate in the subzone, requiring the length of lease. In addition, it provides jobs, jobs totaling about 3,781 new jobs, but it also prevents businesses from leaving the Commonwealth of Pennsylvania. We have a potential of losing over 4,000 jobs, but it also will generate local revenue.

I would hope that—

The SPEAKER pro tempore. Will the gentleman yield one moment.

For what reason does the gentleman, Mr. Pistella, rise?

Mr. PISTELLA. Thank you, Madam Speaker.

Madam Speaker, the tote board shows the amendment being offered as A4905. My computer screen shows A4828.

The SPEAKER pro tempore. The correct number is 4905.

Mr. PISTELLA. All right. Now, given that, Madam Speaker, is there 4905 that is in our system that we can review prior to the vote?

The SPEAKER pro tempore. We are in the process of having 4905 put on the system, and in the meantime, Mr. Evans may continue.

Mr. D. EVANS. Thank you, Madam Speaker.

Madam Speaker, as I was saying a few minutes ago, this is an attempt by the Governor, by all of us – as you know, the zones were started under Governor Ridge and Governor Schweiker – basically to continue to generate jobs in the Commonwealth of Pennsylvania. As you know, the Governor has made a commitment on the aspect of, through his economic stimulus program but as well as this is an extension of it, in my view, building on something that occurred in the previous administration.

I believe that it is a good initiative. I hope that we can get support for this particular initiative.

Thank you, Madam Speaker.

The SPEAKER pro tempore. On the amendment, the Chair recognizes the gentleman from Philadelphia, Mr. Horsey.

Mr. HORSEY. Madam Speaker, may I interrogate the maker of the amendment? I have one question to ask him.

The SPEAKER pro tempore. The gentleman agrees. You may proceed.

Mr. HORSEY. Madam Speaker, you mentioned that this covers three primary zones. How did you say that? Do you know what those three zones are?

Mr. D. EVANS. No, I do not.

Mr. HORSEY. I ask because I have a keystone zone in a portion of my district, and I was wondering if this amendment affects it.

Mr. D. EVANS. No, I do not know, Madam Speaker.

Mr. HORSEY. Thank you.

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Pistella, on the amendment.

Mr. PISTELLA. Thank you, Madam Speaker.

Will the gentleman stand for interrogation?

The SPEAKER pro tempore. The gentleman agrees. You may proceed.

Mr. PISTELLA. Thank you.

Very briefly, my understanding – and I have been provided with a copy of the amendment – is that the amendment A4905 is similar in content to the amendment that you had previously submitted, 4828, which is actually in our system. For the benefit of the members and to clear up any confusion, would you be kind enough to explain very briefly the difference between the two versions of the bill so that members can understand what it is that you are in fact submitting that is different from the previous version, please?

Mr. D. EVANS. Basically, the difference is, Madam Speaker, that 4905 basically limits the three sites into 85 acres. In the previous amendment, Madam Speaker, that

language was not there, but in this amendment, it basically limits the three sites into 85 acres.

Mr. PISTELLA. Thank you very much, Madam Speaker.

I appreciate your standing for interrogation, and I encourage the members' support of the amendment. Thank you.

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Freeman, on the amendment.

Mr. FREEMAN. Thank you, Madam Speaker.

Madam Speaker, the amendment is still not appearing on our screens.

The SPEAKER pro tempore. They are working on it. We will get you a copy of the amendment.

Mr. FREEMAN. Thank you, Madam Speaker.

If we could just have a moment to look at this prior to the vote, I would appreciate that very much. Thank you.

The SPEAKER pro tempore. The amendment is now on your computer.

The Chair recognizes the gentleman from Philadelphia, Mr. Thomas, on the amendment.

Mr. THOMAS. Thank you, Madam Speaker.

Madam Speaker, may I interrogate the maker of the amendment?

The SPEAKER pro tempore. The gentleman agrees. You may proceed.

Mr. THOMAS. Thank you, Madam Speaker.

I just have one question: How does your amendment fit with existing practices?

Mr. D. EVANS. I do not understand the nature of your question, Madam Speaker.

Mr. THOMAS. Who makes the decision now on where zones will be located? Or I notice that – and I guess that is my other question – is this just limited to Philadelphia County?

Mr. D. EVANS. Madam Speaker, basically the Governor can make the recommendation, but the local government has to approve the recommendation.

Mr. THOMAS. Okay. Is that current practice?

Mr. D. EVANS. Yes, Madam Speaker.

Mr. THOMAS. Okay. And is this amendment just limited to Philadelphia?

Mr. D. EVANS. Yes, Madam Speaker.

Mr. THOMAS. Thank you, Madam Speaker.

PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. The Chair recognizes the gentleman from Butler County, Mr. Metcalfe, on the amendment.

Mr. METCALFE. Thank you, Madam Speaker.

I was just wondering if the sponsor of the amendment had a fiscal note.

The SPEAKER pro tempore. The gentleman agrees. You may proceed.

Oh, I beg your pardon; I did not hear you. Is there a fiscal note with—

Mr. D. EVANS. We have a fiscal note for 4828, but we have applied for one – it is strange coming from the minority chair of Appropriations to say this to you – but we have applied for one for 4905, and we are waiting for it, Madam Speaker.

Mr. METCALFE. So do we need to go over the amendment until we have the fiscal note?

Mr. D. EVANS. Madam Speaker, the fiscal note that we had under the amendment that I mentioned to you said that it was no fiscal impact, and this is even limited than the amendment that was offered before, Madam Speaker.

Mr. METCALFE. But I know there was a previous ruling on my amendment that had no impact on the State, and I just wanted to make sure we were going along with the current policy of having fiscal notes on what seems like to be every amendment tonight.

I would ask that we go over the amendment until the fiscal note is in hand.

PARLIAMENTARY INQUIRY

Mr. D. EVANS. Madam Speaker?

The SPEAKER pro tempore. The gentleman, Mr. Evans, is recognized.

Mr. D. EVANS. My understanding – parliamentary inquiry – my understanding with the suspension of the rules—

The SPEAKER pro tempore. The motion is in order.

Mr. D. EVANS. —my understanding is, it would negate the need for a fiscal note.

The SPEAKER pro tempore. The gentleman is correct. We did not suspend for the purpose of a fiscal note.

Do you want to make a motion?

Mr. D. EVANS. I would like to call for the vote. Yes; call for the vote.

The SPEAKER pro tempore. The gentleman needs to move to suspend the rules.

PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. For what purpose does the lady, Mrs. Taylor, rise?

Mrs. TAYLOR. Inquiry, Madam Speaker.

I wonder if you could give us some idea how long it will take for a fiscal note to be prepared. I think the members would be interested in that.

The SPEAKER pro tempore. The fiscal note was requested 2 hours ago.

Mrs. TAYLOR. Two hours; 2 hours ago.

The SPEAKER pro tempore. That is when it was requested.

Mrs. TAYLOR. Thank you.

VOTE CORRECTION

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Eachus.

Mr. EACHUS. Madam Speaker, would it be appropriate to correct the record at this time while we are waiting for the conference?

The SPEAKER pro tempore. The gentleman may proceed.

Mr. EACHUS. Thank you, Madam Speaker.

I would like to correct the record on the first recommittal vote on HB 1222. I was voted in the affirmative. I would like to have been voted in the negative.

The SPEAKER pro tempore. The gentleman's remarks will be cast upon the record.

Mr. EACHUS. Thank you.

The SPEAKER pro tempore. We will take vote corrections a little later. Thank you.

CONSIDERATION OF HB 1321 CONTINUED

The SPEAKER pro tempore. The fiscal note should be here in 5 minutes.

INTERGOVERNMENTAL AFFAIRS COMMITTEE MEETING

The SPEAKER pro tempore. In the interim, we will take corrections of the record, and we recognize the gentleman from Berks County, Mr. Leh.

Mr. LEH. Thank you very much, Madam Speaker.

I rise to make a committee announcement.

I would like to inform all the members of the Intergovernmental Affairs Committee, there will be a brief meeting at the adjournment in the rear of the House. This is a brief meeting just to rerefer a bill, and I would like to see every member there.

Madam Speaker, thank you very much.

The SPEAKER pro tempore. The gentleman, Mr. Leh, announces an Intergovernmental Affairs Committee meeting in the rear of the House at the adjournment tonight.

VOTE CORRECTIONS

The SPEAKER pro tempore. For what purpose does the gentleman, Mr. Horsey, rise?

Mr. HORSEY. I would like to thank the Speaker for—I would like to request the Speaker to allow me to correct the record.

The SPEAKER pro tempore. The gentleman may proceed.

Mr. HORSEY. On HR 520 my button malfunctioned. I would like to be an affirmative vote and at the same time say, God bless America and God bless the American troops.

Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman. Your remarks will be cast upon the record.

The Chair recognizes the gentleman from Allegheny County, Mr. Turzai.

Mr. TURZAI. Thank you, Madam Speaker.

On HB 1222, the motion to recommit, my vote was not recorded. I want to be recorded as voting in the negative.

Thank you very much.

The SPEAKER pro tempore. The Chair thanks the gentleman. Your remarks will be spread upon the record.

INTERGOVERNMENTAL AFFAIRS COMMITTEE MEETING

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Leh.

Mr. LEH. Thank you.

Madam Speaker, is there ample time to hold that committee meeting right now? It is very brief.

The SPEAKER pro tempore. We believe that there is.

Mr. LEH. Okay. Thank you, Madam Speaker.

I would like to ask all the members of the Intergovernmental Affairs Committee right now to report to the back of the House.

Thank you, Madam Speaker.

The SPEAKER pro tempore. An Intergovernmental Affairs Committee meeting in the back of the House.

SENATE MESSAGE

SENATE INSISTS ON AMENDMENTS NONCONCURRED IN BY HOUSE

The clerk of the Senate, being introduced, informed that the Senate has insisted upon its amendments nonconcurrent in by the House of Representatives to **HB 1018, PN 2303**, and has appointed Senators Conti, Corman, and C. Williams a committee of conference to confer with a similar committee of the House of Representatives (already appointed) on the subject of the differences existing between the two Houses in relation to said bill.

VOTE CORRECTIONS

The SPEAKER pro tempore. The Chair recognizes the gentleman from Philadelphia, Mr. Thomas.

Mr. THOMAS. Thank you, Madam Speaker.

Madam Speaker, I would like to clear the record.

On HB 1222, on the motion to suspend, my button malfunctioned. I would like to be recorded in the affirmative.

The SPEAKER pro tempore. The Chair thanks the gentleman. Your remarks will be spread upon the record.

The Chair recognizes the gentleman, Mr. Solobay.

Mr. SOLOBAY. Thank you, Madam Speaker.

Also for a correction of the record.

On HB 2015, final passage, I think I was recorded in the negative, and it needs to be in the positive. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman. Your remarks will be spread upon the record.

STATEMENT BY MR. CLYMER

The SPEAKER pro tempore. The Chair recognizes the gentleman from Bucks County, Mr. Clymer.

Mr. CLYMER. Thank you, Madam Speaker.

I rise for unanimous consent.

The SPEAKER pro tempore. The gentleman may proceed.

Mr. CLYMER. Madam Speaker, from time to time we have had members stand and talk about those who are serving in the military, and I would like to take a few minutes to write another chapter of members' relatives who have—

The SPEAKER pro tempore. Would the gentleman cease just a moment.

Mr. Clymer has something that is very important to him. Could we please have some quiet in the House so that we can hear what the gentleman has to say.

Mr. CLYMER. Another chapter of those that we are acquainted with who are serving in the military, and let me begin.

It was in the early 1990s when Sandy Cole, a teenager, recited the famous poem "In Flanders fields the poppies blow" on the floor of the House. She did it to commemorate

Veterans Day. Sandy Cole is the daughter of Sharon Cole, a legislative research analyst for the House Republican Caucus. Sandy attended Susquenita High School in Perry County. She is a graduate of the year 2000, a civil engineer from Penn State University. While attending a leadership conference in Providence, Rhode Island, she met Kevin Grant, a graduate of the West Point Military Academy. Soon after, they were married.

Capt. Kevin Grant, the son-in-law of Sharon Cole, is a soldier with the 4th Infantry Division, 1st Brigade Raiders. This is the brigade who captured Saddam Hussein.

Kevin is a captain with the 299th Engineer Battalion of the 1st Brigade and is stationed at the Forward Operating Base Omaha, in Tikrit, Iraq. He has been stationed just 10 miles from the site where the dictator, Saddam Hussein, was apprehended.

Madam Speaker, once again we proudly acknowledge the heroics and courage of our soldiers, and especially when there is a connection with someone here within the Harrisburg family. I am not sure if Sharon has stayed to hear these remarks, but I know that she wanted me to also mention this, and that is, God bless America and all our troops and their families, and may the ring of freedom be heard around the world.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

VOTE CORRECTION

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Kirkland.

Mr. KIRKLAND. Thank you, Madam Speaker.

I rise to correct the record.

Madam Speaker, on HB 2015 my switch malfunctioned. I was recorded in the negative. I would like to be recorded in the affirmative.

The SPEAKER pro tempore. The Chair thanks the gentleman. Your remarks will be spread upon the record.

BILL REPORTED AND REREFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY

HB 2275, PN 3133

By Rep. LEH

An Act providing for municipal regulation of the deposit, disposal or land application of water dredge material; and requiring a public referendum under certain circumstances.

INTERGOVERNMENTAL AFFAIRS.

CONSIDERATION OF HB 1321 CONTINUED

The SPEAKER pro tempore. The House will come to order, please.

We do now have the fiscal note.

We are ready to proceed. Would the members like to take their seats, please.

On the amendment, the Chair recognizes the gentleman from Monroe County, Mr. Scavello.

Would you strike that.

Were you finished, Mr. Evans?

Mr. D. EVANS. I just, Madam Speaker, would like to thank the chairman of the Appropriations Committee for providing it to me. Thank you, Madam Speaker.

The SPEAKER pro tempore. On the amendment, the Chair recognizes the gentleman from Monroe, Mr. Scavello.

Mr. SCAVELLO. Thank you, Madam Speaker.

Can I question the maker of the amendment?

The SPEAKER pro tempore. The gentleman agrees. You may proceed.

Mr. SCAVELLO. Is there any specific area in Philadelphia where this is being applied to or any specific purpose?

Mr. D. EVANS. Madam Speaker, it is only limited to three sites, which is about 85 acres. That decision will be made in conjunction between the Governor and the local elected officials.

Mr. SCAVELLO. Are we not taking power away from the local officials that usually make those decisions on what is going to be KOZ and what is not and usually make those decisions on the expansion of those KOZs within their area?

Mr. D. EVANS. Madam Speaker, this cannot happen without the approval of the local elected officials in terms of if they decide that they would like to implement the KOZs, Madam Speaker, and Governor Schweiker also did the same thing, Madam Speaker.

Mr. SCAVELLO. Madam Speaker, if the local municipal leaders are in support of any particular area that they would like to extend, they have that authority. Does not HB 521 that is on the Governor's desk give them that authority? It certainly does.

POINT OF ORDER

Mr. COY. Madam Speaker?

The SPEAKER pro tempore. For what purpose does the gentleman, Mr. Coy, rise?

Mr. COY. Point of order.

I want to remind the members, have the Chair remind the members, that the purpose of debate and, in this case, asking questions is to ask questions that you do not know the answer to. Now, respectfully, the member who was speaking answered his own question. Now, if we know the answer to the question, there is no need to ask the prime sponsor.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The gentleman, Mr. Scavello, may proceed.

Mr. SCAVELLO. Thank you.

I would just like to make a comment on the amendment.

The SPEAKER pro tempore. You may proceed.

Mr. SCAVELLO. I just think it sends a bad message out to the local elected officials that we can go at any time and decide on what they are going to have tax free in their area or not. And from what I understand, there is HB 521, which this House voted on and approved, and it is on the Governor's desk for approval, that will give the local municipality, the local officials, within Philadelphia to make that decision on what they want in the KOZ, what they do not want in the KOZ, or whatever they want to expand within that KOZ.

Thank you, Madam Speaker. I urge the members to vote "no."

The SPEAKER pro tempore. The Chair thanks the gentleman.

Does the gentleman, Mr. Horsey, wish to be recognized?

The Chair recognizes the gentleman from Philadelphia, Mr. Keller, on the amendment.

Mr. KELLER. Madam Speaker, may I interrogate, a brief interrogation of the maker of the amendment?

The SPEAKER pro tempore. The gentleman agrees. You may proceed.

Mr. KELLER. Madam Speaker, I think we are all in agreement that the KOZs are a great thing, and they have proven to be a great economic stimulus, but the original intent of the KOZ was to help blighted areas. Could you tell me, I know you have not been specific, but are these areas blighted areas that we are talking about?

Mr. D. EVANS. Madam Speaker, these are areas that we are trying to, one, recruit new employment as well as retain potential loss of employment. I believe, Madam Speaker, that the intent of the KOZs was to be a part of an economic development strategy, and it is clear, Madam Speaker, that, in my view, this is just one tool that should be available.

Mr. KELLER. I absolutely agree, Madam Speaker, but the intent was to help the blighted areas, and being a person that has some blighted areas, and I am sure other people in our delegation have blighted areas, if we can retain or have new businesses, I am sure with the great tax breaks they are getting, I think we should just try to concentrate or move those people into blighted areas to receive those tax cuts, and I would just like to know, you know, are these areas blighted that we are talking about?

Mr. D. EVANS. Madam Speaker, in my view, those areas probably would be somewhat defined as blighted if there are no jobs there, and clearly, here is an opportunity to bring jobs there, to maintain the jobs that are there. We are competing with surrounding States, and in my view, this is something that gives a sort of a strategy, Madam Speaker, and it is something that we should have available to us.

But I want to make something very clear: The ultimate decision, Madam Speaker, is left up to the local elected officials to decide if they want to use this tool, and I am referring to that, Madam Speaker, as a result of one comment that was made by the previous speaker, because, in my view, people need to be very clear. Ultimately, if the local elected officials should not pass any type of ordinance, this cannot become a reality.

Mr. KELLER. One more brief comment, Madam Speaker, one question: I know there is probably no impact on the State, but is there any fiscal impact to the local municipality?

Mr. D. EVANS. Madam Speaker, that is determined by the local officials, and when it is determined by the local officials, it could have a potential impact upon the issue of their property taxes, but again, that is a decision that is made by the local elected officials if they decide it is something that they want to do.

We should be very clear that the fact of the matter is that if anyone is approaching this effort, the local city council could veto this and this could not become a reality.

Mr. KELLER. And there is a fiscal impact to the State, too, because there are State taxes that are also exempt. Is that correct?

Mr. D. EVANS. Like anything, it is an investment, because you generate jobs. Through generating jobs, you generate additional revenue. That means you generate personal income tax; you generate sales tax; you generate wage tax; you generate

all other kinds of taxes. So like anytime you make an investment, you hope to get a return. We do that every day. We do that with the State budget.

So it is clear to me, Madam Speaker, that we always try to make these types of investments. Under Governor Ridge and Governor Schweiker, we initiated these particular zones. We put these zones in for the purpose of attempting as a tradeoff to have expansion of our economy. So we do make those kinds of investments every single day, Madam Speaker.

Mr. KELLER. We have not had, as a delegation, a chance to discuss this yet, and it is just my feeling that the way this came up, we would like to have more time to discuss this. If we could go over this amendment and put it in another bill, or if the maker of the amendment is not willing to do that, then I think I would have to ask for a “no” vote on this until we could, as a delegation, get together and see what is best for the city.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Monroe, Mr. Scavello, for the second time.

Mr. SCAVELLO. Thank you, Madam Speaker.

Could I question, again, the maker of the amendment?

The SPEAKER pro tempore. The gentleman agrees. You may proceed.

Mr. SCAVELLO. Thank you.

I have pulled up the amendment on the screen, but nowhere does it say that the local municipal leaders will have a decision in any of the expansion of these zones.

Mr. D. EVANS. It is my understanding, if you look at the amendment, it is in the amendment and it is also in the existing law, Madam Speaker.

Mr. SCAVELLO. But, Madam Speaker, here we are talking about an executive order that does not require— It is not in this amendment. If it is in the amendment, I would feel much more positive about it, more confident.

Mr. D. EVANS. Madam Speaker, if I can read from the amendment what it says.

The SPEAKER pro tempore. The gentleman may proceed.

Mr. D. EVANS. “Within 90 days after the date of notification from the department that the Governor has extended a subzone in a city of the first class, the political subdivision may apply to the department for approval of the extension of the improvement subzone in the manner described in subsection (c).”

So, Madam Speaker, that is the language that says that there has to be the approval of the political subdivision.

Mr. SCAVELLO. Madam Speaker, could I also ask what the manner described in subsection (c) is?

Mr. D. EVANS. Madam Speaker, we are just checking for the subsection (c).

Madam Speaker, I can show the gentleman on the subsection (c), if he would like for me to walk back there and show him on subsection (c). I can show you subsection (c).

(Conference held.)

The SPEAKER pro tempore. Does the gentleman, Mr. Scavello, wish to be recognized?

Mr. SCAVELLO. Yes, Madam Speaker. Thank you.

I was explained the subchapter (c).

I would like to ask another question.

“Section 301.2...Proposal...,” lines 31 to 32, “...industrial district classification...local zoning ordinances in effect...” Does it include gambling?

Mr. D. EVANS. Madam Speaker, I do not understand; I do not understand. Repeat that question again, Madam Speaker.

Mr. SCAVELLO. “Proposal...,” (b)(2), lines 31 to 32, “...industrial district classification...local zoning ordinances in effect...” Does it include gambling in the industrial district in Philadelphia?

Mr. D. EVANS. No, Madam Speaker.

Mr. SCAVELLO. Okay. Thank you very much.

Mr. D. EVANS. Madam Speaker, let me say one thing for clarity.

The SPEAKER pro tempore. The Chair recognizes Mr. Evans.

Mr. D. EVANS. Let me just say something, repeat it, for clarity.

Madam Speaker, what I just showed the gentleman – and it is in current State law; it is stated here very specifically – nothing, absolutely nothing, can happen without the approval of the local political subdivision. Not the executive branch but the elected political subdivision has to pass an ordinance. It says it. It is in current law.

This is only an amendment to provide additional tools for the Governor, because the purpose, without me getting too specifically of companies that the Governor is attempting to negotiate and to keep in the Commonwealth of Pennsylvania, because there are negotiations taking place, is a tool. So we are potentially losing jobs. We are trying to generate jobs; we are trying to expand on jobs. It is a tool. It is a tool that we gave to Governor Schweiker; Governor Ridge had it. This is a tool. This is not a new issue.

It is only providing the element of the ability for expansion for the Governor of the Commonwealth of Pennsylvania, but it has to be approved by the political subdivision. That is very important. So I want to stress that. Through the questions that the gentleman asked and I stated very specifically, it is in this; it is in this amendment, and when he asked me about subsection (c) on the application, it is stated in the application.

So it is right here for anyone to see. It is not something that is being made up. It is not something that is being created.

So thank you. I hope I can get support on the amendment.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Punxsutawney, Mr. Smith.

Mr. S. SMITH. Thank you, Madam Speaker.

Madam Speaker, I just wanted to ask the members to support the Evans amendment.

This expansion is something that has been done in the past. Clearly, it is slightly different in that it is a single expansion versus a broader statewide expansion, but the similar process was used with the previous administration in which the local government and the administration partake in the final approval, and I would simply ask the members to support the amendment.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS-92

Adolph	Feese	Manderino	Schroder
Argall	Fichter	Mann	Scrimenti
Bebko-Jones	Flick	Markosek	Semmel
Belardi	Frankel	Marsico	Shaner
Biancucci	Gannon	McGill	Smith, S. H.
Blaum	George	Melio	Solobay
Browne	Gergely	Micozzie	Staback
Bunt	Godshall	Mundy	Stairs
Buxton	Grucela	Mustio	Steil
Casorio	Haluska	O'Brien	Stevenson, T.
Civera	Hanna	Payne	Sturla
Cohen	Harhai	Petrarca	Surra
Cornell	Harper	Petrone	Tangretti
Coy	Hershey	Pistella	Taylor, J.
Crahalla	Horsey	Preston	Travaglio
Curry	Kenney	Raymond	Turzai
Daley	Killion	Reed	Veon
DeLuca	Kotik	Rieger	Vitali
Dermody	LaGrotta	Rooney	Walko
DiGirolamo	Laughlin	Rubley	Wansacz
Eachus	Lescovitz	Ruffing	Weber
Evans, D.	Levdansky	Sainato	Wheatley
Fabrizio	Lynch	Scavello	Wright

NAYS-91

Armstrong	Diven	Keller	Roberts
Baker	Donatucci	Lederer	Roebuck
Baldwin	Egolf	Leh	Rohrer
Barrar	Evans, J.	Lewis	Ross
Bastian	Fairchild	Maher	Samuelson
Belfanti	Forcier	Maitland	Santoni
Benninghoff	Freeman	Major	Sather
Birmelin	Gabig	McGeehan	Saylor
Bishop	Geist	McIlhattan	Stern
Boyd	Gillespie	McIlhinney	Stevenson, R.
Butkovitz	Gingrich	Metcalfe	Taylor, E. Z.
Caltagirone	Good	Miller, R.	Tigue
Cappelli	Goodman	Miller, S.	True
Causar	Gruitza	Myers	Vance
Cawley	Habay	Nailor	Waters
Clymer	Harhart	Nickol	Watson
Coleman	Hasay	Oliver	Wilt
Costa	Hennessey	O'Neill	Wojnaroski
Creighton	Herman	Pallone	Yewcic
Cruz	Hess	Petri	Youngblood
Dailey	Hickernell	Pickett	Yudichak
Dally	Hutchinson	Readshaw	Zug
Denlinger	Josephs	Reichley	

NOT VOTING-6

Harris	Thomas	Williams	Perzel,
Kirkland	Washington		Speaker

EXCUSED-13

Allen	Fleagle	Mackereth	Phillips
Bard	James	McCall	Smith, B.
Corrigan	Leach	McNaughton	Stetler
DeWeese			

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question,
Will the House agree to the bill on third consideration as amended?

Bill as amended was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS-124

Adolph	Feese	Mann	Semmel
Argall	Fichter	Markosek	Shaner
Barrar	Flick	Marsico	Smith, S. H.
Bebko-Jones	Frankel	McGeehan	Solobay
Belardi	Freeman	McGill	Staback
Belfanti	Gannon	McIlhinney	Stairs
Biancucci	George	Melio	Steil
Bishop	Gergely	Micozzie	Stevenson, R.
Blaum	Godshall	Mundy	Stevenson, T.
Browne	Goodman	Mustio	Sturla
Bunt	Grucela	Myers	Surra
Butkovitz	Haluska	O'Brien	Tangretti
Buxton	Hanna	Pallone	Taylor, E. Z.
Casorio	Harhai	Payne	Taylor, J.
Civera	Harhart	Petrarca	Thomas
Cohen	Harper	Petrone	Tigue
Cornell	Harris	Pistella	Travaglio
Costa	Hennessey	Preston	Turzai
Coy	Herman	Raymond	Veon
Crahalla	Hershey	Readshaw	Vitali
Cruz	Horsey	Reed	Walko
Curry	Josephs	Rieger	Wansacz
Daley	Killion	Roebuck	Washington
Dally	Kirkland	Rooney	Waters
DeLuca	Kotik	Rubley	Weber
Dermody	LaGrotta	Ruffing	Wheatley
DiGirolamo	Laughlin	Sainato	Williams
Diven	Lescovitz	Santoni	Wojnaroski
Eachus	Levdansky	Scavello	Wright
Evans, D.	Lynch	Schroder	Youngblood
Fabrizio	Manderino	Scrimenti	Yudichak

NAYS-61

Armstrong	Egolf	Lederer	Pickett
Baker	Evans, J.	Leh	Reichley
Baldwin	Fairchild	Lewis	Roberts
Bastian	Forcier	Maher	Rohrer
Benninghoff	Gabig	Maitland	Ross
Birmelin	Geist	Major	Samuelson
Boyd	Gillespie	McIlhattan	Sather
Caltagirone	Gingrich	Metcalfe	Saylor
Cappelli	Good	Miller, R.	Stern
Causar	Habay	Miller, S.	True
Clymer	Hasay	Nailor	Vance
Coleman	Hess	Nickol	Watson
Creighton	Hickernell	Oliver	Wilt
Dailey	Hutchinson	O'Neill	Yewcic
Denlinger	Keller	Petri	Zug
Donatucci			

NOT VOTING-4

Cawley	Gruitza	Kenney	Perzel, Speaker
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EXCUSED-13

Allen	Fleagle	Mackereth	Phillips
Bard	James	McCall	Smith, B.
Corrigan	Leach	McNaughton	Stetler
DeWeese			

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

ANNOUNCEMENT BY SPEAKER PRO TEMPORE

The SPEAKER pro tempore. There will be no further votes tonight. However, however, there will be a nonvoting session tomorrow. We will be in session on Monday at 11 a.m.

Please note the time change on Monday. It is not 1 p.m.; it is 11 a.m.

DEMOCRATIC CAUCUS

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Cohen, for the purpose of an announcement.

Mr. COHEN. Thank you.

Madam Speaker, there will be a short Democratic caucus to go over the schedule. Anyone who has scheduling questions is welcome to come.

ANNOUNCEMENT BY MR. EGOLF

The SPEAKER pro tempore. The Chair recognizes the gentleman from Perry County, Mr. Egolf.

Mr. EGOLF. Thank you, Madam Speaker.

I would like to make an announcement.

On behalf of Chairman Semmel, who has lost his voice, he and the committee, the Veterans Affairs and Emergency Preparedness Committee, will be offering, introducing, a resolution on Monday that will recognize the service and retirement of the Adjutant General, William Lynch. If you would like to be a cosponsor on that, please call Chairman Semmel's office no later than 2 o'clock tomorrow. So if you would like to be a cosponsor on that resolution, please call his office no later than 2 o'clock tomorrow, Friday.

Thank you.

ANNOUNCEMENT BY SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Could I have the members' attention, please.

We would like to clarify the statement. We did make the announcement we would be in Monday. There is a possibility we may be called back in on Sunday. We are not adjourning. We are recessing to the call of the Chair.

VOTE CORRECTION

The SPEAKER pro tempore. The Chair recognizes the lady, Ms. Youngblood.

Ms. YOUNGBLOOD. Madam Speaker, on HB 1222 my switch malfunctioned, and I would like to be reported in the negative instead of the positive.

POINT OF PERSONAL PRIVILEGE

Ms. YOUNGBLOOD. In addition, a point of personal privilege.

It has been 536 days since the 198th District has had any district office staff.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the lady. Her remarks will be spread upon the record.

COMMUNICATION FROM SPEAKER

SPEAKER PRO TEMPORE APPOINTED

The SPEAKER pro tempore. A communication from the Speaker of the House, which the clerk will read.

The following communication was read:

House of Representatives
Commonwealth of Pennsylvania
Harrisburg

To the Honorable House of Representatives:

Pursuant to House Rule 1, this is to advise that I have appointed the Honorable Patricia Vance to serve as Speaker Pro Tempore for December 18 and 19, 2003.

Very truly yours,
John M. Perzel
The Speaker

BILLS SIGNED BY SPEAKER PRO TEMPORE

Bills numbered and entitled as follows having been prepared for presentation to the Governor, and the same being correct, the titles were publicly read as follows:

HB 1222, PN 3127

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for identification of incorrect debtor; further defining "other specified offense" for purposes of DNA data and testing; further providing for summary offenses involving vehicles, for law enforcement records, for duration of commitment and review; establishing a cause of action for unauthorized enactment or enforcement of local ordinances governing agricultural operations; providing for certain attorney fees and costs; and further providing for sentence of intermediate punishment and for assessments.

SB 970, PN 1308

An Act amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, providing for revival of an expired authority.

Whereupon, the Speaker pro tempore, in the presence of the House, signed the same.

RECESS

The SPEAKER pro tempore. This House now stands in recess until the call of the Chair.

AFTER RECESS

The time of recess having expired, the House was called to order.

REMARKS SUBMITTED FOR THE RECORD

Mr. PETRI submitted the following remarks for the Legislative Journal:

Mr. Speaker, it is my privilege to bring to the attention of the Speaker and the members of the Pennsylvania House of Representatives the names of Nicholas Onkow and Donald Celia, who have recently been awarded Scouting's highest honor – Eagle Scout.

Mr. Speaker, I would like to read to the members of the House of Representatives the following citation of merit honoring Nicholas Onkow and Donald Celia.

Whereas, Nicholas Onkow and Donald Celia earned the Eagle Award in Scouting. This is the highest award that Boy Scouts can bestow and as such represents great sacrifice and tremendous effort on the part of these young men. They are members of Troop 57.

Now therefore, Mr. Speaker and the members of the House of Representatives, it is my privilege to congratulate and place in the Legislative Journal the names of Nicholas Onkow and Donald Celia.

BILLS AND RESOLUTIONS PASSED OVER

The SPEAKER pro tempore. Without objection, any remaining bills and resolutions on today's calendar will be passed over. The Chair hears no objection.

ADJOURNMENT

The SPEAKER pro tempore. The Chair recognizes the gentleman from Jefferson, Mr. Smith.

Mr. S. SMITH. Madam Speaker, I move that this House do now adjourn until Friday, December 19, 2003, at 10:30 a.m., e.s.t., unless sooner recalled by the Speaker.

On the question,

Will the House agree to the motion?

Motion was agreed to, and at 10:29 a.m., e.s.t., Friday, December 19, 2003, the House adjourned.