

# COMMONWEALTH OF PENNSYLVANIA

## LEGISLATIVE JOURNAL

FRIDAY, JULY 13, 2007

SESSION OF 2007

191ST OF THE GENERAL ASSEMBLY

No. 73

### HOUSE OF REPRESENTATIVES

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

#### THE SPEAKER PRO TEMPORE (LOUISE WILLIAMS BISHOP) PRESIDING

#### PRAYER

HON. LOUISE WILLIAMS BISHOP, member of the House of Representatives, offered the following prayer:

You may join me in prayer:

We lift our eyes unto the hills from whence cometh our help. All of our help cometh from the Lord, the maker and giver of every good and perfect gift. And, God, we thank You today for all of Your gifts – Your gifts of life, Your gifts of joy, Your gifts of pleasure – but most of all we thank You for Your gift of children, family, friends, and the opportunity to serve in the House of Representatives.

So as we serve this Commonwealth today, because You have granted us the opportunity to do so, we do it with joy, with delight, with fidelity, and with honor. And we thank You for every opportunity we get to be a reflection of You, because in You, O Lord, do we put our trust. So order our footsteps as we go forth this Friday the 13th, going forth knowing that it is going to be the best day of our lives.

We thank You and give all glory and honor unto You, as we serve with mercy, do justly, and walk humbly before You. Amen.

#### PLEDGE OF ALLEGIANCE

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

#### JOURNAL APPROVAL POSTPONED

The SPEAKER pro tempore. Without objection, approval of the Journal of Thursday, July 12, 2007, will be postponed until printed. The Chair hears no objections.

### SENATE MESSAGE

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

The clerk of the Senate, being introduced, returned **HB 202, PN 2286; HB 1251, PN 2287; HB 1252, PN 2288; and HB 1255, PN 2290**, with information that the Senate has passed the same with amendment in which the concurrence of the House of Representatives is requested.

#### ANNOUNCEMENT BY SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Both Democrats and Republicans are in caucus. We are expecting the House to go on until about noontime; the caucus will continue until noontime.

#### RECESS

The SPEAKER pro tempore. Until then, the House will stand in recess until the call of the Chair.

#### AFTER RECESS

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

#### THE SPEAKER PRO TEMPORE (MATTHEW E. BAKER) PRESIDING

The SPEAKER pro tempore. Members, please report to the floor. Members, please report to the floor.

#### LEAVES OF ABSENCE

The SPEAKER pro tempore. Turning to leaves of absence, the Chair recognizes the majority whip. Are there any leaves on the Democrat side? The Democrat leadership requests a leave for the gentleman from Cambria County, Mr. WOJNAROSKI, for today. Without objection, the leave will be granted.

And the minority whip is recognized to request a leave of absence for the day for the gentleman from Philadelphia County, Mr. KENNEY, and the gentleman from York County, Mr. PERRY. Without objection, the leaves of absence will be granted.

The majority whip requests an additional leave of absence for the gentlelady, Ms. MANDERINO from Philadelphia County. Without objection, the leave of absence will be so granted.

Members will report to the floor.

**MASTER ROLL CALL**

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

The following roll call was recorded:

**PRESENT—199**

Adolph	Freeman	Markosek	Rohrer
Argall	Gabig	Marshall	Ross
Baker	Galloway	Marsico	Rubley
Barrar	Geist	McCall	Sabatina
Bastian	George	McGeehan	Sainato
Bear	Gerber	McI. Smith	Samuelson
Belfanti	Gergely	McIlhatten	Santoni
Benninghoff	Gibbons	Melio	Saylor
Bennington	Gillespie	Mensch	Scavello
Beyer	Gingrich	Metcalfe	Schroder
Biancucci	Godshall	Micozzie	Seip
Bishop	Goodman	Millard	Shapiro
Blackwell	Grell	Miller	Shimkus
Boback	Grucela	Milne	Siptroth
Boyd	Haluska	Moul	Smith, K.
Brennan	Hanna	Moyer	Smith, M.
Brooks	Harhai	Mundy	Smith, S.
Buxton	Harhart	Murt	Solobay
Caltagirone	Harkins	Mustio	Sonney
Cappelli	Harper	Myers	Staback
Carroll	Harris	Nailor	Stairs
Casorio	Helm	Nickol	Steil
Causser	Hennessey	O'Brien, M.	Stern
Civera	Hershey	O'Neill	Stevenson
Clymer	Hess	Oliver	Sturla
Cohen	Hickernell	Pallone	Surra
Conklin	Hornaman	Parker	Swanger
Costa	Hutchinson	Pashinski	Tangretti
Cox	James	Payne	Taylor, J.
Creighton	Josephs	Payton	Taylor, R.
Cruz	Kauffman	Peifer	Thomas
Curry	Keller, M.	Perzel	True
Cutler	Keller, W.	Petrarca	Turzai
Daley	Kessler	Petri	Vereb
Dally	Killion	Petrone	Vitali
DeLuca	King	Phillips	Vulakovich
Denlinger	Kirkland	Pickett	Wagner
DePasquale	Kortz	Preston	Walko
Dermody	Kotik	Pyle	Wansacz
DeWeese	Kula	Quigley	Waters
DiGirolamo	Leach	Quinn	Watson
Donatucci	Lentz	Ramaley	Wheatley
Eachus	Levdansky	Rapp	White
Ellis	Longietti	Raymond	Williams
Evans, D.	Mackereth	Readshaw	Yewcic
Evans, J.	Maher	Reed	Youngblood
Everett	Mahoney	Reichley	Yudichak
Fabrizio	Major	Roae	
Fairchild	Mann	Rock	O'Brien, D.,
Fleck	Mantz	Roebuck	Speaker
Frankel			

ADDITIONS—0

NOT VOTING—0

**EXCUSED—4**

Kenney	Manderino	Perry	Wojnaroski
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**LEAVES ADDED—6**

Bastian	O'Neill	Tangretti	Thomas
Levdansky	Petri		

**LEAVES CANCELED—2**

Manderino	Perry
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The SPEAKER pro tempore. A quorum being present, the House will proceed to conduct business.

**HOUSE BILLS  
INTRODUCED AND REFERRED**

**No. 1550** By Representatives LEVDANSKY, DENLINGER, FREEMAN, SCAVELLO, DeLUCA, NICKOL, MANN, STEIL, KORTZ, RUBLEY, FRANKEL, SWANGER, CALTAGIRONE, JOSEPHS, SANTONI, MURT, HALUSKA, PETRONE, YOUNGBLOOD, BEAR, SOLOBAY, THOMAS, WALKO and CURRY

An Act amending the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, further providing for recapture of tax, for register for earned income and occupational privilege taxes, for collection of taxes, for audits of earned income taxes and for earned income taxes; providing for the consolidated collection and uniform distribution of local income taxes; establishing the Income Tax Collection Advisory Committee within the Department of Community and Economic Development; further providing for collection of delinquent taxes, for penalties and for costs of delinquent tax collection; making editorial changes; and making repeals.

Referred to Committee on FINANCE, July 13, 2007.

**No. 1693** By Representatives GERGELY, CALTAGIRONE, CAPPELLI, FRANKEL, GOODMAN, JOSEPHS, KORTZ, KULA, LONGIETTI, MAHONEY, McGEEHAN, READSHAW, SHIMKUS, SOLOBAY and YOUNGBLOOD

An Act amending the act of July 9, 1987 (P.L.220, No.39), known as the Social Workers, Marriage and Family Therapists and Professional Counselors Act, providing for endorsement of out-of-State licenses.

Referred to Committee on PROFESSIONAL LICENSURE, July 13, 2007.

**No. 1716** By Representatives SAINATO, SOLOBAY, GERGELY, MARKOSEK, PALLONE, PRESTON, PASHINSKI, MENSCH, SIPTROTH, SAYLOR, BAKER, KORTZ, BRENNAN, MANN, M. O'BRIEN, GRUCELA, HALUSKA, HERSHEY, KOTIK, GOODMAN, GRELL, FAIRCHILD, R. MILLER, YOUNGBLOOD, GEIST, DENLINGER, RUBLEY, KULA, MURT, PETRONE, HARRIS, READSHAW, LONGIETTI, JAMES, MYERS, K. SMITH, BLACKWELL, REICHLEY, THOMAS, KENNEY, FLECK, TANGRETTI, GODSHALL, SCAVELLO, CLYMER, HORNAMAN and HELM

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for theft of services.

Referred to Committee on CONSUMER AFFAIRS, July 13, 2007.

**No. 1724** By Representatives M. SMITH, BELFANTI, BRENNAN, CALTAGIRONE, COSTA, DENLINGER, FABRIZIO, GINGRICH, GRUCELA, HARHAI, JAMES, KOTIK, KULA, MAHONEY, MARSHALL, MURT, PASHINSKI, SOLOBAY, THOMAS, VULAKOVICH and YOUNGBLOOD

An Act amending the act of June 23, 1931 (P.L.932, No.317), known as The Third Class City Code, further providing, in provisions relating to pensions, for definitions.

Referred to Committee on FINANCE, July 13, 2007.

**No. 1725** By Representatives STAIRS, FLECK, GEIST, HESS, JAMES, MELIO, MOYER, PASHINSKI, RUBLEY, SCAVELLO, McILVAINE SMITH, SONNEY, STURLA, THOMAS and YOUNGBLOOD

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, providing for advanced placement courses; and making an appropriation.

Referred to Committee on EDUCATION, July 13, 2007.

**No. 1726** By Representatives STAIRS, BASTIAN, BENNINGHOFF, CLYMER, GEIST, GODSHALL, HARHAI, HARHART, HENNESSEY, JAMES, R. MILLER, MURT, O'NEILL, PEIFER, SAYLOR, SWANGER and YOUNGBLOOD

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, providing for random testing of students for anabolic steroid use and training of certain public school employees.

Referred to Committee on EDUCATION, July 13, 2007.

**No. 1727** By Representatives REICHLEY, BAKER, BEAR, BOYD, CAPPELLI, CLYMER, CREIGHTON, CUTLER, DALLY, DENLINGER, EVERETT, GEIST, GINGRICH, GRELL, HENNESSEY, HUTCHINSON, MACKERETH, McILHATTAN, MILNE, PICKETT, QUINN, RAPP, ROSS, RUBLEY, SONNEY, THOMAS, VULAKOVICH, WALKO and WATSON

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, providing for a disease management tax credit.

Referred to Committee on FINANCE, July 13, 2007.

**No. 1728** By Representatives REICHLEY, BAKER, BEAR, BOYD, CAPPELLI, CLYMER, CREIGHTON, CUTLER, DALLY, DENLINGER, EVERETT, GEIST, GINGRICH, GRELL, HENNESSEY, HUTCHINSON, MACKERETH, McILHATTAN, MILNE, PICKETT, QUINN, RAPP, ROSS, RUBLEY, SONNEY, THOMAS, VULAKOVICH, WALKO and WATSON

An Act amending the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, further providing for disposition of the Budget Stabilization Reserve Fund.

Referred to Committee on FINANCE, July 13, 2007.

**No. 1729** By Representatives HUTCHINSON, TURZAI, GINGRICH, REED, DENLINGER, PICKETT, MARSICO, CAPPELLI, ADOLPH, ARGALL, BAKER, BARRAR, BEAR, BENNINGHOFF, BOBACK, BOYD, CAUSER, CLYMER, COX, CREIGHTON, CUTLER, DALLY, ELLIS, J. EVANS, EVERETT, FAIRCHILD, FLECK, GABIG, GEIST, GILLESPIE, GODSHALL, GRELL, HARHART, HARRIS, HERSHEY, HESS, HICKERNELL, KAUFFMAN, M. KELLER, KIRKLAND, MAJOR, MANTZ, MARSHALL, McILHATTAN, MENSCH, METCALFE, MILLARD, R. MILLER, MILNE, MOUL, MOYER, MURT, MUSTIO, O'NEILL, PAYNE, PEIFER, PERRY, PERZEL, PHILLIPS, PYLE, QUIGLEY, RAPP, REICHLEY, ROAE, ROCK, SAYLOR, SCAVELLO, S. H. SMITH, SONNEY, STAIRS, STERN, R. STEVENSON, SWANGER, TRUE, VEREB and VULAKOVICH

An Act to provide from the General Fund for the expenses of the Department of Public Welfare for the fiscal year July 1, 2007, to June 30, 2008.

Referred to Committee on APPROPRIATIONS, July 13, 2007.

**No. 1730** By Representatives BLACKWELL, PARKER, SHIMKUS, BRENNAN, KIRKLAND, JAMES, DePASQUALE, YOUNGBLOOD, MURT, SIPTROTH, HENNESSEY, CURRY, JOSEPHS, BOYD, MUNDY, PALLONE and SWANGER

An Act prohibiting use of coercion and undue influence to gain participation of special needs persons in certain research; and imposing a penalty.

Referred to Committee on HEALTH AND HUMAN SERVICES, July 13, 2007.

**No. 1731** By Representatives DePASQUALE, BELFANTI, CAPPELLI, CASORIO, CONKLIN, CRUZ, FRANKEL, FREEMAN, GALLOWAY, GEORGE, GOODMAN, GRUCELA, HARHAI, HORNAMAN, JAMES, KORTZ, MAHONEY, MANDERINO, MARKOSEK, MOUL, MURT, MYERS, READSHAW, SABATINA, SAYLOR, SIPTROTH, SOLOBAY, SWANGER, THOMAS, WATERS, WHEATLEY, YOUNGBLOOD and DALEY

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, providing for a right of notification and restitution for crime victims.

Referred to Committee on STATE GOVERNMENT, July 13, 2007.

**No. 1732** By Representatives REICHLEY, BAKER, BEAR, BELFANTI, BENNINGHOFF, BOYD, BRENNAN, CALTAGIRONE, CAPPELLI, DALLY, GEIST, GEORGE, HARRIS, HENNESSEY, HERSHEY, JAMES, M. KELLER, KIRKLAND, KORTZ, LONGIETTI, McILHATTAN, MILLARD, R. MILLER, MOUL, MOYER, MURT, O'NEILL,

PETRONE, PICKETT, RAPP, ROEBUCK, SONNEY, THOMAS, VEREB, WATSON and YOUNGBLOOD

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, providing, in general provisions, for release of State lien.

Referred to Committee on FINANCE, July 13, 2007.

**No. 1733** By Representatives GODSHALL, ADOLPH, CAPPELLI, CLYMER, CUTLER, DeLUCA, FAIRCHILD, GEIST, HENNESSEY, HESS, JOSEPHS, MOUL, MURT, O'NEILL, RUBLEY, SOLOBAY, SONNEY, SURRA and SWANGER

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in provisions for firearms and other dangerous articles, further providing for duties of Pennsylvania State Police and for registration of firearms.

Referred to Committee on JUDICIARY, July 13, 2007.

**No. 1734** By Representatives GODSHALL, JAMES, CAPPELLI, CLYMER, CUTLER, FAIRCHILD, GEIST, HENNESSEY, HESS, MOUL, MURT, SOLOBAY, SONNEY, SURRA, SWANGER, STERN and BENNINGHOFF

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for sale or transfer of firearms.

Referred to Committee on JUDICIARY, July 13, 2007.

**No. 1735** By Representatives YEWIC, CALTAGIRONE, CAPPELLI, FREEMAN, GEORGE, HALUSKA, HENNESSEY, W. KELLER, KOTIK, MAHONEY, PASHINSKI, PETRARCA, PETRONE, ROEBUCK, SOLOBAY, TANGRETTI, YOUNGBLOOD, CREIGHTON, DENLINGER, FABRIZIO, DeWEESE and HANNA

An Act amending Title 27 (Environmental Resources) of the Pennsylvania Consolidated Statutes, providing for coal.

Referred to Committee on ENVIRONMENTAL RESOURCES AND ENERGY, July 13, 2007.

**No. 1736** By Representatives M. O'BRIEN, HARKINS, SOLOBAY, GEORGE, BIANCUCCI, FABRIZIO, HESS, HORNAMAN, JAMES, JOSEPHS, W. KELLER, KOTIK, LEVDANSKY, McGEEHAN, MUNDY, PARKER, PETRONE, SABATINA, SAYLOR, STABACK, J. TAYLOR, WALKO, YOUNGBLOOD, HARHAI, COHEN, KULA and BENNINGHOFF

An Act amending the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law, providing for the permitting of oceangoing vessels in Lake Erie.

Referred to Committee on ENVIRONMENTAL RESOURCES AND ENERGY, July 13, 2007.

**No. 1737** By Representatives D. O'BRIEN, BENNINGHOFF, BRENNAN, CALTAGIRONE, COHEN, CONKLIN, COSTA, DENLINGER, FABRIZIO, GILLESPIE, GOODMAN, GRUCELA, HARPER, HESS, HUTCHINSON, KILLION, KOTIK, LEACH, MAHONEY, McGEEHAN, McILHATTAN,

MICOZZIE, MURT, MYERS, NICKOL, M. O'BRIEN, PARKER, PETRONE, PHILLIPS, PYLE, RAPP, READSHAW, SCAVELLO, SOLOBAY, THOMAS, VEREB, VULAKOVICH, WALKO, WATSON and YOUNGBLOOD

An Act prohibiting any municipal pension or retirement system in a city of the first class from denying certain benefits to surviving spouses of firefighters or certain employees upon a subsequent remarriage of the surviving spouse; and making related repeals.

Referred to Committee on FINANCE, July 13, 2007.

**No. 1738** By Representatives MELIO, BELFANTI, CALTAGIRONE, GEORGE, GRUCELA, HENNESSEY, JAMES, JOSEPHS, KIRKLAND, KOTIK, LONGIETTI, MAHONEY, MYERS, M. O'BRIEN, O'NEILL, RAPP, REICHLEY, K. SMITH, THOMAS, WOJNAROSKI, YOUNGBLOOD and BRENNAN

An Act amending the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, providing for supplemental needs trusts.

Referred to Committee on HEALTH AND HUMAN SERVICES, July 13, 2007.

**No. 1739** By Representatives ADOLPH, ARGALL, BAKER, BELFANTI, BOYD, BRENNAN, CAPPELLI, CARROLL, CLYMER, COHEN, CONKLIN, CREIGHTON, CURRY, DALLY, DeLUCA, EVERETT, FREEMAN, GEIST, GEORGE, GILLESPIE, GINGRICH, GOODMAN, HARHAI, HARRIS, HERSHEY, HESS, HORNAMAN, M. KELLER, W. KELLER, KILLION, KORTZ, KOTIK, KULA, LENTZ, MAHONEY, MAJOR, MANTZ, McILHATTAN, MENSCH, R. MILLER, MOYER, MUNDY, MURT, MYERS, O'NEILL, PAYNE, PETRONE, RAMALEY, RAPP, READSHAW, REICHLEY, ROAE, ROHRER, ROSS, RUBLEY, SANTONI, SAYLOR, SCAVELLO, SONNEY, R. STEVENSON, SURRA, SWANGER, J. TAYLOR, THOMAS, TRUE, TURZAI, VEREB, WALKO, WATSON, WOJNAROSKI, YOUNGBLOOD, YUDICHAK and QUINN

An Act authorizing the Governor to award a distinguished military service medal; and making an appropriation.

Referred to Committee on VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS, July 13, 2007.

**No. 1740** By Representatives COHEN, JOSEPHS, FREEMAN, MELIO, PETRONE, HARHART, HENNESSEY, PAYNE, GOODMAN, KIRKLAND, KORTZ, KULA, LEACH, MANDERINO, McGEEHAN, SAMUELSON, SIPTROTH and YOUNGBLOOD

An Act requiring that cigarettes sold in this Commonwealth comply with the New York Fire Safety Standards for Cigarettes.

Referred to Committee on FINANCE, July 13, 2007.

**No. 1741** By Representatives SWANGER, GINGRICH, NAILOR, BAKER, BELFANTI, BENNINGHOFF, BOYD, BROOKS, CAUSER, CONKLIN, COSTA, CURRY, CUTLER, DALEY, DALLY, DeLUCA, DENLINGER, EVERETT, FAIRCHILD, GEIST, GEORGE, GERGELY, GOODMAN, HARHART, HARRIS, HESS, HICKERNELL, HORNAMAN, HUTCHINSON, JAMES, M. KELLER,

KILLION, KIRKLAND, KORTZ, KOTIK, KULA, LEACH, MARSHALL, McILHATTAN, MELIO, MOUL, MOYER, MURT, MYERS, PALLONE, PEIFER, PETRARCA, PETRONE, PHILLIPS, PYLE, QUINN, RAPP, READSHAW, REED, REICHLEY, RUBLEY, SCAVELLO, SCHRODER, SEIP, McILVAINE SMITH, SOLOBAY, SONNEY, J. TAYLOR, THOMAS, TRUE, VULAKOVICH, WALKO, YOUNGBLOOD and SIPTROTH

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, excluding the sale of tangible personal property by volunteer fire companies from the sales and use tax.

Referred to Committee on FINANCE, July 13, 2007.

**No. 1742** By Representatives PASHINSKI, BRENNAN, CURRY, DENLINGER, GOODMAN, HENNESSEY, HERSHEY, JAMES, KORTZ, KULA, MARSHALL, McCALL, MURT, PALLONE, PETRONE, READSHAW, SHIMKUS, K. SMITH and THOMAS

An Act requiring scrap processors and recycling facility operators to collect certain information relating to the purchase of scrap material; requiring commercial accounts; and restricting scrap processors and recycling facility operators from purchasing certain materials.

Referred to Committee on COMMERCE, July 13, 2007.

**No. 1743** By Representatives BEAR, BENNINGHOFF, BOYD, CALTAGIRONE, CREIGHTON, CUTLER, DENLINGER, GEIST, GINGRICH, HARRIS, HENNESSEY, HERSHEY, HICKERNELL, HORNAMAN, KAUFFMAN, KIRKLAND, KORTZ, KOTIK, MOUL, MYERS, PETRONE, ROAE, ROSS, RUBLEY, SAYLOR, SCHRODER, STERN, R. STEVENSON, STURLA, SWANGER, J. TAYLOR, THOMAS, TURZAI and YOUNGBLOOD

An Act providing for the establishment, implementation and administration of a retiree welfare-to-work mentoring demonstration program for certain individuals; and imposing additional powers and duties on the Department of Aging.

Referred to Committee on AGING AND OLDER ADULT SERVICES, July 13, 2007.

**No. 1744** By Representatives CALTAGIRONE, BLACKWELL, DONATUCCI, FRANKEL, GODSHALL, HARPER, JAMES, JOSEPHS, KOTIK, MANDERINO, McGEEHAN, MURT, MYERS, M. O'BRIEN, PAYTON, SIPTROTH, STEIL, STURLA, J. TAYLOR, THOMAS, WALKO and YOUNGBLOOD

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for grading of theft offenses and for sale or transfer of firearms; providing for limits on lending or transferring a handgun, for a study by the Joint State Government Commission and for additional authority for the Office of Attorney General; and making an appropriation.

Referred to Committee on JUDICIARY, July 13, 2007.

**No. 1745** By Representatives JAMES, YOUNGBLOOD, JOSEPHS, CURRY, KIRKLAND, MYERS, THOMAS and WILLIAMS

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, providing for the imposition of an additional tax on ammunition.

Referred to Committee on FINANCE, July 13, 2007.

**No. 1746** By Representative THOMAS

An Act authorizing cities of the first class to impose restrictions on the purchase, sale and possession of firearms.

Referred to Committee on JUDICIARY, July 13, 2007.

## SENATE BILLS FOR CONCURRENCE

The clerk of the Senate, being introduced, presented the following bills for concurrence:

**SB 690, PN 1290**

Referred to Committee on FINANCE, July 13, 2007.

**SB 917, PN 1106**

Referred to Committee on STATE GOVERNMENT, July 13, 2007.

**SB 989, PN 1207**

Referred to Committee on STATE GOVERNMENT, July 13, 2007.

## CALENDAR

### BILLS ON SECOND CONSIDERATION

The House proceeded to second consideration of **SB 413, PN 1276**, entitled:

An Act amending the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, further providing for assessment of signs and sign structures; and making related repeals.

On the question,

Will the House agree to the bill on second consideration?

Bill was agreed to.

\* \* \*

The House proceeded to second consideration of **HB 1150, PN 2237**, entitled:

An Act amending the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, providing, in health and accident insurance, for autism spectrum disorders coverage and for treatment of autism spectrum disorders; and further providing for quality health care procedures.

On the question,

Will the House agree to the bill on second consideration?

Mr. D. O'BRIEN offered the following amendment No. A03010:

Amend Sec. 1 (Sec. 635.2), page 5, line 17, by inserting after "DISORDERS."

To the extent that the diagnosis and treatment of autism spectrum disorders are not already covered by the health insurance policy or government program, coverage under this section shall be included in health insurance policies and contracts under a government program which are delivered, executed, issued, amended, adjusted or renewed on or after one hundred eighty days from the effective date of this section, except that the applicability of this section to government programs shall be contingent upon Federal approval if necessary.

Amend Sec. 1 (Sec. 635.2), page 5, lines 27 through 29, by striking out "PRICE INDEX (MPI) COMPONENT OF THE U.S. DEPARTMENT OF LABOR CONSUMER PRICE INDEX (CPI),and inserting care component of the United States Department of Labor Consumer Price Index For All Urban Consumers (CPI-U).

Amend Sec. 1 (Sec. 635.2), page 9, line 10, by striking out "LICENSED PSYCHOLOGIST" and inserting psychologist licensed

Amend Sec. 1 (Sec. 635.2), page 10, line 15, by inserting after "LAW,"

the

Amend Sec. 1 (Sec. 635.2), page 10, line 19, by inserting after "ALL"

of

Amend Sec. 1, page 10, lines 29 and 30; page 11, lines 1 through 19, by striking out all of said lines on said pages and inserting

Section 2116.1. Treatment of Autism Spectrum Disorders.—(a) Except for inpatient services, if an enrollee has obtained authorization through utilization review from a managed care plan, government program or a licensed insurer to receive any care, treatment, intervention, service or item for an autism spectrum disorder, the authorization shall be valid for twelve months, unless the enrollee's primary care provider determines that an earlier re-evaluation is necessary in order to adequately address the clinical needs of the enrollee.

(a.1) In applying subsection (a), if within the twelve-month period following the effective date of this section a health insurance policy is delivered, issued, executed or renewed and at the time of such delivery, issuance, execution or renewal an enrollee is receiving any inpatient or outpatient care, treatment, intervention, service or item for an autism spectrum disorder pursuant to an authorization obtained from a government program, and the care, treatment, intervention, service or item is covered under the health insurance policy being delivered, issued, executed or renewed, the authorization from the government program shall remain valid for the remainder of the existing authorization period as to any managed care plan or private insurer and such authorization shall be honored by any managed care plan or private insurer providing coverage to the enrollee.

Amend Sec. 2 (Sec. 2121), page 12, lines 24 through 30; page 13, line 1, by striking out all of said lines on said pages

Amend Sec. 3, page 13, line 30, by striking out all of said line and inserting

Section 3. This act shall take effect as follows:

(1) The following provisions shall take effect in 90 days:

(i) The addition of section 635.2(f) and (g) of the act.

(ii) The amendment of section 2121 of the act.

(iii) This section.

(2) The remainder of this act shall take effect in

210 days.

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On the amendment, the gentleman, Mr. Speaker, Dennis O'Brien, is recognized.

Members, please take your seats. Clear the aisles. We are about to begin our session, and the Speaker has the floor, submitting his amendment.

Mr. D. O'BRIEN. Thank you, Mr. Speaker.

This is a technical amendment. Very simply, it corrects the terms used for the inflation index that the Insurance Commissioner must use to determine the appropriate changes to the benefit cap. The intended index remains the same, the term "medical care component" is more commonly used than "medical price index component," and the amendment also specifies which Consumer Price Index the Commissioner must use; namely, the CPI (Consumer Price Index) for All Urban Consumers.

It eliminates the provision of the bill which established "standing referral" for managed-care plans. In its place, the amendment inserts a requirement that utilization review authorizations occur at least annually. Earlier review can occur if the enrollee's primary-care provider determines that the earlier review is necessary in order to address the enrollee's clinical needs. This addition is consistent with DPW's (Department of Public Welfare's) current practice contained in published bulletins applicable to the MA (Medical Assistance) Program regarding the length of the authorization periods. This change is being made in response to the insurer concerns regarding their ability to control and manage costs.

It eliminates the requirement that managed-care plans make credentialing decisions in 90 days. This change is made in response to logistical concerns raised by insurers.

It inserts a provision to address the transition from coverage provided solely under MA to coverage provided jointly by MA and private insurance. The insertion establishes that care being provided under a treatment plan authorized through MA utilization review which is in effect at the time of transition will remain in effect for the remainder of the authorization period.

It makes minor technical changes and establishes a phased-in effective date. The effective date changes are necessary to ensure that no private insurer will be required to pay for any service under this act until the Department of Public Welfare promulgates regulations establishing the standards that autism service providers must meet in order to provide treatment for autism disorders.

In short, DPW will have 90 days to prepare for the submission of final omitted regs on credentialing standards. Then DPW has 120 days to get those final omitted regs through the process. Then private insurers and governmental programs will have 180 days to credential autism service providers who meet these standards in order to build provider networks, and I ask for an affirmative vote.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Anyone seeking recognition? The Chair recognizes the gentleman, Mr. Nickol.

Mr. NICKOL. Thank you, Mr. Speaker.

This amendment, from my examination, seems to be a step in the right direction. Section 2116.1 is rewritten by the amendment. This section of the bill still mandates that even when services are rendered by an MA provider, that provider will be entitled to receive a higher level of reimbursement than presently paid by MA. That was left intact, but it changes the referral language that was problematic, from my standpoint.

A family receiving a referral from MA would have a standing referral good for a year allowing a family to go to any and all providers within or outside MA or an insurer's network. While MA could reevaluate any referrals themselves, a private insurer would be prohibited from any reevaluation of services once authorized by MA.

Maybe at first blush this might sound problematic, but it is actually a huge improvement to the bill. The bill presently has no limit on how long private insurers would have to honor referrals, so 1 year is a huge step in the right direction as opposed to lifetime referrals.

I urge the members to support the amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman.

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

(Members proceeded to vote.)

**LEAVE OF ABSENCE CANCELED**

The SPEAKER pro tempore. The Chair notes the presence on the floor of the House of the gentleman, Mr. Perry, and he will be added to the master roll.

**CONSIDERATION OF HB 1150 CONTINUED**

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

The following roll call was recorded:

**YEAS—200**

Adolph	Freeman	Marshall	Rohrer
Argall	Gabig	Marsico	Ross
Baker	Galloway	McCall	Rubley
Barrar	Geist	McGeehan	Sabatina
Bastian	George	McI. Smith	Sainato
Bear	Gerber	McIlhattan	Samuelson
Belfanti	Gergely	Melio	Santoni
Benninghoff	Gibbons	Mensch	Saylor
Bennington	Gillespie	Metcalfe	Scavello
Beyer	Gingrich	Micozzie	Schroder
Biancucci	Godshall	Millard	Seip
Bishop	Goodman	Miller	Shapiro
Blackwell	Grell	Milne	Shimkus
Boback	Grucela	Moul	Siptroth
Boyd	Haluska	Moyer	Smith, K.
Brennan	Hanna	Mundy	Smith, M.
Brooks	Harhai	Murt	Smith, S.
Buxton	Harhart	Mustio	Solobay
Caltagirone	Harkins	Myers	Sonney
Cappelli	Harper	Nailor	Staback
Carroll	Harris	Nickol	Stairs
Casorio	Helm	O'Brien, M.	Steil
Causser	Hennessey	O'Neill	Stern
Civera	Hershey	Oliver	Stevenson
Clymer	Hess	Pallone	Sturla
Cohen	Hickernell	Parker	Surra
Conklin	Hornaman	Pashinski	Swanger
Costa	Hutchinson	Payne	Tangretti
Cox	James	Payton	Taylor, J.
Creighton	Josephs	Peifer	Taylor, R.
Cruz	Kauffman	Perry	Thomas
Curry	Keller, M.	Perzel	True
Cutler	Keller, W.	Petrarca	Turzai

Daley	Kessler	Petri	Vereb
Dally	Killion	Petrone	Vitali
DeLuca	King	Phillips	Vulakovich
Denlinger	Kirkland	Pickett	Wagner
DePasquale	Kortz	Preston	Walko
Dermody	Kotik	Pyle	Wansacz
DeWeese	Kula	Quigley	Waters
DiGirolamo	Leach	Quinn	Watson
Donatucci	Lentz	Ramaley	Wheatley
Eachus	Levdansky	Rapp	White
Ellis	Longiotti	Raymond	Williams
Evans, D.	Mackereth	Readshaw	Yewcic
Evans, J.	Maher	Reed	Youngblood
Everett	Mahoney	Reichley	Yudichak
Fabrizio	Major	Roe	
Fairchild	Mann	Rock	O'Brien, D.,
Fleck	Mantz	Roebuck	Speaker
Frankel	Markosek		

NAYS—0

NOT VOTING—0

EXCUSED—3

Kenney                      Manderino                      Wojnaroski

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 second consideration as amended?

Mr. BOYD offered the following amendment No. **A02993**:

Amend Title, page 1, line 12, by inserting after "coverage"  
, for Health Care Cost Containment Council  
review

Amend Sec. 1, page 11, by inserting between lines 7 and 8  
Section 635.3. Health Care Cost Containment Council Review.—

(a) Except as otherwise provided in subsection (d)(1), no bill proposing a mandated health insurance benefit to be provided by a health insurer shall be given second consideration in either the Senate or the House of Representatives until the council has submitted a mandated benefits review report.

(b) Except as otherwise provided in subsection (d)(2), no amendment to any bill concerning a mandated benefit to be provided by a health insurer shall be considered by either the Senate or the House of Representatives until the council has submitted a mandated benefits review report.

(c) The council's report shall be factual and shall, if possible, provide a reliable estimate of both the immediate cost and effect of the bill and, if determinable or reasonably foreseeable, the long-range cost and effect of the measure in both the group and individual health insurance market, as applicable.

(d) (1) If the council fails to submit a mandated benefits review report within 20 legislative days after a bill proposing a mandated health insurance benefit has received first consideration in either the Senate or the House of Representatives, the bill may be considered in the same manner as if the submission had occurred.

(2) If the council fails to submit a mandated benefits review report within 20 legislative days after an amendment to a bill proposing a mandated health insurance benefit has been submitted to the commission, the amendment may be considered in the same manner as if the submission had occurred.

(e) As used in this section:

"Council" means the Health Care Cost Containment Council established under the act of July 8, 1986 (P.L.408, No.89), known as the "Health Care Cost Containment Act."

"Health insurer" means a person, corporation or other entity that offers administrative, indemnity or payment services for health care in exchange for a premium or service charge under a program of health care benefits, including, but not limited to:

(1) an insurance company, association or exchange issuing health insurance policies in this Commonwealth;

(2) a hospital plan corporation as defined in 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations);

(3) a professional health service corporation as defined in 40 Pa.C.S. Ch. 63 (relating to professional health services plan corporations);

(4) health maintenance organization;

(5) preferred provider organization;

(6) fraternal benefit society;

(7) beneficial society; and

(8) third-party administrator.

The term shall not include an employer, labor union or health and welfare fund jointly or separately administered by an employer or labor union that purchases or self-funds a program of health care benefits for its employees or members and their dependents.

"Mandated benefits review report" means the comments, findings and recommendations issued by the Health Care Cost Containment Council to the Governor, the President pro tempore of the Senate, the Speaker of the House of Representatives, the Secretary of Health and the Insurance Commissioner, in accordance with section 9 of the act of July 8, 1986 (P.L.408, No.89), known as the "Health Care Cost Containment Act."

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On the amendment, the gentleman, Mr. Boyd, is recognized.

Mr. BOYD. Thank you, Mr. Speaker.

Mr. Speaker, amendment A2993, I want to first of all start out by saying that it has actually no effect on the current mandate that is before us for health insurance premiums. In fact, in discussions in the Insurance Committee and through the last, I would say, 2 or 3 weeks as this issue on coverage for autism care has been discussed, we have heard estimates that this coverage is going to increase the costs of health insurance premiums, and we have heard estimates as high as 8 percent and as low as 1 percent, and I think the point behind the discussion, Mr. Speaker, is that we have really not had any empirical data or a study that has been done by a State agency to document or reconcile what these numbers truly are.

Mr. Speaker, as we debate the issue of health insurance and health-care costs in Pennsylvania – and to the Governor's credit, he made this one of his primary missions in his budget address and talked about getting his arms around health-care costs and health insurance costs – truly, Mr. Speaker, this is something that I think both sides of the aisle want to do. What my amendment would do, Mr. Speaker, is not for this specific mandate but for any future mandates that come before this chamber, before they would be considered on second consideration, that there would need to be a study done by the Pennsylvania Health Care Cost Containment Council, our agency, PHC4, and they would come back and tell us what, if any, the costs would be, the impact would be, on health insurance and health care in Pennsylvania.

Mr. Speaker, recently this House voted to mandate colorectal cancer screening as a part of our insurance packages. Mr. Speaker, the reports that came back on that documented that actually doing that would be a cost savings for us. That made it very, very logical to vote for that mandate and gave us the tools, the empirical data, the information, to be able to talk to analysts and industry representatives who told us that it was a problem.

Mr. Speaker, this is a good amendment. It has no impact on this current legislation. It just provides us with the tools in the future, Mr. Speaker, to make absolutely certain that we are doing everything we can to control the costs of health care and health insurance premiums in Pennsylvania. Mr. Speaker, I implore the members on both sides of the aisle to please seriously consider this legislation, this amendment. It has nothing to do with the current situation with providing care for autism, and I would encourage the members for an affirmative vote.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. DeLuca.

Mr. DeLUCA. Thank you, Mr. Speaker.

Mr. Speaker, I rise to oppose this amendment. You know, even though I understand the previous speaker has good intentions, what we are doing, if we would do this here, we would not pass a mandate in this House, and there are some mandates that we need to look at. And certainly we do not need to circumvent the committee structure. That is what the committees were put together for, to take it out throughout this Commonwealth, to get testimony, and that is why 60,000 individuals elect us here in Harrisburg. They did not elect the Health Care Cost Containment Council; they elected us to be their Representatives. Unfortunately, 60,000 people cannot be in that backroom over there. We have lobbyists who want to lobby against every mandate regardless if it is any good for the 12 million individuals in the Commonwealth of Pennsylvania. We are their citizen lobbyists up here. When they send us up here, we lobby for 60,000 people. Unfortunately, those 60,000 cannot be in that backroom there. We are their citizen lobbyists, and we need to wake up to the fact that sometimes we need to pass these mandates.

We cannot be waiting until the HC4 does all these kinds of studies. When we go around this State, we hear from the professionals, we hear from the individuals who have the knowledge and the expertise, and we are intelligent enough to make that type of decision on the floor of this House. Therefore, I would ask the members to oppose this amendment.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Mr. Markosek, are you seeking recognition? Waives off.

The Chair recognizes the gentleman, Mr. Micozzie.

Mr. MICOZZIE. Thank you, Mr. Speaker.

I support amendment A02993. The reason why I support it is that mandates on the whole increase health-care costs. No matter where we have had public hearings, the first subject continued is that health-care costs are going through the ceiling. The process should be, the committees have their public hearings on a very complex issue, whether it be autism or any other complex issue such as that. After the committee has the public hearings, we are not financial experts – we; I am talking about the committee members and the chairmen – the HC4 is equipped to find out exactly what the costs are and come back

to the committee, and then we can make intelligent decisions whether we should pass a mandate or reject a mandate.

I think that this amendment is a good amendment. If you remember, Representative Nickol and I had put on the floor of the House a moratorium on mandates, because mandates are one of the prime causes that health-care costs in Pennsylvania are going through the ceiling. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. Nickol.

Mr. NICKOL. Thank you, Mr. Speaker.

I would like to stand in support of this amendment. It requires PHC4 to review all mandates to both their immediate and long-term cost and effect prior to a bill given second consideration in the House and the Senate.

This appears to be modeled after provisions in the Public Employee Retirement Commission Act requiring an actuarial review of any bills or amendments affecting retirement. That law was passed back in 1981 in order to provide the General Assembly an accurate estimate of the cost impact on retirement bills and amendments before we voted on them. Prior to that, the sad experience of this House is that when retirement amendments were offered or bills were offered, we would be told one thing on the floor and we would wake up the next day to find out that it had tremendous cost impact that members were just not advised of.

I think it is appropriate to provide the same level of scrutiny for health-care mandates. In response to the chairman of the Insurance Committee, I should point out that this will not stop mandates. It certainly has not stopped us from considering any retirement bills. We just know up front how much they cost before we vote on them. Is that so bad?

I urge members to support the Boyd amendment. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and turns now to the gentleman, Mr. O'Brien.

Mr. D. O'BRIEN. I would support Representative DeLuca and ask for a negative vote on this amendment for one simple reason: I have no indication from the administration that if this amendment is attached to this bill, that the administration will then support the bill. I believe this is an impediment to this legislation, and I would ask for a negative vote.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the maker of the amendment, Mr. Boyd.

Mr. BOYD. Thank you, Mr. Speaker.

Mr. Speaker, real briefly, again, I just ask the members to consider this amendment. It has no effect on the current mandate before us. It simply provides us the empirical data to help us make wise and prudent decisions in the future. I believe it is absolutely essential as we move forward with reforming the delivery of health care and dealing with the health insurance industry in Pennsylvania. It looks forward, and I think it is very, very important that we consider this amendment, and I would ask my colleagues on both sides of the aisle for an affirmative vote.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Seeing no other members seeking recognition, the question returns, will the House adopt the amendment?

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

#### YEAS—88

Adolph	Gillespie	McIlhattan	Reed
Argall	Gingrich	Mensch	Reichley
Baker	Godshall	Metcalfe	Roae
Bastian	Grell	Micozzie	Rock
Bear	Harhart	Millard	Rohrer
Benninghoff	Harris	Miller	Ross
Beyer	Helm	Milne	Rubleby
Boyd	Hennessey	Moul	Saylor
Brooks	Hershey	Mustio	Schroder
Buxton	Hess	Nailor	Smith, S.
Causar	Hickernell	Nickol	Sonney
Civera	Hutchinson	Payne	Steil
Cox	Kauffman	Peifer	Stern
Creighton	Keller, M.	Perry	Stevenson
Cutler	Killion	Petzel	Swanger
Dally	King	Petrarca	Taylor, J.
Ellis	Mackereth	Petri	Taylor, R.
Everett	Maher	Pickett	True
Fairchild	Major	Pyle	Turzai
Fleck	Mantz	Quigley	Vitali
Gabig	Marshall	Quinn	Vulakovich
Geist	Marsico	Raymond	Watson

#### NAYS—112

Barrar	Fabrizio	Mann	Scavello
Belfanti	Frankel	Markosek	Seip
Bennington	Freeman	McCall	Shapiro
Bianucci	Galloway	McGeehan	Shimkus
Bishop	George	McI. Smith	Siprotho
Blackwell	Gerber	Melio	Smith, K.
Boback	Gergely	Moyer	Smith, M.
Brennan	Gibbons	Mundy	Solobay
Caltagirone	Goodman	Murt	Staback
Cappelli	Grucela	Myers	Stairs
Carroll	Haluska	O'Brien, M.	Sturla
Casorio	Hanna	O'Neill	Surra
Clymer	Harhai	Oliver	Tangretti
Cohen	Harkins	Pallone	Thomas
Conklin	Harper	Parker	Vereb
Costa	Hornaman	Pashinski	Wagner
Cruz	James	Payton	Walko
Curry	Josephs	Petrone	Wansacz
Daley	Keller, W.	Phillips	Waters
DeLuca	Kessler	Preston	Wheatley
Denlinger	Kirkland	Ramaley	White
DePasquale	Kortz	Rapp	Williams
Dermody	Kotik	Readshaw	Yewcic
DeWeese	Kula	Roebuck	Youngblood
DiGirolamo	Leach	Sabatina	Yudichak
Donatucci	Lentz	Sainato	
Eachus	Levdansky	Samuelson	O'Brien, D., Speaker
Evans, D.	Longietti	Santoni	
Evans, J.	Mahoney		

#### NOT VOTING—0

#### EXCUSED—3

Kenney	Manderino	Wojnaroski
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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 second consideration as amended?

## BILL PASSED OVER TEMPORARILY

The SPEAKER pro tempore. It is the understanding of the Chair that the gentleman, Mr. Nickol, has many amendments and is in the process of having them redrafted, some of them redrafted. We will be going over the bill temporarily.

The Chair at this time recognizes the gentleman, Mr. O'Brien.

Mr. D. O'BRIEN. I have no problem with the bill going over temporarily. My amendment had the effect of knocking some of Representative Nickol's amendments out of order. So I support the delay so that Representative Nickol has the opportunity to offer those amendments.

The SPEAKER pro tempore. The Chair thanks the gentleman and his collegiality.

## RULES COMMITTEE MEETING

The SPEAKER pro tempore. The Chair requests the members' attention.

There will be a meeting at 1 p.m., in approximately 5 minutes, of the Rules Committee, and then we will be returning to the floor of the House at 1:15. The Rules Committee will be in the majority caucus room immediately.

## RECESS

The SPEAKER pro tempore. The House will now be in recess until the call of the Chair.

## AFTER RECESS

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

BILLS ON CONCURRENCE  
REPORTED FROM COMMITTEE

HB 202, PN 2286

By Rep. DeWEESE

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for conditions of permits and security for damages; and extending provisions regarding reports and removal of abandoned vehicles to cities of the second class.

RULES.

HB 896, PN 2238

By Rep. DeWEESE

An Act amending the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, further providing for definitions, for special occasion permits, for wine auction permits, for limiting number of retail licenses to be issued in each county, for unlawful acts relative to liquor, malt and brewed beverages and licensees, for qualifications for licenses, for applications for certain licenses and for limited wineries.

RULES.

HB 1251, PN 2287

By Rep. DeWEESE

An Act amending the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, further providing for physician assistants.

RULES.

HB 1252, PN 2288

By Rep. DeWEESE

An Act amending the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, further providing for physician assistants.

RULES.

HB 1255, PN 2290

By Rep. DeWEESE

An Act amending the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, providing for the definition of "legend drug"; and further providing for nurse-midwife license.

RULES.

The SPEAKER pro tempore. The bills will be placed on the supplemental calendar.

## BILL REPORTED FROM COMMITTEE

HB 1652, PN 2143

By Rep. DeWEESE

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, providing for a limitation on the length of session.

RULES.

## BILL REREFERRED

The SPEAKER pro tempore. The Chair moves, at the majority leader's request, that HB 1652, PN 2143, be rereferred to the Committee on State Government.

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

## SUPPLEMENTAL CALENDAR B

BILLS ON CONCURRENCE  
IN SENATE AMENDMENTS

The House proceeded to consideration of concurrence in Senate amendments to **HB 202, PN 2286**, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for conditions of permits and security for damages; and extending provisions regarding reports and removal of abandoned vehicles to cities of the second class.

On the question,  
Will the House concur in Senate amendments?

The SPEAKER pro tempore. Members, we are going to resume our business. Please be seated. Members, please clear the aisles.

On the question, the gentleman, Mr. Petrone, is recognized.

Mr. PETRONE. Thank you, Mr. Speaker.

Mr. Speaker, HB 202 would extend the applicability to vehicles reported abandoned within the boundaries of the city of the second class. Currently this applies only to vehicles reported abandoned within the boundaries of the city of the first class. This bill as amended, the amendment is agreed upon. The amendment will clarify the existing section of Title 75 to ensure that one pilot car rule applies to only vehicles of greater than 13 feet but less than 14 feet in body width and those with overall lengths of not more than 120 feet.

Mr. Speaker, this legislation was prepared, or helped by policemen from the city of Pittsburgh, specifically Police Sgt. Raymond Rippole from the west end motorcycle unit, who has been a leading proponent of removing abandoned cars within the city limits in a timely fashion.

This is very important. We helped the city of Philadelphia with this problem. They have done a tremendous job in cleaning up the city. We expect the same in Pittsburgh.

I would appreciate an affirmative vote. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Seeing no one else seeking recognition, those voting to concur will vote "aye"; those voting to nonconcur will vote "nay."

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—200

Adolph	Freeman	Marshall	Rohrer
Argall	Gabig	Marsico	Ross
Baker	Galloway	McCall	Rubley
Barrar	Geist	McGeehan	Sabatina
Bastian	George	McI. Smith	Sainato
Bear	Gerber	McIlhattan	Samuelson
Belfanti	Gergely	Melio	Santoni
Benninghoff	Gibbons	Mensch	Saylor
Bennington	Gillespie	Metcalfe	Scavello
Beyer	Gingrich	Micozzie	Schroder
Biancucci	Godshall	Millard	Seip
Bishop	Goodman	Miller	Shapiro
Blackwell	Grell	Milne	Shimkus
Boback	Grucela	Moul	Siptroth
Boyd	Haluska	Moyer	Smith, K.
Brennan	Hanna	Mundy	Smith, M.
Brooks	Harhai	Murt	Smith, S.
Buxton	Harhart	Mustio	Solobay
Caltagirone	Harkins	Myers	Sonney
Cappelli	Harper	Nailor	Staback
Carroll	Harris	Nickol	Stairs
Casorio	Helm	O'Brien, M.	Steil
Causar	Hennessey	O'Neill	Stern
Civera	Hershey	Oliver	Stevenson
Clymer	Hess	Pallone	Sturla
Cohen	Hickernell	Parker	Surra
Conklin	Hornaman	Pashinski	Swanger
Costa	Hutchinson	Payne	Tangretti
Cox	James	Payton	Taylor, J.
Creighton	Josephs	Peifer	Taylor, R.
Cruz	Kauffman	Perry	Thomas
Curry	Keller, M.	Perzel	True
Cutler	Keller, W.	Petrarca	Turzai

Daley	Kessler	Petri	Vereb
Dally	Killion	Petrone	Vitali
DeLuca	King	Phillips	Vulakovich
Denlinger	Kirkland	Pickett	Wagner
DePasquale	Kortz	Preston	Walko
Dermody	Kotik	Pyle	Wansacz
DeWeese	Kula	Quigley	Waters
DiGirolamo	Leach	Quinn	Watson
Donatucci	Lentz	Ramaley	Wheatley
Eachus	Levdansky	Rapp	White
Ellis	Longietti	Raymond	Williams
Evans, D.	Mackereth	Readshaw	Yewic
Evans, J.	Maher	Reed	Youngblood
Everett	Mahoney	Reichley	Yudichak
Fabrizio	Major	Roae	
Fairchild	Mann	Rock	O'Brien, D.,
Fleck	Mantz	Roebuck	Speaker
Frankel	Markosek		

NAYS—0

NOT VOTING—0

EXCUSED—3

Kenney	Manderino	Wojnaroski
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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.

\* \* \*

The House proceeded to consideration of concurrence in Senate amendments to **HB 896, PN 2238**, entitled:

An Act amending the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, further providing for definitions, for special occasion permits, for wine auction permits, for limiting number of retail licenses to be issued in each county, for unlawful acts relative to liquor, malt and brewed beverages and licensees, for qualifications for licenses, for applications for certain licenses and for limited wineries.

On the question,

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—187

Adolph	Galloway	Marsico	Roebuck
Argall	Geist	McCall	Ross
Baker	George	McGeehan	Rubley
Barrar	Gerber	McI. Smith	Sabatina
Bastian	Gergely	McIlhattan	Sainato
Belfanti	Gibbons	Melio	Samuelson
Benninghoff	Gillespie	Mensch	Santoni
Bennington	Gingrich	Metcalfe	Saylor
Beyer	Godshall	Micozzie	Scavello
Biancucci	Goodman	Millard	Schroder
Bishop	Grell	Miller	Seip
Blackwell	Grucela	Milne	Shapiro
Boback	Haluska	Moul	Shimkus
Brennan	Hanna	Moyer	Siptroth
Brooks	Harhai	Mundy	Smith, K.

Buxton	Harhart	Murt	Smith, M.
Caltagirone	Harkins	Mustio	Smith, S.
Cappelli	Harper	Myers	Solobay
Carroll	Harris	Nailor	Sonney
Casorio	Helm	Nickol	Staback
Causer	Hennessey	O'Brien, M.	Stairs
Civera	Hess	O'Neill	Steil
Clymer	Hornaman	Oliver	Stevenson
Cohen	Hutchinson	Pallone	Sturla
Conklin	James	Parker	Surra
Costa	Josephs	Pashinski	Tangretti
Creighton	Keller, M.	Payne	Taylor, J.
Cruz	Keller, W.	Payton	Taylor, R.
Curry	Kessler	Peifer	Thomas
Daley	Killion	Perry	Turzai
Dally	King	Perzel	Vereb
DeLuca	Kirkland	Petrarca	Vitali
DePasquale	Kortz	Petri	Vulakovich
Dermody	Kotik	Petrone	Wagner
DeWeese	Kula	Phillips	Walko
DiGirolamo	Leach	Pickett	Wansacz
Donatucci	Lentz	Preston	Waters
Eachus	Levdansky	Pyle	Watson
Ellis	Longietti	Quigley	Wheatley
Evans, D.	Mackereth	Quinn	White
Evans, J.	Maher	Ramaley	Williams
Everett	Mahoney	Rapp	Yewcic
Fabrizio	Major	Raymond	Youngblood
Fairchild	Mann	Readshaw	Yudichak
Fleck	Mantz	Reed	
Frankel	Markosek	Reichley	O'Brien, D.,
Freeman	Marshall	Roae	Speaker
Gabig			

NAYS-13

Bear	Denlinger	Kauffman	Stern
Boyd	Hershey	Rock	Swanger
Cox	Hickernell	Rohrer	True
Cutler			

NOT VOTING-0

EXCUSED-3

Kenney	Manderino	Wojnaroski
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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.

\* \* \*

The House proceeded to consideration of concurrence in Senate amendments to **HB 1251, PN 2287**, entitled:

An Act amending the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, further providing for physician assistants.

On the question,  
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-200

Adolph	Freeman	Marshall	Rohrer
Argall	Gabig	Marsico	Ross
Baker	Galloway	McCall	Rubley
Barrar	Geist	McGeehan	Sabatina
Bastian	George	McI. Smith	Sainato
Bear	Gerber	McIlhattan	Samuelson
Belfanti	Gergely	Melio	Santoni
Benninghoff	Gibbons	Mensch	Saylor
Bennington	Gillespie	Metcalfe	Scavello
Beyer	Gingrich	Micozzie	Schroder
Biancucci	Godshall	Millard	Seip
Bishop	Goodman	Miller	Shapiro
Blackwell	Grell	Milne	Shimkus
Boback	Grucela	Moul	Siptroth
Boyd	Haluska	Moyer	Smith, K.
Brennan	Hanna	Mundy	Smith, M.
Brooks	Harhai	Murt	Smith, S.
Buxton	Harhart	Mustio	Solobay
Caltagirone	Harkins	Myers	Sonney
Cappelli	Harper	Nailor	Staback
Carroll	Harris	Nickol	Stairs
Casorio	Helm	O'Brien, M.	Steil
Causer	Hennessey	O'Neill	Stern
Civera	Hershey	Oliver	Stevenson
Clymer	Hess	Pallone	Sturla
Cohen	Hickernell	Parker	Surra
Conklin	Hornaman	Pashinski	Swanger
Costa	Hutchinson	Payne	Tangretti
Cox	James	Payton	Taylor, J.
Creighton	Josephs	Peifer	Taylor, R.
Cruz	Kauffman	Perry	Thomas
Curry	Keller, M.	Perzel	True
Cutler	Keller, W.	Petrarca	Turzai
Daley	Kessler	Petri	Vereb
Dally	Killion	Petrone	Vitali
DeLuca	King	Phillips	Vulakovich
Denlinger	Kirkland	Pickett	Wagner
DePasquale	Kortz	Preston	Walko
Dermody	Kotik	Pyle	Wansacz
DeWeese	Kula	Quigley	Waters
DiGirolamo	Leach	Quinn	Watson
Donatucci	Lentz	Ramaley	Wheatley
Eachus	Levdansky	Rapp	White
Ellis	Longietti	Raymond	Williams
Evans, D.	Mackereth	Readshaw	Yewcic
Evans, J.	Maher	Reed	Youngblood
Everett	Mahoney	Reichley	Yudichak
Fabrizio	Major	Roae	
Fairchild	Mann	Rock	O'Brien, D.,
Fleck	Mantz	Roebuck	Speaker
Frankel	Markosek		

NAYS-0

NOT VOTING-0

EXCUSED-3

Kenney	Manderino	Wojnaroski
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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.

\* \* \*

BILL PASSED OVER TEMPORARILY

The SPEAKER pro tempore. The Chair recognizes the gentleman from Philadelphia County, Representative Waters, who calls up HB 1255— The Chair rescinds.

The bill is temporarily over.

\* \* \*

The House proceeded to consideration of concurrence in Senate amendments to **HB 1252, PN 2288**, entitled:

An Act amending the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, further providing for physician assistants.

On the question,

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—200

Adolph	Freeman	Marshall	Rohrer
Argall	Gabig	Marsico	Ross
Baker	Galloway	McCall	Rubley
Barrar	Geist	McGeehan	Sabatina
Bastian	George	McI. Smith	Sainato
Bear	Gerber	McIlhattan	Samuelson
Belfanti	Gergely	Melio	Santoni
Benninghoff	Gibbons	Mensch	Saylor
Bennington	Gillespie	Metcalfe	Scavello
Beyer	Gingrich	Micozzie	Schroder
Biancucci	Godshall	Millard	Seip
Bishop	Goodman	Miller	Shapiro
Blackwell	Grell	Milne	Shimkus
Boback	Grucela	Moul	Siptroth
Boyd	Haluska	Moyer	Smith, K.
Brennan	Hanna	Mundy	Smith, M.
Brooks	Harhai	Murt	Smith, S.
Buxton	Harhart	Mustio	Solobay
Caltagirone	Harkins	Myers	Sonney
Cappelli	Harper	Nailor	Staback
Carroll	Harris	Nickol	Stairs
Casorio	Helm	O'Brien, M.	Steil
Causar	Hennessey	O'Neill	Stern
Civera	Hershey	Oliver	Stevenson
Clymer	Hess	Pallone	Sturla
Cohen	Hickernell	Parker	Surra
Conklin	Hornaman	Pashinski	Swanger
Costa	Hutchinson	Payne	Tangretti
Cox	James	Payton	Taylor, J.
Creighton	Josephs	Peifer	Taylor, R.
Cruz	Kauffman	Perry	Thomas
Curry	Keller, M.	Perzel	True
Cutler	Keller, W.	Petrarca	Turzai
Daley	Kessler	Petri	Verab
Dally	Killion	Petrone	Vitali
DeLuca	King	Phillips	Vulakovich
Denlinger	Kirkland	Pickett	Wagner
DePasquale	Kortz	Preston	Walko
Dermody	Kotik	Pyle	Wansacz
DeWeese	Kula	Quigley	Waters
DiGirolamo	Leach	Quinn	Watson
Donatucci	Lentz	Ramaley	Wheatley
Eachus	Levdansky	Rapp	White
Ellis	Longietti	Raymond	Williams

Evans, D.	Mackereth	Readshaw	Yewcic
Evans, J.	Maher	Reed	Youngblood
Everett	Mahoney	Reichley	Yudichak
Fabrizio	Major	Roae	
Fairchild	Mann	Rock	O'Brien, D.,
Fleck	Mantz	Roebuck	Speaker
Frankel	Markosek		

NAYS—0

NOT VOTING—0

EXCUSED—3

Kenney	Manderino	Wojnaroski
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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.

\* \* \*

The House proceeded to consideration of concurrence in Senate amendments to **HB 1255, PN 2290**, entitled:

An Act amending the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, providing for the definition of "legend drug"; and further providing for nurse-midwife license.

On the question,

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—200

Adolph	Freeman	Marshall	Rohrer
Argall	Gabig	Marsico	Ross
Baker	Galloway	McCall	Rubley
Barrar	Geist	McGeehan	Sabatina
Bastian	George	McI. Smith	Sainato
Bear	Gerber	McIlhattan	Samuelson
Belfanti	Gergely	Melio	Santoni
Benninghoff	Gibbons	Mensch	Saylor
Bennington	Gillespie	Metcalfe	Scavello
Beyer	Gingrich	Micozzie	Schroder
Biancucci	Godshall	Millard	Seip
Bishop	Goodman	Miller	Shapiro
Blackwell	Grell	Milne	Shimkus
Boback	Grucela	Moul	Siptroth
Boyd	Haluska	Moyer	Smith, K.
Brennan	Hanna	Mundy	Smith, M.
Brooks	Harhai	Murt	Smith, S.
Buxton	Harhart	Mustio	Solobay
Caltagirone	Harkins	Myers	Sonney
Cappelli	Harper	Nailor	Staback
Carroll	Harris	Nickol	Stairs
Casorio	Helm	O'Brien, M.	Steil
Causar	Hennessey	O'Neill	Stern
Civera	Hershey	Oliver	Stevenson
Clymer	Hess	Pallone	Sturla
Cohen	Hickernell	Parker	Surra
Conklin	Hornaman	Pashinski	Swanger
Costa	Hutchinson	Payne	Tangretti
Cox	James	Payton	Taylor, J.
Creighton	Josephs	Peifer	Taylor, R.



**BILLS REREPORTED FROM COMMITTEE****HB 1152, PN 1400** By Rep. D. EVANS

An Act amending Title 13 (Commercial Code) of the Pennsylvania Consolidated Statutes, extensively revising preliminary provisions and provisions relating to warehouse receipts, bills of lading and documents of title; further providing, in secured transactions, for definitions, for perfection and priority in deposit accounts and for perfection upon attachment; and making editorial changes.

## APPROPRIATIONS.

**HB 1423, PN 2292** By Rep. D. EVANS

An Act amending Title 3 (Agriculture) of the Pennsylvania Consolidated Statutes, adding definitions of "certified parking meter inspector" and "local government unit"; and providing for certified parking meter inspectors and for general testing and inspections.

## APPROPRIATIONS.

**HB 1621, PN 2074** By Rep. D. EVANS

An Act authorizing the Department of General Services, with the concurrence of the Department of Environmental Protection, to lease to VTE Philadelphia, LP, or its nominee, land within the bed of the Delaware River in the City of Philadelphia.

## APPROPRIATIONS.

**HB 1627, PN 2080** By Rep. D. EVANS

An Act authorizing the Department of General Services, with the concurrence of the Department of Environmental Protection, to lease to NCCB Associates, LP, or its nominee, land within the bed of the Delaware River in the City of Philadelphia.

## APPROPRIATIONS.

**HB 1662, PN 2197** By Rep. D. EVANS

An Act amending the act of February 14, 1986 (P.L.2, No.2), known as the Acupuncture Registration Act, redesignating registration as licensure.

## APPROPRIATIONS.

The SPEAKER pro tempore. The bills will be so posted to the supplemental calendar.

**BILL REREPORTED FROM COMMITTEE****SB 548, PN 1299** By Rep. D. EVANS

An Act amending the act of May 17, 1921 (P.L.682, No.284), entitled "An act relating to insurance; amending, revising, and consolidating the law providing for the incorporation of insurance companies, and the regulation, supervision, and protection of home and foreign insurance companies, Lloyds associations, reciprocal and inter-insurance exchanges, and fire insurance rating bureaus, and the regulation and supervision of insurance carried by such companies, associations, and exchanges, including insurance carried by the State Workmen's Insurance Fund; providing penalties; and repealing existing laws," providing for scope of article, for the definition of "long-term care insurance," for the Long-Term Care Partnership Program, for authority to promulgate regulations, for marketing and advertising prohibited and for penalties; and further providing for coverage and limitations.

## APPROPRIATIONS.

The SPEAKER pro tempore. The bill will be so reported to the active calendar.

**SUPPLEMENTAL CALENDAR A****BILLS ON THIRD CONSIDERATION**

The House proceeded to third consideration of **HB 1152, PN 1400**, entitled:

An Act amending Title 13 (Commercial Code) of the Pennsylvania Consolidated Statutes, extensively revising preliminary provisions and provisions relating to warehouse receipts, bills of lading and documents of title; further providing, in secured transactions, for definitions, for perfection and priority in deposit accounts and for perfection upon attachment; and making editorial changes.

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.

(Bill analysis was read.)

The SPEAKER pro tempore. The question is, shall the bill pass finally?

On that question, the gentleman, Mr. Gibbons, is recognized. Mr. Gibbons, please suspend.

Members, we are returning to the voting calendar. Please be seated. Please clear the aisles.

Mr. Gibbons.

Mr. GIBBONS. Thank you, Mr. Speaker.

Mr. Speaker, what this bill will do is update the Uniform Commercial Code in Pennsylvania, specifically articles 1 and 7 of the Commercial Code, which will make changes to allow for the electronic transmission of documents dealing with bills of lading and warehouse receipts. The idea is to help facilitate trade in the 21st century, to move us forward in the commercial area. Twenty-eight States have thus far, as of June, adopted these changes, and I would ask the members for their support. The Bar Association has come out and been a big help with getting this through, and this is a great change supported by all of our commercial interests.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Anyone seeking recognition? Seeing none, the question recurs, shall the bill pass finally?

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—200

Adolph	Freeman	Markosek	Rohrer
Argall	Gabig	Marshall	Ross
Baker	Galloway	Marsico	Rubley
Barrar	Geist	McCall	Sabatina
Bastian	George	McGeehan	Sainato
Bear	Gerber	McI. Smith	Samuelson
Belfanti	Gergely	McIlhattan	Santoni
Benninghoff	Gibbons	Melio	Saylor
Bennington	Gillespie	Mensch	Scavello
Beyer	Gingrich	Metcalfe	Schroder
Biancucci	Godshall	Micozzie	Seip
Bishop	Goodman	Millard	Shapiro
Blackwell	Grell	Miller	Shimkus
Boback	Grucela	Milne	Siptroth
Boyd	Haluska	Moul	Smith, K.
Brennan	Hanna	Moyer	Smith, M.
Brooks	Harhai	Mundy	Smith, S.
Buxton	Harhart	Murt	Solobay
Caltagirone	Harkins	Mustio	Sonney
Cappelli	Harper	Myers	Staback
Carroll	Harris	Nailor	Stairs
Casorio	Helm	Nickol	Steil
Causer	Hennessey	O'Brien, M.	Stern
Civera	Hershey	Oliver	Stevenson
Clymer	Hess	Pallone	Sturla
Cohen	Hickernell	Parker	Surra
Conklin	Hornaman	Pashinski	Swanger
Costa	Hutchinson	Payne	Tangretti
Cox	James	Payton	Taylor, J.
Creighton	Josephs	Peifer	Taylor, R.
Cruz	Kauffman	Perry	Thomas
Curry	Keller, M.	Perzel	True
Cutler	Keller, W.	Petrarca	Turzai
Daley	Kessler	Petri	Vereb
Dally	Killion	Petrone	Vitali
DeLuca	King	Phillips	Vulakovich
Denlinger	Kirkland	Pickett	Wagner
DePasquale	Kortz	Preston	Walko
Dermody	Kotik	Pyle	Wansacz
DeWeese	Kula	Quigley	Waters
DiGirolamo	Leach	Quinn	Watson
Donatucci	Lentz	Ramaley	Wheatley
Eachus	Levdansky	Rapp	White
Ellis	Longietti	Raymond	Williams
Evans, D.	Mackereth	Readshaw	Yewcic
Evans, J.	Maher	Reed	Youngblood
Everett	Mahoney	Reichley	Yudichak
Fabrizio	Major	Roae	
Fairchild	Manderino	Rock	O'Brien, D.,
Fleck	Mann	Roebuck	Speaker
Frankel	Mantz		

NAYS—0

NOT VOTING—0

EXCUSED—3

Kenney	O'Neill	Wojnaroski
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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.

\* \* \*

The House proceeded to third consideration of **HB 1662, PN 2197**, entitled:

An Act amending the act of February 14, 1986 (P.L.2, No.2), known as the Acupuncture Registration Act, redesignating registration as licensure.

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.

(Bill analysis was read.)

The SPEAKER pro tempore. The question is, shall the bill pass finally?

LEAVE OF ABSENCE

The SPEAKER pro tempore. The Chair is in receipt of a request for a leave of absence for the gentleman, Mr. THOMAS, from Philadelphia County. Without objection, the leave will be so granted.

CONSIDERATION OF HB 1662 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—199

Adolph	Freeman	Mantz	Roebuck
Argall	Gabig	Markosek	Rohrer
Baker	Galloway	Marshall	Ross
Barrar	Geist	Marsico	Rubley
Bastian	George	McCall	Sabatina
Bear	Gerber	McGeehan	Sainato
Belfanti	Gergely	McI. Smith	Samuelson
Benninghoff	Gibbons	McIlhattan	Santoni
Bennington	Gillespie	Melio	Saylor
Beyer	Gingrich	Mensch	Scavello
Biancucci	Godshall	Metcalfe	Schroder
Bishop	Goodman	Micozzie	Seip
Blackwell	Grell	Millard	Shapiro
Boback	Grucela	Miller	Shimkus
Boyd	Haluska	Milne	Siptroth
Brennan	Hanna	Moul	Smith, K.
Brooks	Harhai	Moyer	Smith, M.
Buxton	Harhart	Mundy	Smith, S.
Caltagirone	Harkins	Murt	Solobay
Cappelli	Harper	Mustio	Sonney
Carroll	Harris	Myers	Staback
Casorio	Helm	Nailor	Stairs
Causer	Hennessey	Nickol	Steil
Civera	Hershey	O'Brien, M.	Stern
Clymer	Hess	Oliver	Stevenson
Cohen	Hickernell	Pallone	Sturla
Conklin	Hornaman	Parker	Surra

Costa	Hutchinson	Pashinski	Swanger
Cox	James	Payne	Tangretti
Creighton	Josephs	Payton	Taylor, J.
Cruz	Kauffman	Peifer	Taylor, R.
Curry	Keller, M.	Perry	True
Cutler	Keller, W.	Perzel	Turzai
Daley	Kessler	Petrarca	Vereb
Dally	Killion	Petri	Vitali
DeLuca	King	Petrone	Vulakovich
Denlinger	Kirkland	Phillips	Wagner
DePasquale	Kortz	Pickett	Walko
Dermody	Kotik	Preston	Wansacz
DeWeese	Kula	Pyle	Waters
DiGirolamo	Leach	Quigley	Watson
Donatucci	Lentz	Quinn	Wheatley
Eachus	Levdansky	Ramaley	White
Ellis	Longietti	Rapp	Williams
Evans, D.	Mackereth	Raymond	Yewcic
Evans, J.	Maher	Readshaw	Youngblood
Everett	Mahoney	Reed	Yudichak
Fabrizio	Major	Reichley	
Fairchild	Manderino	Roae	O'Brien, D.,
Fleck	Mann	Rock	Speaker
Frankel			

NAYS-0

NOT VOTING-0

EXCUSED-4

Kenney	O'Neill	Thomas	Wojnaroski
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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.

\* \* \*

The House proceeded to third consideration of **HB 1423, PN 2292**, entitled:

An Act amending Title 3 (Agriculture) of the Pennsylvania Consolidated Statutes, adding definitions of "certified parking meter inspector" and "local government unit"; and providing for certified parking meter inspectors and for general testing and inspections.

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.

(Bill analysis was read.)

The SPEAKER pro tempore. 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-195

Adolph	Freeman	Mann	Roebuck
Argall	Gabig	Mantz	Rohrer
Baker	Galloway	Markosek	Ross
Barrar	Geist	Marshall	Rubley
Bastian	George	Marsico	Sabatina
Bear	Gerber	McCall	Sainato
Belfanti	Gergely	McGeehan	Samuelson
Benninghoff	Gibbons	McI. Smith	Santoni
Bennington	Gillespie	McIlhattan	Saylor
Beyer	Gingrich	Melio	Scavello
Biancucci	Godshall	Mensch	Schroder
Bishop	Goodman	Micozzie	Seip
Blackwell	Grell	Millard	Shapiro
Boback	Grucela	Miller	Shimkus
Boyd	Haluska	Milne	Sipthroth
Brennan	Hanna	Moul	Smith, K.
Buxton	Harhai	Moyer	Smith, M.
Caltagirone	Harhart	Mundy	Smith, S.
Cappelli	Harkins	Murt	Solobay
Carroll	Harper	Mustio	Sonney
Casorio	Harris	Myers	Staback
Causar	Helm	Nailor	Stairs
Civera	Hennessey	Nickol	Steil
Clymer	Hershey	O'Brien, M.	Stern
Cohen	Hess	Oliver	Stevenson
Conklin	Hickernell	Parker	Sturla
Costa	Hornaman	Pashinski	Surra
Cox	Hutchinson	Payne	Swanger
Creighton	James	Payton	Tangretti
Cruz	Josephs	Peifer	Taylor, J.
Curry	Kauffman	Perry	Taylor, R.
Cutler	Keller, M.	Perzel	True
Daley	Keller, W.	Petrarca	Turzai
Dally	Kessler	Petri	Vereb
DeLuca	Killion	Petrone	Vitali
Denlinger	King	Phillips	Vulakovich
DePasquale	Kirkland	Pickett	Wagner
Dermody	Kortz	Preston	Walko
DeWeese	Kotik	Pyle	Wansacz
DiGirolamo	Kula	Quigley	Waters
Donatucci	Leach	Quinn	Watson
Eachus	Lentz	Ramaley	Wheatley
Ellis	Levdansky	Rapp	White
Evans, D.	Longietti	Raymond	Williams
Evans, J.	Mackereth	Readshaw	Youngblood
Everett	Maher	Reed	Yudichak
Fabrizio	Mahoney	Reichley	
Fairchild	Major	Roae	O'Brien, D.,
Fleck	Manderino	Rock	Speaker
Frankel			

NAYS-4

Brooks	Metcalfe	Pallone	Yewcic
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NOT VOTING-0

EXCUSED-4

Kenney	O'Neill	Thomas	Wojnaroski
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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.

\* \* \*

The House proceeded to third consideration of **HB 1621, PN 2074**, entitled:

An Act authorizing the Department of General Services, with the concurrence of the Department of Environmental Protection, to lease to VTE Philadelphia, LP, or its nominee, land within the bed of the Delaware River in the City of Philadelphia.

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.

(Bill analysis was read.)

The SPEAKER pro tempore. The question is, shall the bill pass finally?

On the question, the gentleman, Mr. Reichley, is recognized.  
Mr. REICHLEY. Thank you, Mr. Speaker.

Would the prime sponsor be available for brief interrogation?

The SPEAKER pro tempore. The gentleman has agreed, and you may proceed, Mr. Reichley.

Mr. REICHLEY. Thank you, Mr. Speaker.

Not to belabor this point, Mr. Speaker, but as is almost now customary with any land conveyance in Philadelphia involving the riverbed area of the Delaware, is there any prohibition within the language of this legislation, Mr. Speaker, which would preclude the transfer of this parcel to any entity engaged in gaming or any auxiliary operation related to the gaming?

Mr. M. O'BRIEN. Mr. Speaker, the bill contains what has become the standard language for land transfers that has been established over the past few years. Yes, there is the prohibition against the gaming use.

Mr. REICHLEY. Mr. Speaker, we just voted this bill out of the Appropriations Committee 10 minutes ago. Staff for the majority told me there was not any language prohibiting a transfer of the type I have just described. So could we get some clarification, perhaps, between the Appropriations staff and the prime sponsor, just so the members can be absolutely sure? I would ask the bill to be held over temporarily until the prime sponsor has a chance to consult with staff.

Mr. M. O'BRIEN. Mr. Speaker?

The SPEAKER pro tempore. Mr. O'Brien.

Mr. REICHLEY. Mr. Speaker, actually, I can correct that by myself. Apparently our staff found there is a restriction. You are right so that the Appropriations Committee was misinformed that this legislation does have language forbidding any portion of the property to house a licensed gaming facility. The lessee would have the right to use the premises for the purpose of development of one residential tower with a parking garage and restaurant, as well as a marina and maritime use is consistent with public access, but there would not be any allowable use of the land for housing a gaming facility as such. Is that correct, Mr. Speaker?

Mr. M. O'BRIEN. Mr. Speaker, that is correct. There will be no gaming use.

Mr. REICHLEY. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. McGeehan.

Mr. MCGEEHAN. Thank you, Mr. Speaker.

Would the maker of the bill stand for interrogation?

The SPEAKER pro tempore. He has agreed, Mr. McGeehan, and you may proceed.

Mr. MCGEEHAN. Thank you very much, Mr. Speaker.

Mr. Speaker, the leasing of the riverbed in that location, what currently exists on-site there, if anything?

Mr. M. O'BRIEN. Mr. Speaker, the site is currently postindustrial blighted land; up until about 5 years ago, was a hot dog stand.

Mr. MCGEEHAN. So it is not a dramatic departure from— It is not economically impacting a current business, a thriving business along the Delaware River?

Mr. M. O'BRIEN. Again, Mr. Speaker, it is blighted postindustrial wasteland.

Mr. MCGEEHAN. Thank you, Mr. Speaker. That ends my interrogation.

May I speak on the bill?

The SPEAKER pro tempore. You are in order, and you may proceed.

Mr. MCGEEHAN. Thank you very much, Mr. Speaker.

Mr. Speaker, I share a great swath of the Delaware River just north of Representative O'Brien's, and I share his interest in getting the highest and best use of our combined, all of us, our riparian rights and the use of our riverbed, and I believe Representative O'Brien is on the right track, and I would ask for an affirmative vote on this bill.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The gentleman, Mr. O'Brien, is recognized.

Mr. M. O'BRIEN. Thank you, Mr. Speaker.

As many members of this House may be aware, the Governor has declared a moratorium on the leasing of riparian rights along the Delaware River. We have worked with the administration over the last few months to craft this legislation, to establish a fair value to the riverbed to ensure that there be green space and access to the river and to assure that the development would be environmentally friendly.

I would ask for a "yes" vote.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Seeing no other members, the question recurs, shall the bill pass finally?

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—199

Adolph	Freeman	Mantz	Roebuck
Argall	Gabig	Markosek	Rohrer
Baker	Galloway	Marshall	Ross
Barrar	Geist	Marsico	Rubley
Bastian	George	McCall	Sabatina
Bear	Gerber	McGeehan	Sainato
Belfanti	Gergely	McI. Smith	Samuelson

Benninghoff	Gibbons	McIlhattan	Santoni
Bennington	Gillespie	Melio	Saylor
Beyer	Gingrich	Mensch	Scavello
Biancucci	Godshall	Metcalfe	Schroder
Bishop	Goodman	Micozzie	Seip
Blackwell	Grell	Millard	Shapiro
Boback	Grucela	Miller	Shimkus
Boyd	Haluska	Milne	Siptroth
Brennan	Hanna	Moul	Smith, K.
Brooks	Harhai	Moyer	Smith, M.
Buxton	Harhart	Mundy	Smith, S.
Caltagirone	Harkins	Murt	Solobay
Cappelli	Harper	Mustio	Sonney
Carroll	Harris	Myers	Staback
Casorio	Helm	Nailor	Stairs
Causer	Hennessey	Nickol	Steil
Civera	Hershey	O'Brien, M.	Stern
Clymer	Hess	Oliver	Stevenson
Cohen	Hickernell	Pallone	Sturla
Conklin	Hornaman	Parker	Surra
Costa	Hutchinson	Pashinski	Swanger
Cox	James	Payne	Tangretti
Creighton	Josephs	Payton	Taylor, J.
Cruz	Kauffman	Peifer	Taylor, R.
Curry	Keller, M.	Perry	True
Cutler	Keller, W.	Perzel	Turzai
Daley	Kessler	Petrarca	Vereb
Dally	Killion	Petri	Vitali
DeLuca	King	Petrone	Vulakovich
Denlinger	Kirkland	Phillips	Wagner
DePasquale	Kortz	Pickett	Walko
Dermody	Kotik	Preston	Wansacz
DeWeese	Kula	Pyle	Waters
DiGirolamo	Leach	Quigley	Watson
Donatucci	Lentz	Quinn	Wheatley
Eachus	Levdansky	Ramaley	White
Ellis	Longietti	Rapp	Williams
Evans, D.	Mackereth	Raymond	Yewcic
Evans, J.	Maher	Readshaw	Youngblood
Everett	Mahoney	Reed	Yudichak
Fabrizio	Major	Reichley	
Fairchild	Mandirino	Roae	O'Brien, D.,
Fleck	Mann	Rock	Speaker
Frankel			

NAYS-0

NOT VOTING-0

EXCUSED-4

Kenney	O'Neill	Thomas	Wojnaroski
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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.

\* \* \*

The House proceeded to third consideration of **HB 1627, PN 2080**, entitled:

An Act authorizing the Department of General Services, with the concurrence of the Department of Environmental Protection, to lease to NCCB Associates, LP, or its nominee, land within the bed of the Delaware River in the City of Philadelphia.

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.

(Bill analysis was read.)

The SPEAKER pro tempore. The question is, shall the bill pass finally?

On that question, the gentleman, Mr. O'Brien, is recognized.  
Mr. M. O'BRIEN. Thank you, Mr. Speaker.

As we sit here on the floor of the House, underneath this beautiful mural of Penn's Treaty with the Indians, which is in my district, this project will be the neighbor to Penn Treaty Park, a crown jewel of green space on the Delaware River that sadly for so many years has been neglected, left blighted, if not for the work of the community that surrounds it. This project will put \$300,000 of lighting into Penn Treaty Park and will contribute \$35,000 a year for maintenance.

I would ask for a "yes" vote because of all the riparian rights I will ever bring before this body, this has a special place in my heart. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Bucks County, Mr. Clymer.

Mr. CLYMER. Thank you, Mr. Speaker.

Since the minority chair of State Government is predisposed in another position, I am on that committee, and I can say that we had a thorough investigation of this bill, the preceding bill and the bill that is now on the calendar for us to vote, and we agree with the comments made by the prime sponsor, Michael O'Brien, that these bills are in order. They will provide housing, new taxes, job opportunities in construction, in those areas.

I would like to mention one thing, if I could, in that the prime sponsor mentioned William Penn and the place down there in Philadelphia. We will all note that William Penn was shaking hands with Native Americans, and his handshake was his word. I think things have changed since then, and we have had to have lawyers and others to make sure that agreements are agreements, but I think that is still an object of lesson and one that we can still continue to learn from.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair very much appreciates the remarks of the gentleman from Bucks County, Mr. Clymer.

Anyone else seeking recognition? Seeing none, the question recurs, shall the bill pass finally?

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—199

Adolph	Freeman	Mantz	Roebuck
Argall	Gabig	Markosek	Rohrer
Baker	Galloway	Marshall	Ross
Barrar	Geist	Marsico	Rubley
Bastian	George	McCall	Sabatina
Bear	Gerber	McGeehan	Sainato
Belfanti	Gergely	McI. Smith	Samuelson
Benninghoff	Gibbons	McIlhattan	Santoni
Bennington	Gillespie	Melio	Saylor
Beyer	Gingrich	Mensch	Scavello
Bianucci	Godshall	Metcalfe	Schroder
Bishop	Goodman	Micozzie	Seip
Blackwell	Grell	Millard	Shapiro
Boback	Grucela	Miller	Shimkus
Boyd	Haluska	Milne	Siptroth
Brennan	Hanna	Moul	Smith, K.
Brooks	Harhai	Moyer	Smith, M.
Buxton	Harhart	Mundy	Smith, S.
Caltagirone	Harkins	Murt	Solobay
Cappelli	Harper	Mustio	Sonney
Carroll	Harris	Myers	Staback
Casorio	Helm	Nailor	Stairs
Causer	Hennessey	Nickol	Steil
Civera	Hershey	O'Brien, M.	Stern
Clymer	Hess	Oliver	Stevenson
Cohen	Hickernell	Pallone	Sturla
Conklin	Hornaman	Parker	Surra
Costa	Hutchinson	Pashinski	Swanger
Cox	James	Payne	Tangretti
Creighton	Josephs	Payton	Taylor, J.
Cruz	Kauffman	Peifer	Taylor, R.
Curry	Keller, M.	Perry	True
Cutler	Keller, W.	Perzel	Turzai
Daley	Kessler	Petrarca	Vereb
Dally	Killion	Petri	Vitali
DeLuca	King	Petrone	Vulakovich
Denlinger	Kirkland	Phillips	Wagner
DePasquale	Kortz	Pickett	Walko
Dermody	Kotik	Preston	Wansacz
DeWeese	Kula	Pyle	Waters
DiGiroloamo	Leach	Quigley	Watson
Donatucci	Lentz	Quinn	Wheatley
Eachus	Levdansky	Ramaley	White
Ellis	Longietti	Rapp	Williams
Evans, D.	Mackereth	Raymond	Yewcic
Evans, J.	Maher	Readshaw	Youngblood
Everett	Mahoney	Reed	Yudichak
Fabrizio	Major	Reichley	
Fairchild	Manderino	Roae	O'Brien, D.,
Fleck	Mann	Rock	Speaker
Frankel			

NAYS—0

NOT VOTING—0

EXCUSED—4

Kenny	O'Neill	Thomas	Wojnaroski
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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.

The SPEAKER pro tempore. The House will temporarily be at ease.

Will the gentleman, Mr. Nickol, and the gentleman, Speaker O'Brien, please come to the podium.

(Conference held at Speaker's podium.)

GUESTS INTRODUCED

The SPEAKER pro tempore. Ladies and gentlemen, at this time we would like to recognize a couple of guests that are here on behalf of Representatives DeWeese and Mahoney. They are Ashley O'Keefe and James Newcomer. Please rise and be recognized.

CALENDAR CONTINUED

CONSIDERATION OF HB 1150 CONTINUED

The SPEAKER pro tempore. Returning to HB 1150, the gentleman, Mr. Nickol, has filed replacement amendments, and the gentleman from York County, Representative Nickol, is offering amendment 3041 that replaces amendment 2814, which the clerk will read.

On the question recurring,

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

Mr. NICKOL offered the following amendment No. **A03041:**

Amend Sec. 1 (Sec. 635.2), page 1, line 9 (A03010), by striking out "effective date of this section" and inserting

date that Federal approval for medical assistance eligibility criteria based solely on a minor's level of disability is terminated

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On the amendment, the gentleman, Mr. Nickol, is recognized.

Mr. NICKOL. Thank you, Mr. Speaker.

First of all, I want to express appreciation to the Speaker for having extended some time for me to get these amendments redrafted. His own amendment was drafted after mine, but we considered it first, and it basically put three of my amendments out of order, and that is the reason for this delay.

I have a difficult task today to take discussions of this bill from an emotional level to a more practical level. I feel we can actually end up with a better bill—

The SPEAKER pro tempore. Will the gentleman kindly suspend.

Members, please take your seats. It is difficult to hear the gentleman, Mr. Nickol.

The gentleman may proceed.

Mr. NICKOL. Thank you, Mr. Speaker.

I have a difficult task today to try to take discussions of this bill from an emotional level to a practical level. I feel we can end up with a better bill for everyone as a result if we understand some of these concerns. Even if emotions may

dictate votes on some of my amendments, the issues I raise need to be addressed.

My first amendment delays implementation of the autism mandate until 60 days following termination of the Federal approval of the MA loophole.

We had been told in Insurance Committee that this bill was necessary because the Federal government may close the MA loophole. I question why we should be taking this step unless it is forced on us by the Federal government. The Federal government has not closed the so-called loophole in any other States. So why are we passing a bill of this nature based on speculation, especially when it serves to create two classes of MA families?

Remember, MA today covers all kids with autism regardless of family income. Under HB 1150, the greater majority of families would continue to receive autism services through MA, paid by MA. A smaller number of families by virtue of this legislation would find themselves shifted onto their employers' tab, with group health insurance policies paying for the services. Please look closely at these two classes.

First, let us look at who is not included under this mandate. Number one, families who are now covered by individual health insurance policies, they would remain on MA. Two, families whose employers are covered under ERISA (Employment Retirement Income Security Act), a Federal law exempting them from State insurance mandates, would remain on MA. The Insurance Department tells my office that approximately 55 percent of workers in Pennsylvania are covered by ERISA, a clear majority because ERISA generally applies to the largest employers with the most employees. Three, families whose health insurance benefits are determined through collective bargaining under the Taft-Hartley Act would remain on MA. Four, Federal employees, including the military, and State employees would remain under MA. Five, uninsured families would remain under MA.

So whom does the mandate cover? Well, actually, only those families whose parents work for small and midsize employers – employers too small to self-insure; employers who therefore must purchase health insurance policies subject to our State insurance regulation, which puts them within reach of any mandates passed by the General Assembly. Significantly fewer than half of these families will be covered by this mandate.

As the fiscal note on my previous amendment, which I was not able to offer, tells us, the cost to the Commonwealth if we extended this coverage to PEBTF (Pennsylvania Employees Benefit Trust Fund) is over \$9 million. This is a costly mandate. We will be shifting significant costs onto these small employers. They will not get the Federal MA match, which is currently over half the cost. They will pay a higher level of provider reimbursements, and they will pay for significantly higher levels of services than currently covered by MA.

So we will have these two classes. Families who work for larger employers, not subject to this mandate, generally enjoying richer benefit packages and requiring less in the way of employee cost sharing would be in one class, along with the uninsured. For example, our own House plan would be an example of just such a plan, a good benefit package and not even requiring us to contribute a dime towards the purchase of our coverage.

The second class of families that will be included in the mandate, when we are talking about these families, we are really talking about families that have a much different work

experience than you and I. They generally have less comprehensive insurance coverage, higher copays, larger deductibles, and more significant levels of cost sharing. Frequently any cost increases hitting small employer plans will automatically feed through to the workers themselves.

For example, I was talking to the manager for a contract manufacturer in my area. They pay employees about \$9 an hour. They have 108 employees who are eligible for health insurance. Forty-six purchase it, 51 have coverage through a spouse or elsewhere, and 11 waive the coverage because they currently find it unaffordable. The employer splits the cost of insurance 50-50 with his employees, and it is a considerably less comprehensive plan than you or I enjoy as legislators. Employees currently pay \$240 a month for single coverage, \$462 for family coverage. The way it is structured, half of the cost of any mandates we pass get passed through directly out of pocket to the employees themselves.

Another friend of mine who has three autistic kids currently pays \$500 a month for health insurance obtained through his employer, a small printing company. My own son, while working as a foreman for a small roofing company, got covered himself but had to pay to add his own kids to the policy, a fact I learned when I had to make the monthly payments when he got called to duty in Afghanistan.

So in passing this bill, we ironically create two classes of families: families with insurance through a larger employer, families like our own who will continue to have coverage through MA and the services paid for by the taxpayer, and other families with insurance through smaller employers, they will have the cost shifted to them despite the fact that they would also be continuing to pay taxes to the Federal and State governments to cover the majority of families with services paid by MA.

This amendment, if approved, would delay the mandate until needed. It would put us in the position of reacting almost instantaneously to any adverse decision by the Feds, without prematurely creating two classes of families.

I ask the members to consider supporting my amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. O'Brien.

Mr. D. O'BRIEN. Thank you, Mr. Speaker.

Very simply, I would like to impress upon the members of this chamber, denying insurance coverage to those who have autism is a fundamental violation of their civil rights; plain and simple. There is no getting around that. They took this coverage away several years ago. It is not a new mandate.

Time and time again, and I beg to differ with my friend, Representative Nickol, every year I stand on the floor of this House and express to my colleagues, you, the men and women of this House, how important it is that we fund the loophole program, and every year before Christmas parents have to make a decision as to whether they are going to buy their other children Christmas presents, because they do not know if they are going to have the money to provide the services for these children. The uncertainty of their lives as it affects their stress level, the closed doors, the discrimination, and the destruction of the family unit is what we are talking about here.

We cannot wait to postpone the effective date until such time that the Federal government closes the medical assistance loophole category. I am not saying it is going to happen tomorrow, but I cannot say that it is not going to happen. In the meantime, the status quo would remain and private insurance

companies would be permitted to exclude coverage for autism services and thus the cost for providing these services would continue to be pushed back on the medical assistance budget.

An effective date and some time in the future would make development of an adequate network of providers impossible; impossible. The process of building that network will take time, and we have to begin that process now so the Commonwealth and the health insurance companies are prepared to handle the needs of these loophole families in the event that the loophole does close. Under this amendment, there would be no time to develop the network and families would be left without any safety net at all.

Mr. Speaker, what we are asking here is that we cover all children in Pennsylvania, whether they work for a small employer or a large employer that is self-insured. The reason is that if we cover everybody equally, if you work for one of those ERISA plans or self-insured plans, when those employees, who do not know that they are self-insured, go to their employers and say, wait a minute, there is mandated coverage for autism services in Pennsylvania and you as a self-insured, you as an ERISA plan are not providing my child those services, I am telling you, that pressure will turn this conversation around, and the evidence of that is that companies such as Microsoft, Home Depot, Country Wide Loans have developed programs because they know that providing early intervention for the autistic children provides their employees the stability and the services needed to be successful.

Home Depot, Mr. Speaker, began covering the full range of treatment for childhood autism as part of its health insurance benefits with the companies nearly 365 employees about 8 years ago. But what they did, the employees were denied behavioral speech, physical occupational therapies for their autistic children, and they had to file appeals to those denials. What does it sound like? It sounds familiar, does it not?

They had to file those appeals to the insurance carriers, then to the company benefit managers, and often the appeals were denied, but according to Ileana Connally, the company's vice president for benefits, Home Depot, eventually persuaded by unhappy employees to look more deeply into the issue of autism, fashioned a package of autism benefits because they were convinced that early intervention would result in benefit and savings.

Mr. Speaker, we cannot wait. If the loophole closes, we have no safety net for these families. Please vote "no" on this amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman. Anyone else seeking recognition?

Mr. Nickol.

Mr. NICKOL. Thank you, Mr. Speaker.

I understand the Speaker's concern for the MA budget. I find it ironic several years ago this House fought removing kids from higher income families and taking them off MA. Now we are actually talking about moving kids who are generally lower income families onto private insurance.

I must also ask, if what we are doing is preparing for the imminent closure of the so-called loophole by the Feds, why are we only dealing with autistic kids? What about those with spina bifida, multiple sclerosis, mental retardation and other maladies who are currently covered under the same MA loophole?

A number of members of this House on both sides of the aisle recently introduced a universal health-care plan for our

State, proposing a safety net for all Pennsylvanians. I should note that the present legislation goes in the exact opposite direction, taking a social safety net program covering children with autism now covered as a group by MA and shifting them onto employer plans.

In addition, this legislation goes in the opposite direction of the Governor's Cover All Pennsylvanians initiative. Under his plan, small employers would be able to join a State-sponsored health-care plan, the rates for this plan being attractively low and made possible because they use the MA reimbursement schedule to pay providers.

Let us leave the Department of Public Welfare proceed with their regulations, improving services for all these kids, as is otherwise provided in this legislation I strongly support, but let us not hop into this mandate for private employers unless and until the so-called MA loophole is closed by the Federal government.

I would appreciate the members' support on my amendment. Thank you.

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—47

Argall	Gabig	Mantz	Quigley
Baker	Geist	Marsico	Saylor
Bastian	Gillespie	Mensch	Smith, S.
Bear	Gingrich	Metcalf	Stairs
Beyer	Godshall	Millard	Steil
Boyd	Harris	Miller	Stern
Civera	Hess	Moul	Stevenson
Creighton	Hickernell	Nickol	Swanger
Cutler	Hutchinson	Perry	Taylor, J.
Ellis	Mackereth	Perzel	Turzai
Everett	Maher	Pickett	Vulakovich
Fairchild	Major	Pyle	

NAYS—151

Adolph	Freeman	Markosek	Ross
Barrar	Galloway	Marshall	Rubley
Belfanti	George	McCall	Sabatina
Benninghoff	Gerber	McGeehan	Sainato
Bennington	Gergely	McI. Smith	Samuelson
Bianucci	Gibbons	Melio	Santoni
Bishop	Goodman	Micozzie	Scavello
Blackwell	Grell	Milne	Schroder
Boback	Grucela	Moyer	Seip
Brennan	Haluska	Mundy	Shapiro
Brooks	Hanna	Murt	Shimkus
Buxton	Harhai	Mustio	Siproth
Caltagirone	Harhart	Myers	Smith, K.
Cappelli	Harkins	Nailor	Smith, M.
Carroll	Harper	O'Brien, M.	Solobay
Casorio	Helm	Oliver	Sonney
Causer	Hennessey	Pallone	Staback
Clymer	Hershey	Parker	Sturla
Cohen	Hornaman	Pashinski	Surra
Conklin	James	Payne	Tangretti
Costa	Josephs	Payton	Taylor, R.
Cox	Kauffman	Peifer	True
Cruz	Keller, M.	Petrarca	Vereb
Curry	Keller, W.	Petri	Vitali
Daley	Kessler	Petrone	Wagner

Dally	Killion	Phillips	Walko
DeLuca	King	Preston	Wansacz
Denlinger	Kirkland	Quinn	Waters
DePasquale	Kortz	Ramaley	Watson
Dermody	Kotik	Rapp	Wheatley
DeWeese	Kula	Raymond	White
DiGirolamò	Leach	Readshaw	Williams
Donatucci	Lentz	Reed	Yewic
Eachus	Levdansky	Reichley	Youngblood
Evans, D.	Longjetti	Roae	Yudichak
Evans, J.	Mahoney	Rock	
Fabrizio	Manderino	Roebuck	O'Brien, D.,
Fleck	Mann	Rohrer	Speaker
Frankel			

NOT VOTING—1

McIlhattan

EXCUSED—4

Kenney O'Neill Thomas Wojnaroski

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 second consideration as amended?

The SPEAKER pro tempore. Mr. Nickol, do you have another amendment you would like to proffer?

Mr. NICKOL. Yes, Mr. Speaker. I understand amendment 3040 has come down from the Legislative Reference Bureau. I would like to take that one next, if I could.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman from York County, Representative Nickol, who offers amendment A03040 that replaces amendment 2815, which the clerk will read.

On the question recurring,

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

Mr. NICKOL offered the following amendment No. **A03040**:

Amend Sec. 1 (Sec. 635.2), page 1, by inserting before line 1 (A03010)

Amend Sec. 1 (Sec. 635.2), page 5, line 14, by striking out "OR GOVERNMENT PROGRAM" and inserting

. Government program or State employe health benefit plan

Amend Sec. 1 (Sec. 635.2), page 1, line 5 (A03010), by striking out "or" and inserting a comma

Amend Sec. 1 (Sec. 635.2), page 1, line 5 (A03010), by inserting after "program"

or State employe health benefit plan

Amend Sec. 1 (Sec. 635.2), page 1, line 7 (A03010), by inserting after "program"

or State employe health benefit plan

Amend Sec. 1 (Sec. 635.2), page 1, by inserting between lines 16 and 17 (A03010)

Amend Sec. 1 (Sec. 635.2), page 6, line 4, by striking out "AND GOVERNMENT PROGRAMS" and inserting

. Government programs and State employe health benefit plans

Amend Sec. 1 (Sec. 635.2), page 6, line 5, by inserting after "INSURER"

or other payor

Amend Sec. 1 (Sec. 635.2), page 6, line 13, by striking out "OR GOVERNMENT PROGRAM" and inserting

. Government program or State employe health benefit plans

Amend Sec. 1 (Sec. 635.2), page 6, line 18, by inserting after "POLICY"

or State employe health benefit plans

Amend Sec. 1 (Sec. 635.2), page 1, by inserting between lines 19 and 20 (A03010)

Amend Sec. 1 (Sec. 635.2), page 9, by inserting between lines 16 and 17

(12.1) "State employe health benefit plan" means a health benefit plan offered to Commonwealth employes and retirees through the Public Employee Benefits Trust Fund, the Chief Clerk's Office in the Senate or the Bipartisan Management Committee of the House of Representatives.

Amend Sec. 1 (Sec. 2116.1), page 2, line 5 (A03010), by inserting after "program"

. State employe health benefit plan

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On the amendment, the Chair recognizes the gentleman, Mr. Nickol.

Mr. NICKOL. Thank you, Mr. Speaker.

This amendment extends the autism mandate to our State employees health plans including PEBTF, the Public Employee Benefit Trust Fund, which covers most State employees. If HB 1150 is a positive move for families who have children with autism, why should we not extend this benefit to employees of the Commonwealth? They are not presently subject to this mandate.

I urge the members to extend this benefit to our State employees. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. O'Brien.

Mr. D. O'BRIEN. Thank you, Mr. Speaker.

I again would join the gentleman. I hope that this would happen, but this amendment is unenforceable because of the Federal preemption. As you know, PEBTF is a self-funded, jointly run government plan managed by the administration and the major unions which represent State employees. The administration has indicated a willingness to work with the union trustees to seek approval to extend coverage for State employees and their families, but since any decision is a joint one, the administration is unable to commit to this coverage for the self-funded plan, but, I will tell you that every time a mandate is passed by this General Assembly, almost immediately this board votes to add that to the benefits package.

So I would ask for a negative vote.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Anyone else seeking recognition? Seeing none, Mr. Nickol.

Mr. NICKOL. Thank you, Mr. Speaker.

I might point out that ERISA, the Federal law, does not cover government plans. Now, let me be honest. PEBTF

indicates that my amendment will cost more than \$9 million. While I can argue that this cost will be partially offset by savings in the State's medical assistance budget, I have to admit it will not be a dollar-for-dollar savings. There will be significant costs. Why? I will give you three reasons.

Number one: the loss of the Federal MA match. The State currently draws down Federal funds in paying for services to children with autism. Every dollar spent by MA is presently split 54.39 percent by the Federal government, 45.61 percent by the State. So the Federal government picks up more than half the cost. So if payment responsibility is shifted to PEBTF, the State will have to replace Federal funds, the larger share, with 100 percent State dollars to pay for these services. I should note that PEBTF, if they were a private employer, would have to pick 100 percent of the cost up, not just the 54.39 percent Federal match.

Number two: higher provider reimbursements. Section 2116.1 of the bill mandates that even when services are rendered by an MA provider, the provider will be entitled to receive a higher level of reimbursement than presently paid by MA. This will, of course, increase costs for PEBTF and private employers since they will be paying many of the same procedures done by MA, the exact same services, but at a higher rate.

Number three: a higher level of services. Section 635.2 of this bill prohibits employers from placing any limits – yes, read it – any limits on the number of visits to an autism provider, subject to a \$36,000-a-year cap that will be increased annually for inflation, and section 2116.1 transforms any referrals that a family may receive from MA into standing referrals good for a year, allowing a family to go to any and all providers within or outside an insurer's network, all without the need for any reevaluation by the private insurer. MA can continue to manage care, limit visits, reevaluate referrals at periods of less than a year, and provide a generally lower level of benefits than we will be requiring to be paid for by private employers.

So I have to admit on all three points that my amendment will be costly for PEBTF. How then would I propose to cover the costs? Well, the fiscal note indicates the State would save \$22.2 million from its share of the MA budget with passage of this bill. So the bill even with my amendment will still be a net cost savings for the Commonwealth.

I urge the members to carefully consider this amendment. If we in the General Assembly are not willing to include the State under the mandate because of the cost, how do we justify the impact on private employers?

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Mr. O'Brien.

Mr. D. O'BRIEN. I would just again ask for a negative vote. This amendment is unenforceable, and we are preempted by Federal law, and I would ask for a negative vote.

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-56

Argall	Everett	Major	Petri
Baker	Fairchild	Mantz	Pickett
Bastian	Gabig	Marshall	Pyle
Bear	Geist	Marsico	Quigley
Beyer	Gillespie	McIlhattan	Reichley
Boyd	Gingrich	Mensch	Roae
Brooks	Godshall	Millard	Saylor
Causser	Harhart	Miller	Smith, S.
Civera	Harris	Moul	Stairs
Clymer	Hess	Mustio	Stern
Creighton	Hutchinson	Nickol	Stevenson
Cutler	Killion	Payne	Swanger
Dally	Mackereth	Perry	Turzai
Ellis	Maher	Perzel	Vulakovich

NAYS-143

Adolph	George	McCall	Samuelson
Barrar	Gerber	McGeehan	Santoni
Belfanti	Gergely	McI. Smith	Scavello
Benninghoff	Gibbons	Melio	Schroder
Bennington	Goodman	Metcalfe	Seip
Bianucci	Grell	Micozzie	Shapiro
Bishop	Grucela	Milne	Shimkus
Blackwell	Haluska	Moyer	Sipthoth
Boback	Hanna	Mundy	Smith, K.
Brennan	Harhai	Murt	Smith, M.
Buxton	Harkins	Myers	Solobay
Caltagirone	Harper	Nailor	Sonney
Cappelli	Helm	O'Brien, M.	Staback
Carroll	Hennessey	Oliver	Steil
Casorio	Hershey	Pallone	Sturla
Cohen	Hickernell	Parker	Surra
Conklin	Hornaman	Pashinski	Tangretti
Costa	James	Payton	Taylor, J.
Cox	Josephs	Peifer	Taylor, R.
Cruz	Kauffman	Petrarca	True
Curry	Keller, M.	Petrone	Vereb
Daley	Keller, W.	Phillips	Vitali
DeLuca	Kessler	Preston	Wagner
Denlinger	King	Quinn	Walko
DePasquale	Kirkland	Ramaley	Wansacz
Dermody	Kortz	Rapp	Waters
DeWeese	Kotik	Raymond	Watson
DiGirolamo	Kula	Readshaw	Wheatley
Donatucci	Leach	Reed	White
Eachus	Lentz	Rock	Williams
Evans, D.	Levdansky	Roebuck	Yewcic
Evans, J.	Longietti	Rohrer	Youngblood
Fabrizio	Mahoney	Ross	Yudichak
Fleck	Manderino	Rubley	
Frankel	Mann	Sabatina	O'Brien, D., Speaker
Freeman	Markosek	Sainato	
Galloway			

NOT VOTING-0

EXCUSED-4

Kenney	O'Neill	Thomas	Wojnaroski
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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 second consideration as amended?

The SPEAKER pro tempore. Mr. Nickol, do you have another amendment?

Mr. NICKOL. Yes, I do, Mr. Speaker. I would like to call up amendment 3042, which is another of my replacement amendments.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The gentleman from York County, Representative Nickol, offers amendment 3042, which replaces amendment 2992, which the clerk will read.

On the question recurring,

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

Mr. NICKOL offered the following amendment No. **A03042:**

Amend Bill, page 1, lines 1 through 27; page 2, lines 1 through 38 (A03010), by striking out all of said lines on said pages and inserting

Amend Title, page 1, line 12, by inserting a period after "coverage"

Amend Title, page 1, lines 12 through 14, by striking out "AND FOR" in line 12 and all of lines 13 and 14

Amend Sec. 1, page 5, line 12, by striking out "SECTIONS" and inserting

a section

Amend Sec. 1 (Sec. 635.2), page 5, line 16, by inserting a period after "DISORDERS"

Amend Sec. 1 (Sec. 635.2), page 5, lines 16 through 30; page 6, lines 1 through 10, by striking out all "AND FOR" in line 16, all of lines 17 through 30, page 5, all of lines 1 through 10, page 6 and inserting

Where an individual is diagnosed as having an autism spectrum disorder, the insurer shall assist in coordinating for the treatment of such disorder through the Commonwealth's medical assistance program established under the act of June 13, 1967 (P.L.31, No.21), known as the "Public Welfare Code."

Amend Sec. 1 (Sec. 635.2), page 6, line 11, by striking out "(C)" and inserting

(b)

Amend Sec. 1 (Sec. 635.2), page 6, line 16, by striking out "(D)" and inserting

(c)

Amend Sec. 1 (Sec. 635.2), page 6, line 19, by striking out "(E)" and inserting

(d)

Amend Sec. 1 (Sec. 635.2), page 7, line 4, by striking out "(F)" and inserting

(e)

Amend Sec. 1 (Sec. 635.2), page 7, lines 5 through 13, by striking out all of lines 5 through 12, "(3)" in line 13 and inserting

(1)

Amend Sec. 1 (Sec. 635.2), page 7, line 18, by striking out "(4)" and inserting

(2)

Amend Sec. 1 (Sec. 635.2), page 7, lines 21 through 23, by striking out all of said lines

Amend Sec. 1 (Sec. 635.2), page 7, line 24, by striking out "(6)" and inserting

(3)

Amend Sec. 1 (Sec. 635.2), page 8, line 3, by striking out "(7)" and inserting

(4)

Amend Sec. 1 (Sec. 635.2), page 8, lines 16 through 30; page 9, lines 1 through 30; page 10, lines 1 through 29, by striking out all of lines 16 through 30, page 8, all of lines 1 through 30, page 9, all of lines 1 through 28 and "(H)" in line 29, page 10 and inserting

(f)

Amend Bill, page 11, lines 8 through 30; page 12, lines 1 through 30; page 13, lines 1 through 29, by striking out all of said lines on said pages

Amend Sec. 3, page 13, line 30, by striking out "3" and inserting

2

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On the amendment, the gentleman, Mr. Nickol, is recognized.

Mr. NICKOL. Thank you, Mr. Speaker.

This amendment requires insurers to provide coverage for diagnosis for autism. Once diagnosed, it requires them to coordinate the coverage with medical assistance to provide for treatment. One of the problems with this bill is it eliminates the ability of an insurance company to control the delivery of care from the perspective that any service they are being billed for are services that are part of a treatment plan.

This should be about services that are helpful for children with autism, not just doing services. If we are going to pass this mandate and control costs, we need to protect against things like provider shopping and provider self-referrals that will certainly run up the bill on small employers with limited benefit to the families.

Requiring cooperation between medical assistance and insurers would be a positive move for both. I urge members to support my amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. O'Brien.

Mr. D. O'BRIEN. Thank you, Mr. Speaker.

While I have great respect for the maker of this amendment, I cannot support it. This amendment not only undermines the whole purpose of this legislation, it actually makes things worse than they are today for children living with autism and their families.

The purpose of this legislation is to eliminate coverage exclusions for autism treatment. Under this amendment, there is no coverage for treatment, and if adopted, this legislation would be limited to providing insurance coverage solely for the diagnosis of an autism spectrum disorder. Essentially what we would be saying by adopting this amendment is, we will pay for all the tests and evaluations necessary to tell you that your child has autism, but then that is it. We are not going to cover the treatment you now know for certain he or she needs. While some may say this amendment is a small step in the right direction, because at least it will encourage the proper diagnosis of autism, it will actually be the ultimate kick in the teeth. No one will want this diagnosis, and they will do anything they can to avoid it, because under this amendment, once the diagnosis is made, the very insurance exclusion we are trying to eliminate will kick in and the insurer will deny coverage for any treatment.

Mr. Speaker, please vote "no" on this amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Anyone else seeking recognition? Seeing none, Mr. Nickol.

Mr. NICKOL. Thank you, Mr. Speaker.

Unless we have coordinated care between MA and insurers, I am concerned about what could be the unintentional consequences of this legislation. Has anyone really thought through the consequences for MA when providers are able to get higher levels of reimbursement for your kid than for mine, and all with no limit on the visits? Will MA providers give preference to families with insurance? Will MA be able to hold their current network of providers since MA families will now be able to go to anyone? Why agree to give MA a discount if you are a provider, if you would get to provide the services anyway? Will this end up costing many of the families, if forced to go outside of MA's provider network, to start paying copays and deductibles? What will be the impact on families that remain under MA, and how would it affect their level of services?

I urge members to consider these points in voting on this amendment. Thank you, Mr. Speaker.

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—35

Argall	Fairchild	Major	Perzel
Baker	Gabig	Mantz	Pickett
Bastian	Geist	Marsico	Quinn
Beyer	Gillespie	Mensch	Saylor
Cappelli	Gingrich	Miller	Smith, S.
Civera	Harris	Moul	Stairs
Creighton	Keller, M.	Nickol	Stern
Ellis	Mackereth	Payne	Swanger
Everett	Maher	Perry	

NAYS—164

Adolph	Galloway	McCall	Sabatina
Barrar	George	McGeehan	Sainato
Bear	Gerber	McI. Smith	Samuelson
Belfanti	Gergely	McIlhattan	Santoni
Benninghoff	Gibbons	Melio	Scavello
Bennington	Godshall	Metcalfe	Schroder
Bianucci	Goodman	Micozzie	Seip
Bishop	Grell	Millard	Shapiro
Blackwell	Grucela	Milne	Shimkus
Boback	Haluska	Moyer	Siptroth
Boyd	Hanna	Mundy	Smith, K.
Brennan	Harhai	Murt	Smith, M.
Brooks	Harhart	Mustio	Solobay
Buxton	Harkins	Myers	Sonney
Caltagirone	Harper	Nailor	Staback
Carroll	Helm	O'Brien, M.	Steil
Casorio	Hennessey	Oliver	Stevenson
Causser	Hershey	Pallone	Sturla
Clymer	Hess	Parker	Surra
Cohen	Hickernell	Pashinski	Tangretti
Conklin	Hornaman	Payton	Taylor, J.
Costa	Hutchinson	Peifer	Taylor, R.
Cox	James	Petrarca	True
Cruz	Josephs	Petri	Turzai
Curry	Kauffman	Petrone	Vereb
Cutler	Keller, W.	Phillips	Vitali
Daley	Kessler	Preston	Vulakovich
Dally	Killion	Pyle	Wagner
DeLuca	King	Quigley	Walko
Denlinger	Kirkland	Ramaley	Wansacz

DePasquale	Kortz	Rapp	Waters
Dermody	Kotik	Raymond	Watson
DeWeese	Kula	Readshaw	Wheatley
DiGirolamo	Leach	Reed	White
Donatucci	Lentz	Reichley	Williams
Eachus	Levdansky	Roae	Yewcic
Evans, D.	Longiotti	Rock	Youngblood
Evans, J.	Mahoney	Roebuck	Yudichak
Fabrizio	Manderino	Rohrer	
Fleck	Mann	Ross	O'Brien, D., Speaker
Frankel	Markosek	Rubley	
Freeman	Marshall		

NOT VOTING—0

EXCUSED—4

Kenney	O'Neill	Thomas	Wojnaroski
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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 second consideration as amended?

The SPEAKER pro tempore. Mr. Nickol, do you have any other replacement amendments?

Mr. NICKOL. No replacement amendments. I am back to the original.

The SPEAKER pro tempore. The Chair thanks the gentleman.

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

Mr. NICKOL offered the following amendment No. **A02813**:

Amend Title, page 1, line 12, by inserting after "coverage"  
, for an autism spectrum disorder Insurance  
Mandate Relief Program

Amend Sec. 1, page 11, by inserting between lines 7 and 8  
Section 635.2-A. Autism Spectrum Disorder Insurance Mandate

Relief Program.—(a) There is hereby established within the Insurance Department a program to be known as the Insurance Mandate Relief Program. The Insurance Department, in conjunction with the Department of Revenue, shall administer the program. The program shall provide assistance in the form of payments to employers from the calendar year of implementation and every year thereafter. Payments shall be an amount equal to the difference in employer costs of providing insurance from the preceding fiscal year in order to offset increased employer costs of providing autism spectrum disorders coverage as required by this act.

(b) An employer who provides and pays for health coverage for employes of the employer is eligible for program assistance. No employer may claim or receive a payment under this section unless that person is in full compliance with State tax laws.

(c) The Insurance Department, in conjunction with the Department of Revenue, shall promulgate regulations and adopt procedures necessary to fulfill the requirements of this section, including, but not limited to, the application process, types of payments or credits to be provided, review process, additional eligibility requirements and appeal process.

(d) The following shall apply:

(1) A person who wilfully submits false or fraudulent information under this section commits a violation of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) and shall, upon conviction, be subject to punishment as provided by law.

(2) A person who wilfully divulges or makes known individual-specific information submitted under this section, permits individual-specific information to be seen or examined by any person or prints, publishes or makes known in any manner individual-specific information commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine not exceeding two thousand five hundred dollars (\$2,500) and the costs of prosecution or to undergo imprisonment for not more than one year, or both.

(e) The Department of Revenue shall demand, receive and collect the payment or credit from any employer who owes delinquent State taxes.

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

The SPEAKER pro tempore. On the amendment, Mr. Nickol.

Mr. NICKOL. Thank you, Mr. Speaker.

This amendment establishes an autism spectral disorder insurance mandate relief program for businesses in the Commonwealth who find their cost of insurance going up as a result of the mandate. Over the years the Federal and State governments have assumed the primary responsibility for providing health insurance coverage for Americans with long-term disabilities. Through programs like Social Security Disability, SSI (supplemental security income), Medicare, and MA, the Federal and State governments have together stepped in to provide health-care coverage to these groups of higher cost and otherwise uninsurable individuals.

Congress expanded MA coverage for autistic kids beyond just medical care back in 1967 when they passed EPSDT, the Early Periodic Screening Diagnosis and Treatment Act, and Pennsylvania expanded its program.

After all, many of these individuals as a result of being disabled are unable to work and do not have access to employer-based group health insurance. They also find themselves excluded by preexisting-condition clauses. Even when they find coverage, the insurance is often unaffordable. Not only has the government safety net protected these individuals with long-term disabilities, but it complements and helps support employer-based health insurance coverage in this nation, which provides coverage for 53 percent of Americans, according to the Census Bureau. The employer-based group health insurance plans have the primary responsibility for the needs of healthy Americans, those who are employed and their dependents.

Where the current employer-based health-care system frays most visibly is at the edges. According to the Census Bureau, 94.7 percent of employers with 50 or more employees sponsor group health insurance for their employees. Only 54.4 percent of employers with less than 50 employees offer group health insurance to their employees. This disparity is why individuals who work for small employers are a much larger portion of the uninsured in our State. They do not get coverage at work, and many cannot afford to buy it individually.

So why do so many small employers not offer health insurance? It is really not because the owners of these

small businesses do not have a heart and large employers do. It is because so many small employers have lower profit margins and struggle with the cost of providing health insurance to their employees. Health insurance on a per-employee basis is much more expensive for them than it is for the larger employers.

Health insurance is all about spreading the risk that is the cost. An insurance company knows that some people in any large group are going to come down with cancer, some are going to have heart attacks, and probably at least one is going to fall off a ladder. They can pretty well predict how many of these claims might occur in a large group, spread the cost through payments charged for a greater number of healthy lives, and make the insurance for everyone more affordable. That is why a large employer with 1500 employees will self-insure under ERISA. Even if their claim estimates are off, a large employer can buy stop-loss coverage or simply dig a little deeper in their pockets to pay the claims.

A small employer with 15 employees cannot do this. One or two high-level claims could wipe out a small employer that tries to self-insure. They cannot reasonably be expected to build up a high enough level of reserves in case they get hit with a couple high claims. So when small employers buy the coverage from an insurance company, they end up paying a risk premium to the insurer to cover expensive claims that occur unpredictably. Unless you believe in the tooth fairy, you will quickly understand that insurance companies quickly pass along higher claims costs to employers. This is why the per-employee cost of providing group health insurance coverage when expressed on a per-employee basis is much higher for small employers.

For this reason I am proposing that the State create an autism spectral disorder insurance mandate relief program to help businesses in the Commonwealth if they find their cost of insurance has gone up as a result of this mandate. We can pay some of the costs of this program from our MA savings.

I urge members' support of the amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. O'Brien.

Mr. D. O'BRIEN. Thank you, Mr. Speaker.

The SPEAKER pro tempore. Mr. O'Brien, I missed Mr. Reichley. Do you have any preference, Mr. O'Brien?

Mr. O'Brien, you are in order and may proceed.

Mr. D. O'BRIEN. Thank you, Mr. Speaker.

This amendment requests that the Commonwealth pay companies for any increase in premiums that occur from one year to the next, including premiums not related to autism. That is absurd. It is a blank check. So in effect, companies would never have to pay an increase ever again. There are no funds appropriated for this program. Let me say that again. There is no funding source for this new fund, which the Insurance Department says would cost \$2 million in administrative costs alone.

This, again, is an open-ended blank check with no source of funds, and I ask for a negative vote.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. Reichley.

Mr. REICHLEY. Thank you, Mr. Speaker.

Would the maker of the amendment stand for brief interrogation?

The SPEAKER pro tempore. He has agreed, and you may proceed.

Mr. REICHLEY. Thank you, Mr. Speaker.

Mr. Speaker, the gentleman from Philadelphia just mentioned one figure, but I was wondering, is there a fiscal note associated with your particular amendment as to the potential cost to the Commonwealth for the reimbursements to the employers for the difference between their coverage from the preceding year and the following year related to the autism spectrum disorder coverage?

Mr. NICKOL. Mr. Speaker, I am not in receipt of a fiscal note, although the amendment was filed timely. I presume under our rules the Appropriations Committee is supposed to be generating a fiscal note to me.

The SPEAKER pro tempore. The gentleman, Mr. Nickol, is correct.

### PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. Mr. Reichley.

Mr. REICHLEY. Mr. Speaker, then I guess as a point of parliamentary inquiry, are we to wait until the gentleman from York receives a fiscal note to be able to proceed with the amendment?

### AMENDMENT PASSED OVER TEMPORARILY

The SPEAKER pro tempore. Mr. Reichley, to accommodate you, we will be going over this temporarily.

Mr. REICHLEY. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The gentleman is welcome.

### LEAVE OF ABSENCE

The SPEAKER pro tempore. The Chair recognizes the majority whip, who requests a leave of absence for the gentleman, Mr. LEVDANSKY. Without objection, the leave is granted.

### VOTE CORRECTION

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

Mr. McILHATTAN. A vote clarification, Mr. Speaker.

On HB 1150, amendment 3041, my voting switch failed to function. It shows me as not voting, Mr. Speaker, and I intended to vote "yes" on that amendment, please.

Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman, and his remarks will be spread upon the record.

### CONSIDERATION OF HB 1150 CONTINUED

The SPEAKER pro tempore. Mr. Nickol, do you have another amendment that you would like to proffer in the meantime?

Mr. NICKOL. Mr. Speaker, I would be glad to move on to other amendments. However, I do not believe I have fiscal notes on any of them.

The SPEAKER pro tempore. The Chair thanks the gentleman for his candor.

For the edification of the members, these amendments when they are filed, it is supposed to be automatic that the fiscal notes are prepared, and unfortunately, we do not have those at this point in time.

### LEAVE OF ABSENCE

The SPEAKER pro tempore. The Chair recognizes the minority whip, who requests the gentleman, Mr. PETRI, be placed on leave. Without objection, the leave of absence is so granted.

### CONSIDERATION OF HB 1150 CONTINUED

The SPEAKER pro tempore. Mr. Nickol, are you agreeable if we return to your amendments and begin with amendment 2812?

Mr. NICKOL. Yes, I am prepared to go ahead.

Amendment 2812—

The SPEAKER pro tempore. Will the gentleman suspend.

Mr. NICKOL. Sure.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The House will be temporarily at ease. We believe the fiscal notes will be returned to the floor by 4 o'clock.

We are temporarily at ease.

The House will come to order.

Members, kindly take your seats. We now have a fiscal note.

Returning to amendment A02813.

At the time Mr. Reichley had requested a fiscal note, and we have accommodated Mr. Reichley. Mr. Reichley, you are in order and may proceed.

Mr. REICHLEY. Thank you, Mr. Speaker.

I hope you were not doing it solely to accommodate me, but I guess the question had been posed to the gentleman from York, Mr. Speaker, whether a fiscal note had been produced and what the impact would be to the Commonwealth from his amendment.

The SPEAKER pro tempore. This is upon interrogation, Mr. Reichley?

Mr. REICHLEY. Yes. Thank you, Mr. Speaker.

The SPEAKER pro tempore. You are in order, Mr. Nickol.

Mr. NICKOL. Thank you, Mr. Speaker.

I was hoping to get a fiscal note with an actual dollar amount because I would have been quite interested in that sum myself. However, the fiscal note itself says that the amount of the payment would be equal to the difference in employer costs for providing insurance from the preceding year. Adoption of this amendment will have substantial impact on Commonwealth funds. "Substantial" is not defined, and they say there is insufficient information to quantify that amount. So that is what we were waiting for.

Mr. REICHLEY. Mr. Speaker, may I continue with the interrogation?

The SPEAKER pro tempore. The gentleman is in order and may proceed.

Mr. REICHLEY. Thank you.

Mr. Speaker, does the gentleman— Excuse me. Let me rephrase that. Would it be true that any amount that would be reimbursed to private employers from the increase in the

premiums due to the autism spectrum disorder coverage would come out of the General Fund for the Commonwealth budget on an annual fiscal basis?

Mr. NICKOL. Yes, Mr. Speaker. They would come from the General Fund.

Mr. REICHLEY. And theoretically, Mr. Speaker, although we do not have a specific dollar number, would the difference between the amount the employer paid the previous year and what would be newly assessed because the autism spectrum coverage, which would then be reimbursed, that therefore would be the amount that would be the subject of the increase in the premium to the private employer. Is that correct?

Mr. NICKOL. Yes, Mr. Speaker. It was incorrectly stated before by the sponsor of the bill that my amendment covered all costs or as I will read from my amendment, "Payments shall be an amount equal to the difference in employer costs of providing insurance from the preceding fiscal year in order to offset increased employer costs of providing autism spectrum disorders coverage as required by this act." So it only deals with that share of the coverage.

The SPEAKER pro tempore. Will the gentleman please suspend.

Members, it has been indicated to the Chair that members are having a difficult time hearing. Kindly take your seats. Members, please clear the aisles.

The gentleman may proceed.

Mr. REICHLEY. Thank you, Mr. Speaker.

Mr. Speaker, does the gentleman have any sense as to how the reimbursement to employers would affect the provision of coverage for autism spectrum disorders? Would this detract or decrease the amount of coverage that would be otherwise provided under the terms of this bill?

Mr. NICKOL. Mr. Speaker, I feel if anything it would probably have a positive impact. The common concept of insurance companies is that they will try to get out of providing this coverage. If indeed the employer is going to get reimbursed for any cost increases related to autism services, my assumption would be that the tendency would be to try to identify and provide that level of services because the cost would be covered.

Mr. REICHLEY. Thank you, Mr. Speaker.

That is the extent of my questions. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman, Mr. Boyd.

Mr. BOYD. Thank you, Mr. Speaker.

I was wondering if the maker of the amendment would stand for brief interrogation?

The SPEAKER pro tempore. He has agreed, and you may proceed.

Mr. BOYD. Thank you.

Not to cover the same ground, but I was one of the ones who was having a hard time hearing. I did not hear the impact of the fiscal note. How did that read? What was that going to cost the State?

Mr. NICKOL. Mr. Speaker, it said the adoption of this amendment could have a substantial impact on Commonwealth funds. It was not quantified in terms of a dollar amount because they have insufficient information to quantify it.

Mr. BOYD. Okay, Mr. Speaker. If I understand what you are endeavoring to do in your amendment, the intent is to reimburse employers for any increased cost that they would receive

because of this new mandate that the State is requiring them to provide. Is that correct, Mr. Speaker?

Mr. NICKOL. That is correct.

Mr. BOYD. Thank you, Mr. Speaker.

I was wondering if I could speak on the amendment briefly?

The SPEAKER pro tempore. The gentleman is in order and may proceed.

Mr. BOYD. Mr. Speaker, I would rise and encourage members to seriously consider this amendment. As a small business owner, one of the concerns that I have and one of the other amendments that I was very supportive of the maker was an amendment that would exempt out employers of 50 or less employees. I actually think this amendment is better.

The concern that I have, Mr. Speaker, is as insurance premiums rise based on this new mandate, some employers may be forced to stop providing insurance coverage for their broad-based employees. In effect, Mr. Speaker, it would actually, potentially, with respect to what the maker of the bill is trying to do, it may actually exacerbate the problem by moving some employers out of the environment of providing health benefits. This amendment would eliminate that potential cost, because if in fact there are substantial increases in premiums, there would be an ability for the employer to recoup some of those costs.

I wish we had the fiscal note that said the dollar amount. The word "substantial" does not seem to mean a lot right now, but in the midst of those discussions, we do know that there will be savings to the State through the MA provisions because public MA will not be picking up the tab for a certain number of these individuals. So there is at least— We can identify revenue that could cover this.

Mr. Speaker, this could be a win, win, win for everyone in that it still gets us the coverage that we need for the autism community. It will not drive small business out of providing insurance, and ultimately I think could be a very, very positive thing for the State.

I would like to commend the maker of this amendment for his creative approach and encourage the members that this might be a way that we can solve the dilemmas that we have here and come to an agreement on this piece of legislation. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the Speaker, Mr. O'Brien.

Mr. D. O'BRIEN. Thank you, Mr. Speaker.

I will just reiterate what I said before, and that is, this requests the Commonwealth to pay companies for any increase in premiums, any increase in premiums that occur from one year to the next, including increases not related to autism. It is a blank check. In effect, these companies would not have to pay any increase ever again.

There are no funds for this program. The Insurance Department estimates just to set up the bureaucracy to collect these funds would cost \$2 million. I will remind the members that a couple years ago the total line item for autism was \$3 million. We are going to take two-thirds of the line item and appropriate it for some fund that does not have any money and use it for this purpose. I think that is silly. I think, again, this is an open-ended blank check. No source of funds.

Please vote "no."

The SPEAKER pro tempore. The Chair thanks the gentleman.

Anyone else seeking recognition?

Seeing none, Mr. Nickol.

Mr. NICKOL. Thank you, Mr. Speaker.

I guess I will have to read from my amendment again. It is not, I do not believe, quite as open-ended as has been portrayed. If members want to look at lines 12 to 16, they can read with me. "Payments shall be an amount equal to the difference in employer costs of providing insurance from the preceding fiscal year in order to offset increased employer costs of providing autism spectrum disorders coverage as required by this act."

This will cost something to the Commonwealth. The Commonwealth will receive a cost savings in passage of this bill in the first year of \$22.2 million and will be walking away from Federal funds in an amount somewhat greater than that level.

These costs for employers, you have to understand, can be quite variable. If you have a large employer with 150 employees and they have one family with an autistic child, it is going to be pretty easy for them to spread that cost over all their premium they are paying and they are not going to be adversely affected. When you are talking about small employers, if you are a small employer with eight employees and you have one family demanding a high level of services, the impact on you is immediate. It goes right to your bottom line because that insurance company will, based on those claims, increase your premiums, and so this variable impact really harms small employers and they are the ones who are going to have the most difficult time in terms of paying for this mandate.

And to further that point, if I could, the Congressional Budget Office did a study which found that small firms especially were very sensitive to increases in health costs. They estimated that every 1-percent rise in premium costs prices 200,000 Americans out of health insurance coverage. Small business health insurance budgets are already stretched to the max.

I urge members to support this amendment.

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-69

Argall	Geist	Marsico	Quinn
Baker	Gillespie	McIlhattan	Reed
Barrar	Gingrich	Mensch	Reichley
Bastian	Godshall	Metcalfe	Roae
Bear	Grell	Millard	Rohrer
Beyer	Harhart	Miller	Rubley
Boyd	Harris	Moul	Saylor
Brooks	Helm	Mustio	Scavello
Cappelli	Hess	Nickol	Schroder
Causar	Hutchinson	Payne	Smith, S.
Clymer	Keller, M.	Payton	Sonney
Creighton	Killion	Peifer	Stairs
Dally	Mackereth	Perry	Stern
Ellis	Maher	Perzel	Stevenson
Everett	Major	Pickett	Swanger
Fairchild	Mantz	Pyle	Turzai
Fleck	Marshall	Quigley	Vulakovich
Gabig			

NAYS-128

Adolph	Frankel	Mann	Santoni
Belfanti	Freeman	Markosek	Seip
Benninghoff	Galloway	McCall	Shapiro
Bennington	George	McGeehan	Shimkus
Bianucci	Gerber	McI. Smith	Sipthoth
Bishop	Gergely	Melio	Smith, K.
Blackwell	Gibbons	Micozzie	Smith, M.
Boback	Goodman	Milne	Solobay
Brennan	Grucela	Moyer	Staback
Buxton	Haluska	Mundy	Steil
Caltagirone	Hanna	Murt	Sturla
Carroll	Harhai	Myers	Surra
Casorio	Harkins	Nailor	Tangretti
Civera	Harper	O'Brien, M.	Taylor, J.
Cohen	Hennessey	Oliver	Taylor, R.
Conklin	Hershey	Pallone	True
Costa	Hickernell	Parker	Vereb
Cox	Hornaman	Pashinski	Vitali
Cruz	James	Petrarca	Wagner
Curry	Josephs	Petrone	Walko
Cutler	Kauffman	Phillips	Wansacz
Daley	Keller, W.	Preston	Waters
DeLuca	Kessler	Ramaley	Watson
Denlinger	King	Rapp	Wheatley
DePasquale	Kirkland	Raymond	White
Dermody	Kortz	Readshaw	Williams
DeWeese	Kotik	Rock	Yewcic
DiGirolamo	Kula	Roebuck	Youngblood
Donatucci	Leach	Ross	Yudichak
Eachus	Lentz	Sabatina	
Evans, D.	Longiotti	Sainato	O'Brien, D.,
Evans, J.	Mahoney	Samuelson	Speaker
Fabrizio	Manderino		

NOT VOTING-0

EXCUSED-6

Kenney	O'Neill	Thomas	Wojnaroski
Levdansky	Petri		

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 second consideration as amended?

Mr. NICKOL offered the following amendment No. **A02812:**

Amend Sec. 1 (Sec. 635.2), page 8, line 5, by inserting after "ISSUED"  
to groups of fifty (50) or more employes

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On that question, the gentleman, Mr. Nickol, is recognized.

Mr. NICKOL. Thank you, Mr. Speaker.

Members will be cheered that this is my last amendment.

What this amendment does, it limits autism mandate to groups of 50 or more employees. Small group insurance in Pennsylvania is one of the most predatory insurance markets in

this nation. Some States have high-risk pools to share high-cost claims between insurance companies based on their share of the market. Other States have community rating which protects a small employer with a high-cost individual from getting priced out of the market.

Medical underwriting is rife in small group markets in Pennsylvania. Commercial insurers in our State can cherry-pick their risk based on health surveys required to be filled out by employees. They can refuse to insure high-risk employees, and they can jack up premiums with no ceiling if an employer incurs more claims than predicted.

Pennsylvania is one of, I believe, two States, us and Hawaii, that do not limit how high rates can be adjusted in the small group market or even require advance rate approval for rate hikes by all insurers. In such a market, if a small employer has one employee who starts filing high-level claims, it quickly feeds directly through and gets reflected in their rates.

Earlier I mentioned my friend with three autistic children who works for a small printing company. Imagine the reaction of the insurance company underwriting the risk with a new potential liability of \$108,000 annually under this bill each year for these three kids for autism-related services alone as a result of HB 1150. Will they exclude him from coverage under the policy? Will they jack up the premiums as soon as the claims start coming in? He pays toward his own insurance \$500 a month. Will he and other workers see their costs skyrocket along with his? Will the employer continue providing health insurance coverage to the employees? Will they lose their basic health-care coverage because of this mandate?

We really do not have many protections in Pennsylvania law for such situations, and I fear some families who have kids with autism could end up losing the basic health insurance they now enjoy. The General Assembly faced similar issues with small employers when we passed a mental health parity law. We passed the law with this same exemption that I am proposing right now for employers with fewer than 50 employees for the reasons I just articulated. South Carolina, whose law is roughly the starting base for HB 1150, also exempts small employers with fewer than 50 employees for the exact same reason.

I urge members to add this same exemption to our law. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. O'Brien.

Mr. D. O'BRIEN. Thank you, Mr. Speaker.

I will join Representative Nickol in his quest to get rid of the predatory practice of medical underwriting in Pennsylvania. When I first introduced this legislation, I had a visit from the Blues in Pennsylvania, who asked if I was aware of the practice of medical underwriting in Pennsylvania, and I did. I read the bill that got rid of medical underwriting, and I agreed with them, and their position was, they were losing thousands and thousands and thousands of enrollees because United HealthCare or some other company was engaging in the practice of medical underwriting. That is the issue, Mr. Speaker, for our small businesses. And as Speaker and a member of this House, I will work with Representative Nickol and every member to get rid of medical underwriting, but the bottom line is, I told the Blues, you are medically underwriting my autistic kids out of coverage and that cannot be accepted either.

Let us face the issue. We are only one of two States that have medical underwriting, Hawaii and Pennsylvania. Let us work

together and make it one State, and that is Hawaii, and then maybe we will help the people in Hawaii get rid of it as well.

This amendment, by excluding families who work for small employers across the Commonwealth, will deny the children of Pennsylvania whose parents work for these small employers autism insurance coverage, plain and simple. Collectively small businesses employ millions of Pennsylvanians, and unless we include them in our efforts now, I find it unlikely that we will ever be able to ensure them coverage in the future. You know that and I know that. I understand the concerns raised about the cost to small businesses, and like I said, I will work with anyone who says we need to come up with a solution to assist small business with cost of insurance in Pennsylvania. I look forward to helping with those efforts. But if we wait to provide insurance coverage for those children until another day, many children will miss their opportunity for treatments that we know give them a real chance to lead a functioning life as an adult. I cannot quantify the cost of this missed opportunity for these children.

When you talk about cost, one thing that is important to know is that if appropriate early interventions are provided to children living with autism, the long-term costs of treatment are actually reduced. Experts like Dr. David Mandell from our autism task force from the University of Pennsylvania studied treatments and their costs of not providing these treatments. What these experts tell us is that without early intervention costs associated with autism care, these costs will skyrocket from about age 5 through 21 to the tune of \$40,000 a year. Early intervention will save \$30,000 a year, Mr. Speaker. That is what it is. By providing early interventions, we can actually reduce cost, save money over the life of the child with autism.

I believe that this helps small business. In addition, small employers, unlike big businesses, are more affected by the impact on the life of an employee with a child with autism. Small employers need everyone at work and focused on the business. Ask any small employer and he or she will tell you that keeping employees focused is a major stress in a small business. If we exempt those businesses, these employees will be limited in the services they provide to their kids, and instead of making progress, these parents will be forced to leave the work force, harming small businesses as well as the economic well-being of that family unit.

Again, Mr. Speaker, unless we are asking small employers to write off employees who have children with autism, you cannot vote for this amendment. Please vote "no."

The SPEAKER pro tempore. The Chair thanks the gentleman.

Any other members seeking recognition?

Seeing none, Mr. Nickol.

Mr. NICKOL. Thank you, Mr. Speaker.

Health insurance cost increases are certainly a crisis for small businesses, but I remind the members they are even more of a crisis for the employees who do not have or lose their health insurance coverage or individuals who might find themselves excluded from a health insurance policy due to medical underwriting.

And I also remind members it is not a choice of services or no services. All these children are currently covered for services by MA. Remember, MA will continue to cover families who are now covered by individual health insurance policies that remain on MA. They will continue to cover families whose employees are covered by ERISA; they will continue to be on MA.

They will continue the coverage of families whose health insurance benefits are determined through collective bargaining under the Taft-Hartley Act; they will remain on MA. They will continue to cover Federal employees, military, and State employees; they are presently and will remain under MA. They will continue to cover uninsured families that are presently and will continue to be covered under MA, and if this amendment were passed, the employees of these small businesses with fewer than 50 employees would continue to be covered just like all the groups I named but they would be on MA.

I urge the members to consider this amendment.

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—56

Argall	Fairchild	McIlhattan	Reed
Baker	Gabig	Mensch	Roae
Bastian	Geist	Metcalfe	Rubley
Bear	Gillespie	Millard	Saylor
Beyer	Gingrich	Miller	Scavello
Boyd	Godshall	Moul	Schroder
Cappelli	Harris	Mustio	Smith, S.
Causser	Hess	Nickol	Sonney
Civera	Hutchinson	Peifer	Stairs
Clymer	Keller, M.	Perry	Steil
Creighton	Maher	Perzel	Stern
Cutler	Major	Pickett	Stevenson
Ellis	Mantz	Pyle	Swanger
Everett	Marsico	Quigley	Turzai

NAYS—141

Adolph	Freeman	Manderino	Sabatina
Barrar	Galloway	Mann	Sainato
Belfanti	George	Markosek	Samuelson
Benninghoff	Gerber	Marshall	Santoni
Bennington	Gergely	McCall	Seip
Bianucci	Gibbons	McGeehan	Shapiro
Bishop	Goodman	McI. Smith	Shimkus
Blackwell	Grell	Melio	Siptroth
Boback	Grucela	Micozzie	Smith, K.
Brennan	Haluska	Milne	Smith, M.
Brooks	Hanna	Moyer	Solobay
Buxton	Harhai	Mundy	Staback
Caltagirone	Harhart	Murt	Sturla
Carroll	Harkins	Myers	Surra
Casorio	Harper	Nailor	Tangretti
Cohen	Helm	O'Brien, M.	Taylor, J.
Conklin	Hennessey	Oliver	Taylor, R.
Costa	Hershey	Pallone	True
Cox	Hickernell	Parker	Vereb
Cruz	Hornaman	Pashinski	Vitali
Curry	James	Payne	Vulakovich
Daley	Josephs	Payton	Wagner
Dally	Kauffman	Petrarca	Walko
DeLuca	Keller, W.	Petrone	Wansacz
Denlinger	Kessler	Phillips	Waters
DePasquale	Killion	Preston	Watson
Dermody	King	Quinn	Wheatley
DeWeese	Kirkland	Ramaley	White
DiGirolamo	Kortz	Rapp	Williams
Donatucci	Kotik	Raymond	Yewcic
Eachus	Kula	Readshaw	Youngblood
Evans, D.	Leach	Reichley	Yudichak
Evans, J.	Lentz	Rock	

Fabrizio	Longietti	Roebuck	O'Brien, D.,
Fleck	Mackereth	Rohrer	Speaker
Frankel	Mahoney	Ross	

NOT VOTING—0

EXCUSED—6

Kenney	O'Neill	Thomas	Wojnaroski
Levdansky	Petri		

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 second consideration as amended?

The SPEAKER pro tempore. Mr. Nickol, was that your last amendment? All other amendments have been withdrawn. Thank you, sir.

**MOTION TO RECONSIDER  
AMENDMENT A03041**

The SPEAKER pro tempore. The Chair is in receipt of a reconsideration motion from Mr. Argall and Mr. Maher, who move that the vote by which amendment 3041 was defeated to HB 1150, PN 2237, on the 13th day of July be reconsidered.

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

The SPEAKER pro tempore. On the motion for reconsideration, anyone seeking recognition on the motion for reconsideration?

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

The following roll call was recorded:

YEAS—92

Adolph	Fleck	Marshall	Reed
Argall	Gabig	Marsico	Reichley
Baker	Geist	McIlhattan	Roae
Bastian	Gillespie	Mensch	Rock
Bear	Gingrich	Metcalfe	Rohrer
Beyer	Godshall	Micozzie	Ross
Boback	Grell	Millard	Rubley
Boyd	Harhart	Miller	Saylor
Brooks	Harper	Milne	Scavello
Cappelli	Harris	Moul	Smith, S.
Causser	Helm	Mustio	Solobay
Civera	Hennessey	Nailor	Sonney
Clymer	Hershey	Nickol	Stairs
Cox	Hess	Payne	Steil
Creighton	Hickernell	Peifer	Stern
Cutler	Hutchinson	Perzel	Stevenson
Dally	Kauffman	Phillips	Swanger
Denlinger	Keller, M.	Pickett	Taylor, J.
DiGirolamo	Killion	Pyle	True
Ellis	Mackereth	Quigley	Turzai
Evans, J.	Maher	Quinn	Vereb

Everett Fairchild	Major Mantz	Rapp Raymond	Vulakovich Watson
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NAYS—105

Barrar	Freeman	Mann	Schroder
Belfanti	Galloway	Markosek	Seip
Benninghoff	George	McCall	Shapiro
Bennington	Gerber	McGeehan	Shimkus
Bianucci	Gergely	McI. Smith	Siptroth
Bishop	Gibbons	Melio	Smith, K.
Blackwell	Goodman	Moyer	Smith, M.
Brennan	Grucela	Mundy	Staback
Buxton	Haluska	Murt	Sturla
Caltagirone	Hanna	Myers	Surra
Carroll	Harhai	O'Brien, M.	Tangretti
Casorio	Harkins	Oliver	Taylor, R.
Cohen	Hornaman	Pallone	Vitali
Conklin	James	Parker	Wagner
Costa	Josephs	Pashinski	Walko
Cruz	Keller, W.	Payton	Wansacz
Curry	Kessler	Perry	Waters
Daley	King	Petrarca	Wheatley
DeLuca	Kirkland	Petrone	White
DePasquale	Kortz	Preston	Williams
Dermody	Kotik	Ramaley	Yewcic
DeWeese	Kula	Readshaw	Youngblood
Donatucci	Leach	Roebuck	Yudichak
Eachus	Lentz	Sabatina	
Evans, D.	Longietti	Sainato	O'Brien, D., Speaker
Fabrizio	Mahoney	Samuelson	
Frankel	Manderino	Santoni	

NOT VOTING—0

EXCUSED—6

Kenney	O'Neill	Thomas	Wojnaroski
Levdansky	Petri		

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 agree to the bill on second consideration as amended?

Bill as amended was agreed to.

(Bill as amended will be reprinted.)

**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 202, PN 2286**

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for conditions of permits and security for damages; and extending provisions regarding reports and removal of abandoned vehicles to cities of the second class.

**HB 896, PN 2238**

An Act amending the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, further providing for definitions, for special occasion permits, for wine auction permits, for limiting number of retail licenses to be issued in each county, for unlawful acts relative to liquor, malt and brewed beverages and licensees, for qualifications for licenses, for applications for certain licenses and for limited wineries.

**HB 1251, PN 2287**

An Act amending the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, further providing for physician assistants.

**HB 1252, PN 2288**

An Act amending the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, further providing for physician assistants.

**HB 1255, PN 2290**

An Act amending the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, providing for the definition of "legend drug"; and further providing for nurse-midwife license.

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

The SPEAKER pro tempore. Will the gentleman, Mr. Petrarca, please come to the podium.

**THE SPEAKER PRO TEMPORE  
(JOSEPH A. PETRARCA) PRESIDING**

**BILL ON SECOND CONSIDERATION**

The House proceeded to second consideration of **SB 246, PN 1286**, entitled:

An Act establishing the Smoke Free Pennsylvania Act; prohibiting smoking in enclosed and substantially enclosed areas; imposing duties upon the Department of Health; imposing penalties; and making a related repeal.

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

Mr. **EACHUS** offered the following amendment No. **A02970**:

Amend Title, page 1, line 5, by striking out all of said line and inserting

Prohibiting

Amend Title, page 1, line 6, by striking out "ENCLOSED AND SUBSTANTIALLY ENCLOSED AREAS" and inserting certain public places

Amend Title, page 1, line 8, by inserting after "PENALTIES;" preempting local regulation;

Amend Sec. 2, page 10, line 27, by striking out "DEPARTMENT OF"

Amend Sec. 2, page 10, line 27, by inserting after "PROTECTION"

Agency

Amend Sec. 2, page 10, line 30, by striking out ", SUCH AS ASBESTOS, BENZENE, FORMALDEHYDE AND RADON"

Amend Sec. 2, page 11, line 18, by striking out "THE" where it appears the first time and inserting

By enactment of this legislation, the

Amend Sec. 3, page 11, lines 25 through 30; page 12, lines 1 through 6, by striking out all of said lines on said pages and inserting

"Adult-only establishment." A public or private place in which the proprietor or the proprietor's agent or employee restricts access and refuses service or accommodation of any kind to individuals under 18 years of age.

"Cigar bar." An adult-only establishment which operates pursuant to an eating place or restaurant liquor license under the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, that is physically connected and directly adjacent to a tobacco shop.

"Conduct of gaming." The licensed placement and operation of games of chance under 4 Pa.C.S. Pt. II (relating to gaming) and approved by the Pennsylvania Gaming Control Board at a licensed facility.

Amend Sec. 3, page 12, lines 8 through 10, by striking out all of said lines and inserting

"Drinking establishment." A public place which:

(1) is licensed to sell alcoholic or malt or brewed beverages for on-premises consumption under the provisions of the Liquor Code; and

(2) has total annual sales of food sold for on-premises consumption of less than or equal to 20% of the combined gross revenues of the establishment.

Amend Sec. 3, page 12, lines 27 through 30; page 13, lines 1 through 6, by striking out all of said lines on said pages and inserting

"Licensed facility." As defined in 4 Pa.C.S. § 1103 (relating to definitions).

"Licensed gaming entity." A person that holds a license to engage in the conduct of gaming pursuant to 4 Pa.C.S. Pt. II (relating to gaming).

"Private club." An organization which is any of the following:

(1) A reputable group of individuals associated together as a not-for-profit organization for legitimate purposes of mutual benefit, entertainment, fellowship or lawful convenience that:

(i) regularly and exclusively occupies, as owner or lessee, a clubhouse or quarters for the use of its members;

(ii) holds regular meetings;

(iii) conducts its business through officers regularly elected;

(iv) admits members by written application, investigation and ballot; and

(v) charges and collects dues from elected members.

(2) A volunteer ambulance service.

(3) A volunteer fire company.

(4) A volunteer rescue company.

"Public meeting." A meeting open to the public including any meeting open to the public under 65 Pa.C.S. Ch.7 (relating to open meetings).

"Public place." An enclosed area to which the public is invited or in which the public is permitted. The term includes, without limitation:

(1) A place in which a public meeting is held.

(2) A school facility.

(3) A government housing facility.

(4) A health facility.

(5) An auditorium.

(6) An arena.

(7) A theater.

(8) A museum.

(9) A restaurant.

(10) A bar.

(11) A concert hall.

(12) A commercial establishment.

(13) A retail store.

(14) A service line.

(15) A grocery store.

(16) A zoo.

(17) A waiting room or area.

(18) A hallway.

(19) A polling place.

(20) A restroom.

(21) A sports arena.

(22) A convention hall.

(23) An elevator.

(24) Public transit.

(25) A public food assistance program and facility.

(26) A shopping mall.

(27) An exhibition hall.

(28) A rotunda or lobby.

(29) A means of transportation, including, but not limited to, a subway, bus, train, taxicab and limousine.

(30) At least 75% of the total number of sleeping quarters that are available for rent to guests within any single lodging establishment.

(31) A ticketing, boarding or waiting area in a public transportation terminal. This paragraph includes, but is not limited to, an underground subway station, a train station and a bus station.

(32) Private colleges, universities and other educational vocational institutions.

(33) A public or private facility which houses or treats children and youth in State or county custody. This paragraph includes, but is not limited to, youth detention centers and group homes.

(34) A workplace.

"Restaurant." An area devoted to the sale or service of food.

Amend Sec. 3, page 13, line 7, by striking out "GROUNDS" and inserting

facility

Amend Sec. 3, page 13, line 7, by inserting after "WITHIN" the legally defined boundaries of

Amend Sec. 3, page 13, line 9, by striking out "SCHOOL'S LEGALLY DEFINED PROPERTY BOUNDARIES" and inserting

school

Amend Sec. 3, page 13, by inserting between lines 10 and 11

"Service line." A line at which one or more individuals are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

Amend Sec. 3, page 13, lines 11 through 20, by striking out all of said lines and inserting

"Smoke." To engage in the act of smoking.

"Smoking." The burning of a lighted cigar, cigarette, pipe or any other matter or substance that contains tobacco.

"Sports arena." Any sports stadium, sports pavilion, exhibition hall, gymnasium, health spa, boxing arena, swimming pool, roller or ice rink, bowling alley or similar place where members of the general public assemble to engage in physical exercise, participate in athletic competition or witness sports events.

"Tobacco shop." A business establishment the main purpose of which is the sale of tobacco products, including cigars, pipe tobacco and smoking accessories.

"Volunteer ambulance service." As defined in section 102 of the act of July 31, 2003 (P.L.73, No.17), known as the Volunteer Fire Company and Volunteer Ambulance Service Grant Act.

"Volunteer fire company." As defined in section 102 of the act of July 31, 2003 (P.L.73, No.17), known as the Volunteer Fire Company and Volunteer Ambulance Service Grant Act.

"Volunteer rescue company." As defined in section 102 act of July 31, 2003 (P.L.73, No.17), known as the Volunteer Fire Company and Volunteer Ambulance Service Grant Act.

"Workplace." An area serving as a place of employment, occupation, business, trade, craft, professional or volunteer activity. The team includes an employer-owned vehicle.

Amend Sec. 4, page 13, line 21, by striking out "SMOKING RESTRICTIONS" and inserting

Prohibition

Amend Sec. 4, page 13, lines 22 through 30; page 14, lines 1 through 30; page 15, lines 1 through 6, by striking out all of said lines on said pages and inserting

(a) Unlawful acts.—Except as set forth in section 5, the following apply:

(1) An individual may not smoke in a public place.

(2) It is unlawful for an employer or a person that owns, manages, operates or otherwise controls the use of an area in which smoking is prohibited or restricted under this act to fail to comply with the provisions of this act.

Amend Sec. 4, page 15, by inserting between lines 12 and 13

(c) Affirmative defense.—

(1) Any of the following constitutes an affirmative defense to an action under subsection (a)(2):

(i) During the relevant time period actual control of the area was not exercised by the person alleged to have violated subsection (a)(2).

(ii) The person alleged to have violated subsection (a)(2) has made a good faith effort to ensure compliance with this act.

(2) To establish an affirmative defense under this subsection, the following apply:

(i) The person alleged to have violated subsection (a)(2), the employer or other person who controls the area must submit an affidavit and may submit any other relevant proof indicating that the person did not exercise actual control of the area during the relevant time period or that the person made a good faith effort to ensure compliance with this act, whichever is applicable.

(ii) The affidavit and other proof must be sent by certified mail to the department, a local board or local department of health or a designated enforcement officer.

Amend Bill, page 15, lines 13 through 30; page 16, lines 1 through 30; page 17, lines 1 through 27, by striking out all of said lines on said pages and inserting

Section 5. Exceptions.

Section 4 shall not apply to any of the following:

(1) A private residence, except when used as a child-care, adult day care or health care facility.

(2) Designated sleeping quarters within a lodging establishment that are available for rent to guests accounting for no more than 25% of the total number of lodging units within a single lodging establishment.

(3) A wholesale or retail tobacco shop which has sales of tobacco products and accessories, including but not limited to, branded apparel, humidors and other tobacco related accessories, comprising 85% or more of gross sales on an annual basis.

(4) A workplace of:

(i) any manufacturer, importer or wholesaler of tobacco products; or

(ii) a tobacco leaf dealer or processor.

(5) A tobacco storage facility.

(6) A drinking establishment.

(7) A cigar bar.

(8) The physical gaming area of a licensed facility.

(9) A private club, except if the club is open to the public through general advertisement for a club-sponsored event.

(10) A place where a fundraiser is conducted by a nonprofit and charitable organization one time per year if:

(i) the place is separate from other public areas during the event;

(ii) food and beverages are available to attendees;

(iii) individuals under 18 years of age are not permitted to attend; and

(iv) cigars are sold, auctioned or given as gifts and cigars are a feature of the event.

(11) An exhibition hall, conference room or similar facility if all of the following apply:

(i) The hall, room or facility is used exclusively for an event to which the public is invited for the primary purpose of promoting and sampling tobacco products and service of food and drink is incidental.

(ii) The sponsor or organizer gives notice in all advertisements and other promotional materials that smoking will not be restricted. Notice under this subparagraph must be prominently posted at the entrance to the hall, room or facility.

(iii) At least 75% of all products displayed or distributed at the event are tobacco or tobacco-related products.

(iv) No retailer, manufacturer or distributor of tobacco conducts more than 12 days of a promotional event under this paragraph in any calendar year.

(12) The conduct of a small game of chance on premises which qualify as an adult-only establishment during the conduct of the game by a nonprofit group licensed under the act of July 10, 1981 (P.L.214, No.67), known as the Bingo Law, or the act of December 19, 1988 (P.L.1262, No.156), known as the Local Option Small Games of Chance Act.

Section 6. Enforcement.

(a) Civil penalties.—If an enforcement officer determines that a violation of section 4 has occurred, the enforcement officer may impose a civil penalty of \$250 for the first offense, \$500 for the second offense and \$1,000 for each subsequent offense. Civil penalties collected shall go to the county board of health or, in a county which does not have a board of health, the department, to be used to enforce this act.

(b) Action.—An enforcement officer may bring an action to recover the civil penalty under subsection (a) in a court of competent jurisdiction. A civil penalty recovered under the provisions of this section shall be recovered by and in the name of the enforcement officer.

(c) Injunction.—An enforcement officer may seek enforcement of this act by instituting an action in a court of competent jurisdiction to enjoin a violation of this act and may recover costs and attorney fees associated with the action.

Amend Sec. 5, page 17, line 28, by striking out "5" and inserting

7

Amend Bill, page 18, by inserting between lines 2 and 3

Section 8. Annual reports.

The department shall file an annual report by December 1 with the chairman and minority chairman of the Public Health and Welfare Committee of the Senate and the chairman and minority chairman of the Health and Human Services Committee of the House of Representatives. The report shall include:

(1) Number of violations of this act by county.

(2) Number of enforcement actions initiated under this act within each county.

(3) A description of the enforcement activities of the department. This paragraph includes the number of personnel, enforcement strategies and other issues relating to the administration and implementation of this act.

Amend Sec. 6, page 18, line 3, by striking out "6" and inserting

9

Amend Sec. 7, page 18, line 14, by striking out "7" and inserting 10

Amend Bill, page 18, lines 20 through 23, by striking out all of said lines and inserting

Section 11. Preemption of local ordinances.

(a) General rule.—Except as set forth in subsection (b), the provisions of this act shall supersede any ordinance or rule or regulation adopted by a political subdivision concerning smoking in an indoor public place.

(b) Exception.—Subsection (a) does not apply to a local ordinance, rule or regulation of a city of the first class concerning smoking in an indoor public place other than the physical gaming area of a licensed facility.

Section 29. Repeal.

Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the purpose of this act.

(2) Section 10.1 of the act of April 27, 1927 (P.L.465, No.299), referred to as the Fire and Panic Act, is repealed.

Amend Sec. 9, page 18, line 24, by striking out "9" and inserting 30

Amend Sec. 9, page 18, line 25, by striking out "90" and inserting

180

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. The Chair recognizes Representative Eachus.

Mr. EACHUS. Thank you, Mr. Speaker. I appreciate the recognition.

I stand today to offer this amendment to advance the cause of eliminating and improving clean air inside facilities in Pennsylvania. As you know, we have had a debate, an ongoing debate, regarding how we advance indoor clean air quality in Pennsylvania, and I have offered this amendment today to allow for many public places that will no longer allow areas of smoking. Some of those include workplaces and bars, restaurants and exhibition halls, and many others like arenas and zoos and concert halls, health-care facilities, and others.

There are a few exceptions, which I know we will discuss tonight under interrogation, but I thought I would try and talk about a few of those exceptions so that we could allow a very diverse landscape in this Commonwealth because there are differing opinions on this, not on the science; I do not dispute the science. Smoking, it is clear on the side of the pack, will give you cancer.

Also, there is data that shows that secondhand smoke has dangers. I do not dispute that here tonight either. But I do say that many people in the Commonwealth who smoke wish to smoke. It is a legal adult activity. Children cannot buy cigarettes in Pennsylvania, and what this advances, this public policy advances, is the ability to make sure that children are protected from secondhand smoke, and I think it is a key issue for us here tonight.

With that in mind, my amendment includes the following exceptions as a compromise to meeting somewhere in the middle. It includes a private residence exception when it is a child-care, day-care, or health-care facility. If you have one of those, you are not going to be able to smoke. It also has a tobacco shop provision, a cigar bar provision, all of which, once again, will prohibit those who are 18 years or younger, younger than 18 years from being in those facilities. No more than

one-fourth of the rooms in any lodging establishment will be smoking. A workplace of a manufacturer or importer of tobacco will be excluded. Also, traditional taverns that have less than 20 percent of food sales will continue to allow smoking; those who have more will not. Private clubs like American Legions and VFWs (Veterans of Foreign Wars) will allow under this provision to allow smoking in their facilities. Obviously, if they wish not to be smoking, they can still provide a nonsmoking environment. Volunteer fire companies and rescue services. Also, events that are nonprofit in nature that are allowed to have specific fundraising activities, there are provisions here as well. And also, our gaming facilities in Pennsylvania, the new facilities, the casinos across the Commonwealth, will also allow for smoking on their floors.

Further, my amendment goes one step further. It allows the city of Philadelphia to keep their present ordinance and enact future ordinances except those that apply to the physical gaming floor of casinos that are under State licenses within the city of Philadelphia. That allows for, as we discussed last week, the standard of home rule and also the standard of their smoking-ban ordinance to stay in place in Philadelphia.

Additionally, "Smoking" and "No Smoking" signs will be posted on every single smoking establishment in the Commonwealth. This is an important distinction, because this will allow the adults – once again, smoking will be an adult activity. If you have children, you will not be allowed to have children in these facilities, but there will be a posting on the outside to allow consumers to decide whether they want to go into a facility or not, and that allows for an economic decision to be made.

There are also civil penalties under this provision. If you violate the law in any of these provisions, \$250 for the first offense, \$500 for the second offense, and \$1,000 for the third offense and beyond. The Department of Health will be charged with adopting necessary rules and regulations and enforcement. Fees will be collected by the department for that enforcement.

Also we protect the employees in this situation. Retaliation will be prohibited, and no person or employer shall discharge, refuse to hire, or retaliate against any employee or applicant because they exercise their right and their wish to be in a smoke-free environment.

Further, if there are any disputes regarding provisions of my amendment, the authority adjudicating the dispute shall construe the provisions of the amendment in favor of the health concerns of the person. We will decide on the free will of the individual employee under these provisions so that no one who works in a facility should be forced, if they did not wish to, to work in a smoking establishment, in a smoking environment.

I stand today and ask members to support amendment No. 2970, and, Mr. Speaker, I am happy to take additional questions.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the amendment, the Chair recognizes Representative Frankel.

Mr. FRANKEL. Mr. Speaker, last week we started this debate with a very similar amendment, and the maker of the amendment insisted that this amendment would move the ball forward, and I repeat to you my objections at that point. I do not see us moving the ball forward at all with this. The list of exceptions here is extraordinary. The number of Pennsylvanians

who will be subjected to an unhealthy work environment is voluminous.

I interrogated the maker of this amendment last week to try and get some idea as to how many potential Pennsylvania employees would fall under the exemption, and he was unable to do so. We talked about, was it hundreds, was it thousands, tens of thousands, a hundred thousand? Well, I have at least some more information for the members today to give you some idea of what the universe of potentially exempt employees who will be subjected to an unhealthy work environment might be. The projected number of bartenders and waitresses in the year 2014 will be: 30,000 bartenders, 111,000 waiters and waitresses. We talked about the gaming facilities. In the gaming facilities, the estimates are that at full employment, with all casinos up and running, you will have 12,000 employees directly impacted here.

These are just a few of the potential victims of this amendment that will create two standards in Pennsylvania. We will have a standard for a certain group of employees that will be protected. We will have another standard for employees who will not be protected. And quite frankly, I do not think that this passes constitutional muster. We have equal protection under the law. Every single employee, every single citizen in the State of Pennsylvania is entitled to the same protections.

This bill also grandfathered in one region of the State's exemptions but does not allow any other region of the State to pass its own smoking-ban criteria. What logic is that? Again, this is not equal protection under the law. This is an amendment that condemns groups of people in this State to unhealthy working conditions while bringing others into healthy working conditions.

Now, let me say another thing about the group of people we are talking about. By and large the universe of people who will fall under these exemptions are women, people at the low-income scale, people without insurance. So we are victimizing people who are already struggling to make a living, to have a job, to get health care, and we are condemning them to these terrible working conditions.

If we are going to have a smoking ban in Pennsylvania, it needs to be clear cut; it needs to be uniformly applied. We need to provide the same exact protections to every single person working and living in our State, and that is the right way to proceed with this smoking ban.

I ask you, together we must condemn this. We cannot move forward. You must vote this down. We need to be treating Pennsylvanians equally and protecting them equally.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

### **MOTION TO SUSPEND RULES**

The SPEAKER pro tempore. The Chair recognizes Representative Ross.

Mr. ROSS. Thank you, Mr. Speaker.

I rise to make a motion. I would like to revert to prior printer's number 25, please.

The SPEAKER pro tempore. The gentleman moves to revert to the prior printer's number, 25.

### **MOTION RULED OUT OF ORDER**

The SPEAKER pro tempore. Representative Ross, under rule 55, your motion is out of order.

Representative Ross.

Mr. ROSS. Could I have an explanation of the justification of the Chair?

The SPEAKER pro tempore. There is a question before the House, so no motion shall be received but the following motions listed under rule 55, and for that reason your motion is out of order at this time.

### **RULING OF CHAIR APPEALED**

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

Mr. WHEATLEY. Thank you, Mr. Speaker.

I appreciate your, I guess, rationale for making this motion out of order. So I am going to – I do not know how this will work either – but I am going to appeal the ruling that you just decided and allow for the membership to decide if in fact this is out of order.

The SPEAKER pro tempore. Will the gentleman please come to the rostrum.

The House will be at ease.

(Conference held at Speaker's podium.)

The SPEAKER pro tempore. The House will come to order.

### **RECESS**

The SPEAKER pro tempore. This House will be in recess until 6 p.m.

### **AFTER RECESS**

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

The SPEAKER pro tempore. Members, please report to the floor.

### **LEAVE OF ABSENCE**

The SPEAKER pro tempore. The Chair recognizes the minority whip, who requests leave for Representative BASTIAN for the remainder of the day. The gentleman will be on leave, without objection.

### **SENATE MESSAGE**

#### **AMENDED HOUSE BILLS RETURNED FOR CONCURRENCE AND REFERRED TO COMMITTEE ON RULES**

The clerk of the Senate, being introduced, returned **HB 1253, PN 2296**, and **HB 1254, PN 2295**, with information that the Senate has passed the same with amendment in which the concurrence of the House of Representatives is requested.

**CALENDAR CONTINUED****CONSIDERATION OF SB 246 CONTINUED**

The SPEAKER pro tempore. When the House went into recess, we were on SB 246, amendment 02970 that was offered by Representative Eachus and the appeal of the Chair by Representative Wheatley.

**APPEAL WITHDRAWN**

The SPEAKER pro tempore. The Chair recognizes Representative Wheatley.

Mr. WHEATLEY. Thank you, Mr. Speaker.

Mr. Speaker, as you all are aware that this is a very, very important issue for the citizenry in this Commonwealth, and with any important issue, it brings a lot of passion on both sides of that conversation, and with that, I have the utmost respect for this institution and for the men and women who serve in that rostrum, and because of that, Mr. Speaker, I am going to withdraw my appeal of the Chair. After consultation with legal counsel and leadership and the Parliamentarian, I think it is in the best interest of this institution that we do not disrespect or in any way do damage to this institution and its rules and its procedures.

So with that, Mr. Speaker, I am going to withdraw my appeal.

The SPEAKER pro tempore. The Chair thanks the gentleman.

**LEAVE OF ABSENCE**

The SPEAKER pro tempore. Returning to leaves of absence, the Chair recognizes the majority whip, who requests leave for the remainder of the day for Representative TANGRETTI of Westmoreland County. Without objection, that leave will be granted.

**CONSIDERATION OF SB 246 CONTINUED**

On the question recurring,

Will the House agree to the amendment?

The SPEAKER pro tempore. On amendment 02970, the Chair recognizes Representative Leach.

Mr. LEACH. Mr. Speaker, may I interrogate the maker of the amendment briefly?

The SPEAKER pro tempore. The gentleman will stand for interrogation.

Mr. LEACH. Mr. Speaker, as I understand the amendment as it is currently drafted, it does not contain a preemption clause for the city of Philadelphia. Is that correct?

Mr. EACHUS. Excuse me, Mr. Speaker. Can you repeat the question.

Mr. LEACH. I am sorry. As the amendment is currently drafted, it does not contain preemption for the city of Philadelphia. Philadelphia is free to draft a stronger ordinance than this if it wishes to?

Mr. EACHUS. That is correct.

Mr. LEACH. Okay. Now, in Montgomery County if we wish to draft a stronger ordinance than this, would we be permitted to under this amendment?

Mr. EACHUS. Mr. Speaker, what I am looking for in this amendment is continuity statewide so that each municipality across the Commonwealth has a standard that is even and equal rather than having different municipal guidelines as citizens move across the Commonwealth. So the answer would be no.

Mr. LEACH. Okay. I am just wondering the gentleman's thinking, Mr. Speaker. If continuity is the goal, why is one city, the largest city, which is, I guess, about 10 percent of the State's population, not included in that? That seems to be that you are guaranteeing noncontinuity.

Mr. EACHUS. Well, let me say, Mr. Speaker, I have given a good thought to this between last week's discussion here on the House floor. As you know, Mr. Speaker, the city of Philadelphia is the only municipality that currently has instituted a smoking ban. As a matter of fact, others have tried and court cases have ruled that they were overturned. So currently the city of Philadelphia is the only city in the Commonwealth that has a smoking ban and also has the framework of home rule as its charter. So given that fact and in consultations with the Philadelphia delegations and leaders within the city of Philadelphia, I was persuaded that this was a good course.

Mr. LEACH. And finally, Mr. Speaker, on this point, why, why is continuity – I am trying to understand, Mr. Speaker, why continuity is such a high value that it outweighs the desire of local citizens democratically to enact stronger ordinances. Maybe Hazleton does not want to but maybe Lower Merion does, and why is it so important that Lower Merion's smoking – status of the law in Lower Merion in terms of indoor smoking is the same as Tioga County? Would it not be more important that it is comporting with the wishes of the people of Lower Merion?

Mr. EACHUS. Well, as you know, Mr. Speaker, this amendment will disallow smoking in workplaces and bars and restaurants, exhibit halls, in mass transit, subways and buses, ticketing and boarding areas in transit terminals, bus stations and airports. It has an array of public facilities, including zoos and polling places and many, many more, that will not be allowed for smoking under any circumstances to protect the public interest.

The other issue, Mr. Speaker, is that I felt strongly and I think many in this legislature felt strongly that the business community should have certainty that from tavern to tavern, from municipality to municipality, county to county that there be a framework that be equal and even so that there would be a fair level of competition for all those involved.

Now, admittedly, excluding the city of Philadelphia did change my logic from last week, but I have to say in looking at their ban, their ordinance, relating to smoking in Philadelphia, I was persuaded that what they had done in the framework of the city of Philadelphia's council and the mayor's activity, that they had a strong ordinance that would really allow for a safe community, and I really felt strongly that this was the right way to go so there would be continuity across Pennsylvania and certainly for the business community.

Mr. LEACH. Well, Mr. Speaker, I agree with the gentleman's last statement, and I am wondering if the Philadelphia ordinance, which you said was strong and appropriate, would also be strong and appropriate for, say, the city of Pittsburgh, and if not, why would an ordinance similar to

the Philadelphia one be inappropriate for Pittsburgh, and should that not be a decision for the people of Pittsburgh to make?

Mr. EACHUS. As I said before, Mr. Speaker, in this amendment, and let me be clear again, this gives a framework statewide, except for the city of Philadelphia, which currently has the only smoking ban in the Commonwealth in place, it gives a framework to move the bar forward to protect children, to protect workplaces, and to change the dynamic relating to smoking, Mr. Speaker. Currently, today, you are able to smoke almost anywhere in this Commonwealth, and I have to say if we leave this decisionmaking to a patchwork of counties and municipalities, I do not think that we ever get there. So what I am trying to do today with this amendment is move the bar forward so that we are moving the bar forward consistently so that there is a consistent framework for business, a consistent framework in the workplace, and moves the bar forward to protect children from the dangers of secondhand smoke.

Mr. LEACH. Okay. Thank you, Mr. Speaker.

That concludes my interrogation. May I comment on the bill?

The SPEAKER pro tempore. The gentleman is in order.

Mr. LEACH. On the amendment. Thank you, Mr. Speaker.

Mr. Speaker, I would like to make a few points about the Eachus amendment. First is a particularly appropriate point, I think, during this week. As we consider the budget and we consider the financial difficulties that we find ourselves in, the difficulties of finding resources, the difficulties of providing all the services that we would like to provide, because cigarette smoking in the workplace costs a lot of money, and it not only costs a lot of money, it costs a lot of taxpayers' money. The estimates I have are \$5 billion a year it would cost in direct tax money for health-related reasons and other related costs, as well as \$4.5 billion in lost wages, which, of course, is a loss of income tax revenue. Even employers – employers, Mr. Speaker – spend about \$3500 a year on average more for smokers than for nonsmokers. And what really, what really brings this home to me is the fact that a lot of the people we are talking about, and we are talking about employees, if you look at the exemptions in the Eachus amendment, a lot of the people we are talking about are people like waitresses, bartenders, people who typically do not have health insurance. They are more likely to get sick, obviously, according to the statistics, than even Mr. Eachus accepts. That being the case, who do you think, Mr. Speaker, who do you think will pay for the lung cancer, for the heart disease, for the emphysema, for all of the illnesses that these uninsured workers are going to get as a result of being forced to breathe poison in order to keep their jobs? That is going to fall on us, Mr. Speaker, and I urge all of those who talk a lot about we need smaller government, we need to spend less money, to think about this, because keep in mind, most of these programs are Federally mandated. If someone has a heart attack, we have to provide the health care for them at the emergency room – that is the Federal law – and then we or the hospital or the taxpayer has to eat that cost, Mr. Speaker. So there is the economic argument.

And of course there is the moral argument, which I will not revisit in depth because I mentioned it last time, but even Mr. Eachus will concede that thousands of additional people will die as a result of secondhand smoke exposure in Pennsylvania this year. And going forward, if we adopt this amendment, more people will be exposed to the smoke than even Mr. Eachus, even the maker of this amendment, admits

will result in people being sick and people dying, often horrible deaths.

People do not know, I mean, I do not know if the average person at home knows that we ban smoking here in the House chamber and in the members' areas surrounding the House chamber. We do not want to breathe that stuff, we do not want to be exposed to it, and, Mr. Speaker, we have far more of a choice and far more resources than someone who is working at a bar at maybe slightly above minimum wage has.

Is it really too much to ask? If you think about this, in the Eachus amendment, a lot of the clubs covered are the clubs most likely to have easy access to the street. We are not talking about big hotels; we are talking about corner bars. Is it too much to ask, considering all the pain and the suffering and the death and the economic loss that will occur, is it really too much to ask to just ask people to step outside? No one is trying to deny anyone their smoking; we just do not want them to force it on other people. Is that really too much to ask? Are we so dogmatic that we are willing to do this? And keep in mind, you know, there are all kinds of people who are going to be affected by this – pregnant women; young people; people who have no economic alternative, cannot just quit their job because there is not another one waiting for them, and we do not want them to do that anyway, Mr. Speaker.

Let me just say a word about uniformity. Frankly, in my opinion, the uniformity argument is very weak. First of all, there is no uniformity. The largest city in the State is exempted, so there are going to be different standards. And there are certain things statewide, Mr. Speaker, that there should be the same standard for. Pollution is a good example, because if someone pollutes in Crawford County, it is going to find its way to Clearfield County – assuming they are near each other. The point is, Mr. Speaker, that there are areas where it makes sense to have uniformity, but on cigarette smoking, purely on issues that do not affect the broader society but affect the people in the immediate surrounding areas, why is it important to have uniformity? And we do not, as the maker of the amendment has admitted. But as I tried to point out in my questioning, why is it important that Bryn Mawr have the same standard as Erie? I mean, I am just struggling with that. Why is it important that Greene County have the same standard as Scranton? On this issue, they are completely irrelevant to each other, and in cases like that, is it not better to let local people – you, your constituents – make the decision demographically with their township supervisors or their city council people or their borough council people? Why do we want Harrisburg setting both a floor and a ceiling, Mr. Speaker? I can understand setting a floor. No one can be forced to have this kind of exposure, but if someone wants to have, locally, if we want to protect ourselves more, why should we not have that right? Why is this preemption in there? I submit there has been no argument made, and I gave the gentleman four or five opportunities to make it about why this is important. It sounds more about protecting an interest than protecting individual citizens in individual areas.

Mr. Speaker, this is, I believe, a profound moral issue. It is one of the few votes that we are going to cast that actually has life-and-death consequences. And so I ask you to think about that carefully, because this is something that will stay with us, and I would urge you to vote "no" on the Eachus amendment.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

For the information of the members, we have 14 speakers requiring recognition. I will read the list of speakers in the order that they will be recognized: Gerber, Shimkus, Seip, Phillips, McIlhattan, Curry, Belfanti, Cohen, Kessler, Clymer, King, Josephs, Wansacz, and Ross.

The Chair recognizes the gentleman, Mr. Gerber.

Mr. GERBER. Thank you, Mr. Speaker.

With all the confusion and everything going on here in the chamber tonight, I just wanted to take us back to where we are, take us back to the basics for a second.

Last week we were debating HB 1541, the Smoke Free Pennsylvania Act, legislation that I offered earlier this term. Today we are debating SB 246, but it reflects the exact same language that we debated last week. Earlier in the week our Health and Human Services Committee considered the bill that we got from the Senate, a bill that had been amended with a whole long list of exceptions – exceptions, in my judgment, that would allow for too many public places to be places where people can smoke; exceptions that were too full of loopholes. So here we are in the House debating what is essentially House language, and we are confronted, again, with a long list of exceptions in one omnibus amendment, and I would submit to this body that if our concern is protecting the public health, we should vote "no" on this amendment, all of these exceptions, and all of their loopholes.

Let me remind you of some statistics that I shared with you last week when we first debated this: 3400 – 3,400 – adults die a year from lung cancer as the result of being exposed to secondhand smoke. Women exposed to secondhand smoke are 2.6 times more likely to suffer from breast cancer; in other words, 260 percent more likely. And I think most frightening is that the U.S. Surgeon General has determined that exposure to secondhand smoke can cause sudden infant death syndrome, asthma in children, and extreme respiratory and inner-ear infections in young people. With these statistics and these reports, Mr. Speaker, we can no longer consider secondhand smoke just a nuisance issue. It is a serious public health issue. It is no longer just about people coming home from a bar or restaurant and not wanting to smell like smoke. It is about us having scientific evidence that proves secondhand smoke kills adults and children and can make them terribly, terribly ill.

A lot of people also want to talk about the economics of enacting a serious statewide smoking ban. Let me talk to you about those economics. First, with respect to our health-care system, we have debated for months about how to improve our health-care system, and one principle that I think we all agree upon, Democrats and Republicans, is that we need to focus much more on preventative measures. Exposure to secondhand smoke causes \$5 billion worth of medical treatment in the United States, and employers with smokers on their payroll pay as much as \$3500 more a year in health insurance.

Smoking and exposure to secondhand smoke is a major drain on our health-care system. Take into consideration the fact that many of the people that suffer from the ailments caused by secondhand smoke come from our poorer areas and tend not to have their own health insurance. Those costs, therefore, end up on the backs of taxpayers and in our Medicaid system.

With respect to the economics, people also worry about the bars and the taverns, and that is a legitimate concern. However, with 28 other States and 22 countries already having smoking bans, we have plenty of empirical data that shows that smoking bans do not have that negative impact on the economy that so

many people talk about. We get a lot of doom-and-gloom rhetoric from a lot of groups on this issue, but the fact is that independent studies, some of them coming from our most reputable universities, who have absolutely no economic stake in this debate, have shown that bar and restaurant revenues are either staying level or have improved. Please hear me: They stayed level or they have improved in places that have smoking bans. For example, in Florida, revenues went up 7 percent for restaurants and bars, and in New York City, they went up 8.7 percent. When you take that into consideration with the savings in health-care costs, a smoking ban is good for business.

Another problem with an amendment like this is that it picks winners and losers. Under this amendment, taverns can have smoking but restaurants cannot. Why should we be picking restaurants or taverns over the other? In my judgment, we should not be, and that is why I advocate for a ban that does not have as many exceptions and as many loopholes as this amendment. Mr. Speaker, we should not pick winners and losers here in this chamber on this issue.

And let me address personal rights. People often say we should not be intruding on people's personal rights by telling them that they can smoke or not. We are not telling people they cannot smoke. What we are saying with a strict ban is that they cannot smoke in a place or an environment where they harm other people. In fact, we are protecting a constitutional right here in Pennsylvania by passing a strict ban. In our Constitution, it says that Pennsylvanians have a right to clean air. Passing a strict ban will protect that constitutional right. Passing an amendment like this with so many exceptions and loopholes will result in our allowing smokers to violate other people's constitutional rights.

As I said before, a week ago, I do not have anything against smokers. I grew up in a house of smokers, both my mom and dad and my older brother, and I have seen what smoking has done to them, and I know all of you have seen what smoking does to people. It kills them and it makes them ill, and so does secondhand smoke. Because of the health risks, because of the drain on our health-care system, because it really is good for business to pass a ban, and because we need to protect people's personal rights to breathe clean air, I believe that is why 28 other States have passed a ban, and I believe that is why 22 countries have passed a ban. Mr. Speaker, I have not been to Ireland, but friends of mine have. It is known for its pubs. They have a ban, and those pubs have not suffered one bit.

I respectfully request, friends here in the chamber, that we protect the public health, that we make the appropriate and responsible fiscal decision, and we vote down this amendment. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes Representative Shimkus.

Mr. SHIMKUS. Thank you, Mr. Speaker.

Will the maker of the amendment stand for brief interrogation, please?

The SPEAKER pro tempore. He indicates that he will. The gentleman is in order.

Mr. SHIMKUS. Thank you, Mr. Speaker.

I am opposed to this amendment, and I am a very strong supporter of a statewide smoking ban, and I just want to make sure I understand this amendment clearly.

Now, my first question has to do with some of the wording in it. Now, in the first part of your amendment, it seems that you strike out some of the language that is included in the

Surgeon General's report on secondhand smoke, and I am just curious as to why you do not like the comparison of secondhand smoke to asbestos, benzene, formaldehyde, and radon.

Mr. EACHUS. Mr. Speaker, I did that because the data was provided by the Federal EPA (Environmental Protection Agency) and not a DEP, Pennsylvania Department of Environmental Protection, finding.

The other issue relates to, you know, I am not a scientist, Mr. Speaker, so I am not going to tell you that I am, but as I said earlier, I am not refuting the data on secondhand smoke. I am not a revisionist. I am not trying to rewrite history or say in any way that tobacco use directly or indirectly does not contribute to health problems. All I have said all along, Mr. Speaker, is that it is a legal activity in the United States of America and in Pennsylvania and that adults are making these decisions. That is why this amendment protects all children and excludes any environment that would have smoking, takes children out of the mix.

Mr. SHIMKUS. Thank you.

Mr. Speaker, I am having a difficult time hearing the maker of this amendment, but let me continue and ask this. Now, please help me to understand this, because—

The SPEAKER pro tempore. Will the gentleman suspend.

Will the House please come to order.

Mr. SHIMKUS. I have in front of me a copy of the report from the United States Department of Health and Human Services, the six major conclusions of the Surgeon General, and it makes the comparison between secondhand smoke as a carcinogen and asbestos, benzene, formaldehyde, and radon, and please help me to understand this, but my point is, I am not in favor of any exemptions, and I am saying that if we had public establishments that had airborne asbestos, we would not give the clients an opportunity to vote whether they wanted to be in it. If we had a gasoline tank leak and there was benzene, we would not give them an opportunity to vote. And if we had paneling that had formaldehyde, we would not be giving people an opportunity to vote whether they wanted to be in this dangerous situation, likewise with radon. So I am wondering why, what the intention here would be, to give people an option to be exposed to a secondhand carcinogen that is as dangerous as these four?

Mr. EACHUS. Once again, Mr. Speaker, let me be very clear: This amendment excludes smoking in an array of places. I have named them a number of times. Let me work backwards: auditoriums, museums, theaters, rotundas or lobbies, shopping malls, food assistance programs and facilities, elevators, convention centers, sports arenas, restrooms, and I will continue to tell you more about that list later. But right today, today as we speak, Pennsylvanians can smoke anywhere they want to — anywhere they want to.

I feel strongly that this amendment moves the bar forward. It creates situations that are designed and posted under the law. Each smoking establishment will be posted with a "This is a Smoking Establishment," and the consumer who wants to go into that business will know when they walk through the door, I do not want to go in here; I understand the risks. So I want to tell you, Mr. Speaker, I understand your comparison, but this amendment, in my opinion, moves the bar significantly forward, protects children, informs the public, and guarantees the certainty that across this Commonwealth is a framework that allows for businesses and the public and enforcement of the law to be consistent.

Mr. SHIMKUS. And I appreciate that. Thank you, Mr. Speaker.

I am also concerned, because the amendment strikes out language that mentions the risk of sudden infant death syndrome and other illnesses. So I am just curious, because my concern is that striking out some of this language tends to diminish the dangerous effect of secondhand smoke, and I would like you to help me understand where I am wrong with that.

Mr. EACHUS. Well, Mr. Speaker, I can only restate exactly what I said, and that is, and you are asking about why the lines relating to SIDS (sudden infant death syndrome) were struck out, I have to tell you that, you know, once again, I am not a scientist so I cannot give you the scientific comparison, but I can tell you this: that today, once again, Pennsylvanians smoke all over the place. We have no choice when we walk around where you are going to be exposed to secondhand smoke. And I agree with many— Okay. Oh, my staff also says, Mr. Speaker, that in the current draft, it is not stricken. Am I correct? So the language that you are referring to may have been an older copy and we have corrected that, relating to the lines that are stricken that you are referring to. But beyond that, I still think that what we are trying to do is move the bar forward here. We understand the risks, and I think this amendment does that.

Mr. SHIMKUS. Well, Mr. Speaker, would you help me to understand, under what conditions under this amendment would a bar or tavern be exempt?

Mr. EACHUS. Under the provisions of the exemptions here, which allow for taverns to be a smoking establishment, they have to have 20 percent or less in food sales, which means that it is really a drinking establishment, you know, an alcohol-related establishment. Many tavern owners have told us that they are concerned that their business could be impacted negatively. So what we have done is created an opportunity where those businesses, with the proper equation of food-to-alcohol sales, will allow for smoking, once again, not for children, and properly posted on the front doors so that people know before they ever go in there that this is a smoking establishment.

Mr. SHIMKUS. And, Mr. Speaker, I wonder if you could also help me to understand, under this amendment, how does it affect nursing homes or long-term-care centers?

Mr. EACHUS. Mr. Speaker, you may not smoke in those facilities.

Mr. SHIMKUS. Okay. Mr. Speaker, in my district, the Gino Merli Veterans Center, which is a long-term-care facility, right now restricts smoking except in designated rooms, smoking rooms. Would this then require the Gino Merli Veterans Center to open smoking?

Mr. EACHUS. Mr. Speaker, many independent living centers across the Commonwealth act as the primary residence for older Pennsylvanians. Those residences, under this provision, allow for smoking as a matter of a primary residence, Mr. Speaker.

Mr. SHIMKUS. And, Mr. Speaker, one other question before I would like to ask to speak on the amendment itself, but why the exemption for casinos? Why the specific exemption for casinos?

Mr. EACHUS. Mr. Speaker, our fledgling gaming industry — as you know, we just put this industry together; there are five casinos that are currently operating today — they contribute

55 percent of their resources toward property tax relief for Pennsylvanians. That delicate balance between starting the beginnings of our gaming industry and allowing smoking was a decision made collectively by this industry and expressed to many members of the legislature relating to the ability to allow them to do it. In many States across the— If you look at New Jersey, they just banned smoking completely. I think what this will do for us is give us a competitive advantage in those areas. But I also say that I believe strongly that many casinos, responsible casinos, will determine that having a nonsmoking section within their casinos would be good for business, too. So I think you will see an evolution of both.

Mr. SHIMKUS. Mr. Speaker, just on the casino issue. In my district, the casino is Mohegan Sun. The upstairs is nonsmoking; the downstairs is completely smoking. I believe the intent of the bill is to protect the public and give them access to anywhere that the general public can go without any health risk, but the general public cannot go downstairs. There should be a sign over the escalators that says "Abandon Hope All Ye Who Enter Here," because it is completely filled with smoke. Now, how can that be fair protection of the public if we give them an exemption? We would not give other such institutions an exemption for smoking floors.

Mr. EACHUS. Mr. Speaker, as you said, our friends at Mohegan Sun – I am a Luzerne County guy myself – have made the decision that it is good for business to have a smoking section and a nonsmoking section. Let me say clearly that this law would clearly post the smoking section for folks who wanted to go into that section so that as they entered, this law would guarantee the public would know before they entered.

Also I would say that the ability for this business decision, I think, is important for this industry, and for that reason I allowed for this exception.

Mr. SHIMKUS. Thank you, Mr. Speaker. That ends my interrogation. I would like to speak on the amendment, if I could.

The SPEAKER pro tempore. The gentleman is in order.

Mr. SHIMKUS. I would ask the Assembly to please vote against this amendment. I think the best thing for the Commonwealth of Pennsylvania is a comprehensive smoking ban. I think the most clear illustration is in the language from the Surgeon General which says that secondhand smoke is like asbestos, benzene, formaldehyde, and radon, and we would not give limited exception to those kinds of carcinogens. We would not give people an option to be in a place with airborne asbestos. We would not give people an option to be in a place where the radon levels were so high that they would get cancer. And so to offer all kinds of exemptions, it seems to be nonsensical to me.

I would also point out that when it comes to private clubs, we have to be very careful there, because I have heard the argument, and I think I probably will soon, that we need to exempt VFWs and American Legions because our veterans have the right to choose, but I would point out that even our veterans who are deployed overseas cannot smoke in Federal facilities. It is a Federal law, and the United States military observes it, that you cannot smoke even in an officers' club. So all of a sudden we have a Federal law that is imposed upon our military, and now we are arguing that we should be giving exemptions back home. I think the only thing that works is a comprehensive statewide smoking ban.

And I would also point out that if we give the exemptions to bars and taverns, we are virtually saying to every bar and tavern, you have to be a smoking establishment, because we do not give them the option to be smoke-free because they will not be able to compete. The reason the city of Scranton had to rescind its smoking ban was because it was not a level playing field. And so two or three mom-and-pop taverns that would like to be smoke-free would be up against a whole bunch of people who perhaps want smoking, and we could essentially put them out of business because they would stand on their principle.

I ask you, respectfully, to please vote against this amendment. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes Representative Seip on the amendment.

Mr. SEIP. Thank you, Mr. Speaker.

I would like to interrogate the maker of the amendment.

The SPEAKER pro tempore. The gentleman will stand for interrogation. You may proceed.

Mr. SEIP. Mr. Speaker, under your amendment, would the casino industry be able to run their business smoke-free if they chose?

Mr. EACHUS. Yes, sir, Mr. Speaker. There is no prohibition in this legislation on creating smoke-free environments.

Mr. SEIP. So then, Mr. Speaker, our veterans organizations would be able to run their organizations smoke-free if they chose?

Mr. EACHUS. Yes, sir. Yes, sir, Mr. Speaker. The private-club provision in the exceptions here, in the exclusions, would allow for those facilities to allow for smoking and be an adult establishment only, no kids, be posted properly, and also have the option of being smoke-free, of course.

Mr. SEIP. Thank you, Mr. Speaker.

Mr. Speaker, I would like to speak on the amendment.

The SPEAKER pro tempore. The gentleman is in order and may proceed.

Mr. SEIP. Mr. Speaker, I would like to commend the maker of this amendment, my colleague from Luzerne County, for his work in identifying a responsible compromise in his attempt to move the bar forward while providing accommodations so that veterans may enjoy the freedom to run their organizations the way they see best and also allow our casino industry to operate as they see fit as well.

Under this amendment, our casino industry will be free to operate their business the way that they see fit. I am not a casino operator; I never ran a casino in my life. We are counting on this casino industry to be run as best as possible so that we will be able to provide tax relief for all Pennsylvanians. I would rely on them to run their business the way they see fit, not have the legislature mandate how they should deliver tax relief to all of our constituents.

Mr. Speaker, I also recognize that under this amendment, all the veterans organizations will enjoy the freedom to make their own choice in how to run their organization. That is freedom that they fought and served and defended so that all of us could make our own choices in life. Under the amendment, the organizations will be able to run themselves the way they best see fit, not the way the legislature sees.

I would also say that I am speaking as a health-care professional, and as the maker of this amendment stated earlier, this is not a health-care issue. This is an issue of personal choice, of freedom to make your own decisions in life.

I would not dispute any of the health-care information that was offered by people who oppose this amendment. I am sure there are many physicians out there and people that are more knowledgeable about the physiological effects of tobacco use than I, but this is a personal matter; this is a personal choice. I have businesses in my district that through the assistance of and the help from the American Lung Association, the American Cancer Society, and like groups, they have been educated; they have been able to make their own healthy choice on this issue. A restaurant that I frequent in my district, Roma Pizza, has been smoke-free for over 2 years. I walked in and I said to the owner, "Pete, how did you do this?" He says, "Well, we came up with this on our own." I said, "Pete, there is no law about this." He said, "Well, we didn't need a law. We did this all by ourselves." I had constituents complain to me, well, I cannot take my child to a bowling alley. Two weeks ago, Strikers Alley in Pottsville went smoke-free – all by themselves. They did not need a law. They decided this for themselves, for their business, for their customers. They decided this all by themselves. We have heard a lot of talk about the tavern industry. The Brass Tap in my district in the city of Pottsville has been smoke-free for over a year. The tavern made this choice all by themselves.

Mr. Speaker, I would submit to you and to my colleagues that we do not need to legislate the lives of our constituents on their own healthy choices. The bar is being moved forward with amendments like the gentleman from Luzerne County's amendment. I would urge all my colleagues to support this amendment.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Armstrong, Mr. McIlhattan.

Mr. McILHATTAN. Thank you, Mr. Speaker.

Would the maker of the amendment stand for brief interrogation?

The SPEAKER pro tempore. He indicates that he will. The gentleman may proceed.

Mr. McILHATTAN. Mr. Speaker, the evidence is in and it is certainly conclusive that secondhand smoke is not just a nuisance, Mr. Speaker, it is dangerous to your health. It is very dangerous to your health. So with that in mind, we have before us a bill tonight that really goes to help those that cannot help themselves. Those are the workers of Pennsylvania. You can go outside if you want to smoke, but you cannot go outside if you want to work, and I think that is the important thing to remember here tonight, Mr. Speaker, as we go through with this debate.

But the maker of the amendment carves out a lot of places that these workers that are going to work are not going to be protected, and I am sort of curious as to why we have done that. I mean, if secondhand smoke is dangerous, and we know it is, why should some folks be protected and other folks not, Mr. Speaker?

Mr. EACHUS. Mr. Speaker, there were a number of members speaking to me while you were asking the question. I apologize. Could you repeat it, please?

Mr. McILHATTAN. I said, since we have all agreed that secondhand smoke is dangerous, very dangerous to your health, and we have a bill before us to protect workers, why do you want to carve out certain exceptions so some workers are protected and others are not, Mr. Speaker?

Mr. EACHUS. Let me say that there are only 12 exceptions to smoking in this amendment. I will tell you what those are. There are health-care facilities, adult day-care centers. There are— Well, let me just repeat those again, Mr. Speaker, and let me just get myself— There are only 12 exceptions here.

Mr. McILHATTAN. Well, then let us talk about a couple of the exceptions. Maybe you can clarify that for me, Mr. Speaker. I need a little bit of clarification.

Mr. EACHUS. Mr. Speaker, I know you asked a question. I would like the opportunity to complete it.

Mr. McILHATTAN. Okay; okay. Go ahead.

Mr. EACHUS. And there are 34 public places in this amendment that are now no longer allowed to smoke, including arenas and zoos, concert halls, health-care facilities, retail stores, a service line, a grocery store, a waiting-room area, a hallway, and many others, Mr. Speaker.

Mr. McILHATTAN. Okay. Thank you.

You talk about bars or taverns or some group of folks that serve a lot more liquor and beer than they do food, and they should be exempt. Would you sort of explain that to me a little bit so I understand that?

Mr. EACHUS. Of course, Mr. Speaker. Within the provisions of one of the exceptions here for the taverns in the Commonwealth, what we have taken a look at are the business models relating to the tavern industry. Many taverns across the Commonwealth have about an 80-20 split, in food sales at 20 percent and 80 percent alcohol and libations. So what we did was we took a good look and listened to folks within the industry who said very clearly what we would do is allow for smoking in establishments that were less than 20 percent in food sales across the Commonwealth, because we have to be sensitive to that industry. And once again, Mr. Speaker, we prohibit the children – no children will be allowed in those smoking establishments – and once again I will repeat, all facilities that will be smoking, including taverns, will be properly posted on the door so that consumers will be able to say, no, I am not going into a smoking establishment; I think I will find one that is nonsmoking.

Mr. McILHATTAN. Keeping along this line and talking about your taverns and the 20 percent, this has nothing to do with the number of employees? I am saying, I could have an establishment with 60 employees that maybe sells 20 percent less in food, and therefore, they would be exempt. Am I correct on that, Mr. Speaker?

Mr. EACHUS. Well, if you are referring to taverns, Mr. Speaker, I do not know how many the average tavern has as far as the employees go, but I can say this: Once again, we will give a clear opportunity for those who will be employed in the service industry to have a broad array of catering services, restaurants, and other industries within the service sector that will allow them to choose a job that is either smoke-free or make an adult choice as an employee to go into a smoking facility and work, and understanding, Mr. Speaker, once again, I have not tried to refute any of the claims regarding the risks of tobacco.

Mr. McILHATTAN. Who is going to be the gatekeeper on this 20-percent situation of food and liquor? Who is the gatekeeper here? How do we determine that? Who is going to have the say?

Mr. EACHUS. The Department of Health; the Pennsylvania Department of Health, Mr. Speaker.

Mr. McILHATTAN. The Department of Health, and is there a mechanism in here? Is there a form you have to submit, or does somebody have to come to your place and look it over? We can look at your returns? How are we going to determine this? I mean, that is a question, not a statement. I am just curious.

Mr. EACHUS. If you give me just a moment, Mr. Speaker, I would like to refer to the language of the bill.

Mr. McILHATTAN. Okay.

Mr. EACHUS. Thank you.

Mr. Speaker, I have an answer for you.

Mr. McILHATTAN. Okay. Thank you.

Mr. EACHUS. We will allow the rule-writing on the compliance to be done in the regulatory framework on this industry. It prescriptively says that the Pennsylvania Department of Health will be able to promulgate those regulations.

Mr. McILHATTAN. Okay. So they are not proclaimed yet; we are going to have to see how that all works out. It is not in the bill. Is that correct, Mr. Speaker?

Mr. EACHUS. No, sir. Once again, we allow the department to promulgate those regulations and build the regulatory framework around this industry, as they do for many, many others in Pennsylvania.

Mr. McILHATTAN. Okay. And let us move on to preemption real quickly, so I make sure I understand that correctly. If I understand your amendment, Mr. Speaker, you are saying for Philadelphia, this amendment is the floor, and for the rest of the State, it is the ceiling. Am I correct in simple terms in understanding that, Mr. Speaker?

Mr. EACHUS. Well, I can only explain it in this way, Mr. Speaker: Currently the city of Philadelphia, under its home-rule charter, has the only statewide smoking regulations. Those are in place and promulgated by the local government in Philadelphia. No other municipality in the Commonwealth currently today has a smoking regulatory framework. So what we did here was to move the bar up consistently for all others who do not have a smoking regulation so that there is continuity for business owners, for consumers, and also for enforcement of this system so that we can protect children and create a framework where businesses in the Commonwealth understand the rules and really, I think, move the bar forward to try and create more indoor clean air.

Mr. McILHATTAN. Mr. Speaker, I realize in this chamber Philadelphia gets a lot of things that other people do not. I do not think the people in Philadelphia should be entitled to good health and people in Clarion County not, and I think that is what you do with this part of your amendment, Mr. Speaker, just to comment on that.

Let us move on real quickly to casinos, real quick, and we talked about that before. Mr. Speaker, I serve on the Gaming Oversight Committee, and I had an opportunity to visit a couple of these casinos, and I think you will concede with me, they employ an awful lot of people. We sure talk about how great these casinos are and how many people they employ. So there is no doubt about there are hundreds, and we can get an uphill of probably thousands. Am I correct, Mr. Speaker?

Mr. EACHUS. Well, let me say, Mr. Speaker, if I can just respond just very quickly to your statement about Clarion County versus Philadelphia, today in Clarion County, people are smoking everywhere. This amendment moves that bar forward,

protects kids, puts a regulatory framework around where smoking can be had, and guarantees better indoor air quality.

Second, you are correct that this industry, the gaming industry, is going to be an important economic engine and employment engine for the Commonwealth as well as, as I said before, 55 percent of the take from that industry goes to property tax relief for citizens.

So let me be very clear, Mr. Speaker. By allowing smoking in these facilities, we allow for the facility to make the decision, as they have at Mohegan Sun in Luzerne County, to have a smoking section and a nonsmoking section. It is a business decision, Mr. Speaker. We allow the business people of those facilities to make those decisions, and we do not encumber that business. I have to tell you, I have never run a casino, so I want to allow the good, smart businessmen who are running those facilities to make the decision about where they want people to smoke on the gaming floor and where they do not.

Mr. McILHATTAN. The only thing I would raise, Mr. Speaker, is that casinos probably wound up, unfortunately or fortunately, being one of the major employers in Pennsylvania, and to exempt those folks and let those workers add the danger of smoke, Mr. Speaker, I think is certainly going in the wrong direction, and this is what this amendment does.

You know, it is amazing to me how sacred casinos are in Pennsylvania. Anything goes for casinos in Pennsylvania. I do not care if you get sick, I do not care if you die: keep those slot machines rolling, Mr. Speaker. I think that is the wrong way to go, and this is what this amendment does.

The SPEAKER pro tempore. Will the gentleman suspend?

Mr. McILHATTAN. Yes, he will.

The SPEAKER pro tempore. Have you ended your interrogation?

Mr. McILHATTAN. Yes, I have. On the amendment, Mr. Speaker.

The SPEAKER pro tempore. The gentleman is in order to speak on the amendment.

Mr. McILHATTAN. Thank you, Mr. Speaker.

Mr. Speaker, we have before us here tonight a comprehensive smoking-ban legislation. It is a good bill. What this amendment does, Mr. Speaker, I think really waters that down. It really gives us a charade, not a real comprehensive smoking ban. It is the wrong way to go, Mr. Speaker, and I think everybody in this chamber knows that.

I ask for a "no" vote. Thank you very much.

The SPEAKER pro tempore. The Chair thanks the gentleman and, on the amendment, recognizes Representative Curry.

Mr. CURRY. Thank you, Mr. Speaker.

The issue before us now is about promoting and providing a healthy environment, promoting good health for everyone, controlling a major cause of illness, and also controlling spiraling health costs. This House is divided between those who champion individual freedom and fulfilling individual desire, and those who champion individual quality of health and the group's quality of health. There is a great chasm between the two groups. There are admirable efforts to bridge that chasm and I think the amendment before us tries to make that bridge, but in the final analysis, we cannot be on both sides of the chasm. We cannot have our cake and eat it, too. Something needs to give.

The great champion of individual liberty, John Stuart Mill, in the 19th century supported the individual's right to do what

he chooses, whatever, without restriction, unless it injured others. The science on this subject tells us that smoking and secondhand smoke are injurious to health. It took a long time for humankind to agree that the earth was round and not flat, that the sun was the center of the universe and not the earth. It was a long time in understanding that germs and bacteria, invisible to the human eye, cause disease.

Now the evidence is before us: Smoking is hazardous to your health. Secondhand smoking is dangerous to those exposed to it. It is also true that smoke-related diseases are driving health-care costs beyond imagination. Failing a total ban, we must act. We must recognize that which is harmful to all who are exposed to it. We must take the step envisioned in SB 246 without amendment. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes Representative Belfanti on the amendment.

Mr. BELFANTI. If need be, I would like to defer, because my remarks begin with an interrogation of Representative Eachus, who is not on the floor.

The SPEAKER pro tempore. The gentleman indicates that he will stand for interrogation.

Mr. BELFANTI. Thank you, Mr. Speaker.

Oh, that was Big Brother that just walked in front of me there. I am sorry.

I would like to interrogate the maker of the amendment, if possible.

Mr. EACHUS. Big brother will stand for interrogation.

The SPEAKER pro tempore. The gentleman will stand for interrogation.

Mr. BELFANTI. No, no, you are little brother.

Mr. EACHUS. Okay.

Mr. BELFANTI. Mr. Speaker, just so it is clear to everyone, we have not rehearsed this interrogation nor have I asked you any of these questions in the previous days leading up to this debate.

Mr. EACHUS. That is correct, Mr. Speaker. I barely talked to you this week.

Mr. BELFANTI. I am barely talking to anyone this week.

Now, Mr. Speaker, concerning some of the data that was foisted upon us concerning, well, smokers, and we are going to get into that in a little bit, but people are acting as though we are going to do something different than we are already doing. Is there any law in this Commonwealth of Pennsylvania that prohibits a bar or a restaurant from becoming a nonsmoking entity?

Mr. EACHUS. No, Mr. Speaker, there is not.

Mr. BELFANTI. Are you aware that several restaurant establishments have large signs recently erected to say we are now a nonsmoking restaurant?

Mr. EACHUS. Yes, sir. I have actually been to a number of those.

Mr. BELFANTI. Are there any laws on the books that require that taverns be smoker-friendly?

Mr. EACHUS. Can you define that term, Mr. Speaker?

Mr. BELFANTI. A place that is not mainly an eatery but rather a place like a pub or a bar where the primary income is derived from the consumption of alcohol.

Mr. EACHUS. No, sir.

Mr. BELFANTI. Is there any law that requires VFWs, American Legions, fire companies, to require that smoking be permitted?

Mr. EACHUS. No, sir, Mr. Speaker, there is not.

Mr. BELFANTI. Is there any law that would forbid them from banning smoking?

Mr. EACHUS. No, Mr. Speaker, there is not.

Mr. BELFANTI. Do these organizations normally have home associations or boards of directors?

Mr. EACHUS. I would imagine they do, Mr. Speaker.

Mr. BELFANTI. And you would assume that since three out of four Pennsylvanians are nonsmokers, that three out of four of the board members or the home association members are likely to be nonsmokers in these organizations – Elks, Mooses, Eagles clubs – across the Commonwealth. Would that be a fair assumption, since people are throwing statistics out all night?

Mr. EACHUS. Well, statistically speaking, Mr. Speaker, you could say that there probably are nonsmokers and smokers on many boards of organizations that you define.

Mr. BELFANTI. Fair enough.

Is there any law that requires members of this room or any of our constituents to frequent taverns?

Mr. EACHUS. Mr. Speaker, no, there is not.

Mr. BELFANTI. Now, of the 3400 people that supposedly died of secondhand smoke last year, I am certain that you have read studies both ways on that, but would you find it interesting that some of the studies state that every individual who developed lung cancer last year was exposed to secondhand smoke at some point in their life; therefore, the vast majority of those 3400 individuals who died of lung cancer who were not smokers died because of secondhand smoke?

Mr. EACHUS. Well, Mr. Speaker, since I have not actually read the studies that you are referring to, I really cannot comment on that.

Mr. BELFANTI. That is fair enough as well.

I would like to talk a little bit about statistics, and, Mr. Speaker, I think I am finished with my interrogation.

The SPEAKER pro tempore. The Chair thanks the gentleman. On the amendment.

Mr. BELFANTI. On the amendment.

The SPEAKER pro tempore. The gentleman is in order.

Mr. BELFANTI. And thank you, Mr. Speaker, and I may want to come back and do some further interrogation. However, just for the benefit of the members, I am not a big fan of the Commonwealth Caucus. They report in their newsletter that we all received that there are many studies that refute some of the studies that were discussed today, and again, I am not going to refute them. I know the dangers of smoking firsthand, but I do know that I have spent some time in the course of the past several weeks looking at studies that refute some of the claims by the Surgeon General, at least to a degree. And again, I am not going to take issue with that, but I do want to point it out. But when you come to studies, you need to be very careful.

One of the things I tripped across on the Internet was that the correlation between two things does not necessarily prove that one causes the other. For instance, virtually all heroin addicts drank milk regularly as a child; therefore, drinking milk leads to heroin addiction. That, of course, is complete nonsense, because most milk drinkers do not become heroin addicts, but replace "drank milk" with "smoked pot," and you will have a statement that is just as ridiculous for the same reason but will be widely believed by many antimarijuana crusaders.

So, Mr. Speaker, again, statistics and data can be manipulated, depending on who is paying for the study. Eighty percent of the studies on secondhand smoke are paid for

by organizations that want a complete ban on secondhand smoke.

So for connections to make sense, the idea of smokers being more susceptible to diseases of the mouth, throat, lungs are very plausible but not necessarily that plausible to those ingesting secondhand smoke. Again, look at who the funding organization is before you rely entirely on statistical data.

And I understand that probably one-third to half of you in this chamber have never smoked or maybe smoked very casually, experimented like President Clinton, once or twice, maybe did not inhale. A quarter of you are reformed smokers – my favorite people – and a quarter of you are smokers, but is this an issue just about who smokes and who does not, because if that is the case, this amendment will go down 3 to 1.

But I would like to read to you the Pennsylvania Tavern Association letter that also speaks to the issue of revenue and of mom-and-pop business, which we are all so interested in:

"This letter is in reference to the highly controversial Smoking Ban bills proposed in the Senate and the House.

"I have been awestruck by comments that smoking bans won't hurt businesses if it's banned everywhere. A statewide ban will disproportionately affect businesses whose clientele is made up predominantly of smokers, like bars and bowling centers. Let me offer you one example:

"John Perper's family owns one bowling center in Allentown, and two in NJ (in Woodcrest and in Cherry Hill). This family knows how to run a bowling center – the Woodcrest center was voted 'best place to bowl' in Central NJ many times. But, since the smoking ban went into effect, his two centers in NJ have lost over \$500,000 in revenues. It got so bad, that he was forced to close a business his family ran successfully for 40 years. Woodcrest is gone and he's hoping to salvage the wreckage in Cherry Hill.

"His is one of a dozen bowling centers in NJ closing up because of the ban. The local taverns in New Jersey are taking a similar beating – they cater to the same customer base.

"Time and again, the ban has crushed small business owners in other states that don't make allowances for adults to make adult choices in adult places.

"Exceptions that provide relief to taverns and bars from a smoking ban have been introduced in the House and the Senate. Similar exceptions have already been adopted in the vast majority of states that ban smoking in 'public places.' " In the vast majority of States that ban smoking in public places, there are exemptions. "Only a scant few states ban it everywhere. We implore you to take this fact into consideration.

"Thank you for your time and efforts to help small businesses in Pennsylvania...."

Getting back to the Eachus amendment, which would allow smoking to continue where home associations and boards of directors control establishments that are homes or the hangout for veterans. How dare any of you in this chamber, how dare any of you in this chamber who have never worn a uniform tell that person who hit a beach at Guadalcanal that he should not have the right to have a cigarette if the VFW has spent many, many thousands of dollars on smoke eaters, or any of you who have never served in Korea on Pork Chop Hill or went to Vietnam. How dare you tell those veterans that they should be prohibited from smoking anywhere but outside, maybe 20 or 30 yards. You are talking to people that are on canes and maybe wheelchairs. And how dare anyone in this chamber who has never fought a fire, who has never donned a fireman's uniform,

who has never had to spend 18 hours in a bunk room that has a bar downstairs, that he or she should not be permitted—

The SPEAKER pro tempore. Will the gentleman suspend.

For what purpose does Representative Metcalfe rise?

Mr. METCALFE. Mr. Speaker, the points that are being made are important points for the body to hear, and I would like to have the membership's attention for the speaker. I think he is making a lot of very valid points about liberty and those who have fought for it that we all should honor and respect and listen to.

Thank you.

The SPEAKER pro tempore. The gentleman is correct. Will the House please come to order. Members, please take your seats.

Mr. BELFANTI. What a shock. Thank you once again.

Again, I was talking about firemen and firefighters, 90 percent of whom are volunteers, and these people depend on the revenues from their clubs and their bars, because God knows our cities and our townships and our boroughs are not paying the bill. They might cough up 10 or 20 percent, and the rest is up to the firemen's association, relief association, or their home association to raise so they can protect you and me. And how dare any of us deny these people an opportunity or a right.

Now, I am for restricting smoking. I agree with all the restrictions, Mr. Speaker, but one or two Representative Eachus has in his amendment – protecting the children and making sure that those who are unable to protect themselves because of their age or a mental disability are not put into a situation where they have to ingest secondhand smoke. But some in this room will leave no room whatsoever, no room whatsoever, for any separation in an establishment that puts nonsmokers in one area and smokers in another. That is not right.

We have, we have high-end restaurants that are not included in the Eachus amendment, right in this town where many of you dine far more frequently than I, and they are separated, basement level, no smoking; first floor level, smoking at the bar and a few tables; second floor level, no smoking. The most secondhand smoke anybody in here has to pass through in several of these restaurants, which I will not name, is about a minute's worth, to get to the second floor or get to the basement level where you are going to eat or go into one of the enclosed nonsmoking rooms; 2 minutes, 1 minute. Please, and that is not included in this amendment.

And no one in this room can claim that I am not proworker and not one of the most proworker members of this General Assembly, and as many speakers have said before me, these are typically low-end jobs. These are jobs where a lot of the employees are smokers. The people who talked about the data, you know, the Pennsylvanians that are forced into this atmosphere, a lot of those folks are smokers already, and those that are not can find a job that pays just as well or better in some other setting where smoking is not permitted.

But where do we stop if we do not have some exceptions like the Eachus amendment? You know, sometimes I get nauseated in the elevator because somebody is overperfumed or has too much aftershave on. That is bad aftershave and perfume. I said before that there was a study that claimed that heroin addiction, the root cause of that was from drinking milk as a child. And this is my study. There is a milk bottle. Most smokers after they were forced to drink milk by their mothers were forced to eat Gerber baby food, any kind of baby food, but this says

Gerber on it. Mr. Speaker, I think we ought to ban baby food. No; of course I do not.

I am completed with my remarks, and I believe that there had to be a bit of levity in this debate today. However, I am very serious that the people back home in your districts are going to remember this vote. The three-quarters of the folks that do not smoke are not going to remember it. The one-quarter that do are going to remember it. The fire halls that lose revenue are going to remember it. The VFWs that lose revenue are going to remember it. The mom-and-pop taverns that might have to close are going to remember it; remember that. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes Mr. Cohen on the amendment.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, in different areas, different people remember different things. On election day I went around my district and talked to people who were voting in the mayoral election, and Philadelphia, for those people who are unaware of that, is a city that relies very heavily on the workers at the polls on election day, and four of the five candidates had flooded the polls in my area with workers, and the one candidate who did not have any significant number of workers was the candidate who carried my district, and it was obvious on election day that he was going to carry my district, because I kept running into people who told me they were going to vote for him. And I asked them why they were going to vote for him, and the answer that came up more often than any other answer was that he was the leader of the effort to get a smoking ban through the Philadelphia City Council, and people talked in great detail about how important the smoking ban was for them.

Mr. Speaker, the amendment we face right now moves the bar forward. I agree with that. But the underlying bill solves the problem of secondhand smoke adversely affecting people's health. I support the Gerber bill because I want to solve the problem of ill health caused by secondhand smoke. I want the smoking ban that comprehensively bans smoking. Both caucuses are divided on this issue, just as their divisions on abortion and gun control, but there is no right to privacy for smokers. There is no Second Amendment protecting our right to smoke. No one claims that there are any constitutional issues here.

About 35 years ago a great former leader of the House, K. Leroy Irvis, for whom the Irvis Office Building is named, sought to ban private clubs from engaging in racial discrimination. Irvis was defeated in his efforts, but today there is virtually no such thing. There may be absolutely no such thing as a private club in Pennsylvania that engages in racial discrimination. All that the opponents of Irvis's efforts did was to succeed in delaying the inevitable. All that this amendment does is delay the inevitable. The children of hunters may become hunters, the children of pro-life activists may become pro-life activists, but the children of smokers usually do not become smokers. The number of smokers will continue to decline year after year and will continue to decline in the future. We have gone from a country in which two-thirds of the people smoked in the early 1960s to a country in which less than 20 percent of the people smoke today.

Like every other legislator in this room, I am inherently a politician. I do not like to alienate people. As the Democratic Caucus chairman, when we met for many years in the minority in room 418, where the Republicans meet today, I tried very hard to balance the interests of all sides and allowed smoking in

the caucus room, while filling the room with machines that absorbed smoke, but my efforts at compromise failed. Nonsmokers still complained, and after he left the legislature, one of the caucuses most passionate smoking advocates passed away of lung cancer. I am not sure I did him any great favor by allowing him to smoke in our caucus room.

When we Democrats regained majority status, I was relieved to learn that the Capitol Preservation Committee had already banned smoking in the majority caucus room. I am one of just seven House members who was here in 1979 when the House banned smoking on the House floor. The same issues of health and personal freedom that we debate for the people of Pennsylvania were extensively debated for us at that time. The final vote after a reconsideration was just 93 to 91 in favor of banning smoking on the House floor.

As the son of two parents who had finally stopped smoking after a lot of agonizing struggle, I went back and forth in my mind on the merits of a smoking ban. I am grateful to then State Representative Mike Dawida for convincing me to cast a decisive vote against smoking on the House floor. Before we banned smoking in the House, I wound up getting a severe headache after long sessions days. I do not get that anymore. In the session before we banned smoking on the House floor, about seven or eight House members died in office, about as many deaths of incumbent State legislators as we have had in the past two decades.

Since we banned smoking on the House floor, there has not been a single effort to restore the right to smoke on the House floor. We know that banning smoking on the House floor helps our health. We know that banning smoking in public places will aid the health of our constituents, even if every constituent of ours will not be happy about our decision.

Let us go beyond moving the bar forward. Let us save lives now by speeding the inevitable result of smoke-free public places. I urge a vote against this amendment and for this bill, in the strongest possible form.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes Representative Kessler, on the amendment.

Mr. KESSLER. Thank you, Mr. Speaker.

If I can have your attention, I will only be 2 minutes.

Let me share some very interesting stats with you: 53,000 people die per year in the United States from secondhand smoke. Revenues from cigarette tax and other tobacco products in the year 2005-2006 were \$792 million. The estimated collection for 2006-2007 will be \$778 million. In Pennsylvania, smoking directly is responsible for \$5.2 billion yearly in health-care costs related to smoking. Of that \$5.2, \$1.7 billion is taxpayer-funded Medicaid.

So let me just repeat those numbers once again. Estimated collection for revenues on taxed cigarettes is \$778 million, and Medicaid expenses that taxpayers pay per year is \$1.7 billion.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes Representative Phillips on the amendment.

Mr. PHILLIPS. Thank you, Mr. Speaker.

Would the maker of the amendment stand for brief interrogation?

The SPEAKER pro tempore. He indicates that he will. You may proceed.

Mr. PHILLIPS. Mr. Speaker, I know there are a lot of exemptions in your proposed amendment. The area that I am a little concerned about is private clubs.

Mr. EACHUS. Mr. Speaker, there are 12 exemptions in all.

Mr. PHILLIPS. But the one I am interested in is private clubs, is where I will have a couple of questions.

Mr. EACHUS. Yes, sir, Mr. Speaker. I will be happy to answer your questions.

Mr. PHILLIPS. The, which I am familiar with, the American Legions, VFWs, and clubs such as that, how would that work with them when it comes to, as you know, many of them have like social halls. They will have somebody coming in. They may hold, I was, just a couple of weeks ago, at one that had a wedding in the social hall. How would that be with them? In other words, if another one has a bowling alley that is also in the American Legion post itself, would they be— I mean, how would that work with them? Would they be excluded or—

Mr. EACHUS. Mr. Speaker, each private club, let us use the American Legion, for an example, their board would get together, their executive board, and make a decision about how they wanted to apply the smoking exemption here. As I stated, clubs and private organizations of that nature are exempted from this. They can smoke. But remember, Mr. Speaker, we are trying to keep children safe in these facilities. So they are going to have to make some decisions about how they are going to apply their smoking ban as a private organization, so the board would make those decisions.

Mr. PHILLIPS. They would have the option of saying, yes, our social hall will be nonsmoking, our social hall, but they would not fall into the group that would automatically say if you have a social hall, you are not allowed to have any smoking in that social hall?

Mr. EACHUS. That is correct, Mr. Speaker, and let me go a step closer. Remember, these private clubs, like the American Legion, they have a membership organization, so as long as the public was not invited, they could make internal decisions that were best for them and would apply on how they wish their organization to proceed.

Mr. PHILLIPS. But do I have it correct, when the social hall and the public is invited, like they have a reception or they have an event, I know one of them like they had in the city of Sunbury, they have a Citizen of the Year, and they hold that in the American Legion post, and would those people be subject to the no-smoking or would that be up to the legion itself to say this event you can smoke or cannot smoke?

Mr. EACHUS. Mr. Speaker, directly to your question, if the public was invited to use the facility, the smoking prohibition would apply. And as I said earlier, if it was a private club activity, they could make a decision about how they wanted to apply their rules.

Mr. PHILLIPS. Thank you very much, and thanks for your patience.

The SPEAKER pro tempore. The Chair thanks the gentleman and, on the amendment, recognizes Representative Clymer.

Mr. CLYMER. Thank you, Mr. Speaker.

I will be brief with my remarks, and I want to take a look at the issue of the casinos that is in the amendment. Casinos are one of the heavy hitters wanting smoking in their gambling rooms, and thereby their support for amendment A02970. They believe a nonsmoking ban will somehow improve their

bottom line. Allow me to contrast the benefits this General Assembly provided the casino and why they should be more than willing, I say more than willing, to accept a no-smoking ban in their facilities. Now, let us look at the benefits, as I make my argument.

The first benefit that we gave them was on their license. Their licenses are worth \$250 million to \$550 million a piece. That is the 12 out of the 14. This information was verified by Jeff Hooke, a specialist in businesses from Chevy Chase, Maryland. They pay a one-time \$50 million fee, so if you do the math, you can see that they have reached and made a huge financial benefit. Secondly, we have given them a monopoly. They operate in a restricted area where there is no competition. The third benefit that we provided the casinos is we provided them a maximum of 5,000 slot machines, where Atlantic City, the average casino there has 3500. Again, the casinos that we have, with their slots, overshadow those that are in Atlantic City.

And, Mr. Speaker, another benefit is that we have provided the casinos, and they are an industry where the house never loses. They are always going to make money. There is no other industry that I am aware of, private industry, that can be assured of a profit day by day.

Another benefit as we contrast these benefits and why the casinos should have a nonsmoking ban is because in the bill that was passed, there was no referendum, so the casinos did not have to spend hundreds of thousands of dollars to convince people that their casinos should go to any specific location. The Pennsylvania Gaming Control Board did the work for them. They assigned the licenses and the places where the casinos should operate.

The very fact that there is great success within the casino community can be looked at by Philadelphia Park, which is now expanding their number of slot machines. They want an additional 300 to place in their rooms.

The SPEAKER pro tempore. Will the gentleman suspend?

Mr. CLYMER. Yes.

The SPEAKER pro tempore. The Chair would ask the gentleman to save his remarks for the amendment, to speak on the amendment in question.

Mr. CLYMER. I thought that is what I was doing. I thought I was speaking on amendment 2970.

The SPEAKER pro tempore. Please confine your remarks to the amendment before the House. Thank you.

Mr. CLYMER. Okay. That is what I was doing. I was making this contrast, as I isolated the casino. I am almost finished, Mr. Speaker.

And so, Mr. Speaker, the casinos are open 24 hours a day, 365 days a year. All these employees that are there should be protected from the smoking, the secondhand smoking, that certainly develops. There are other people who patronize the casinos, people who may be in ill health, people who have the oxygen tanks. These are people who should not be subject to smoking.

So, Mr. Speaker, for these reasons I would ask that we reject amendment 2970 and move on. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the lady from Philadelphia, Representative Josephs.

Ms. JOSEPHS. Thank you, Mr. Speaker.

I am rising in opposition to the Eachus amendment. While it may be true that this amendment is better than nothing, I do not

think I was sent here to do better than nothing. I was sent here to do better. I intend, to the best of my ability, to do better, because I believe we must do better.

I stand with my friends from other parts of the State who want to enact local smoking bans. Even though Philadelphia was exempted, I stand with the other localities, and I do that for a number of reasons. First of all, Philadelphia does not want to put itself in a position where it is the only one doing whatever it is doing, because we will be picked off in a minute and lose our ban. Secondly, Philadelphians travel. I do not want my constituents to go to other parts of this State and have to breathe in secondhand smoke. In this State we should all be safe. We should all have clean indoor air.

Mr. Speaker, tourism is a very important industry in this State. Over 80 percent, close to 80 percent of adults do not use tobacco products in this State and in most other States. How can we compete with tourism in Ohio, New York, New Jersey, Delaware, and Maryland where 80 percent of the population can go and breathe clean indoor air when they cannot breathe it in most places in Pennsylvania?

I have heard a lot of discussion about the exemptions. I believe that under the Eachus amendment the exemptions are nothing but an enormous mountainside of slippery slope, and I am very disturbed to hear that the Health Department is supposed to be making determinations about what is a drinking establishment, what is a cigar bar, what is a private club, when if we have these exemptions, the Health Department is going to have its hands full trying to deal with people who are sickened by secondhand smoke, and that is a big enough burden.

I also oppose making an exception for casinos because I want our casinos to succeed so we can have wage tax reduction in Philadelphia and property tax reduction around the State, and if they have to compete with casinos all around us where there is no smoking whatsoever, they are going to lose customers. There is absolutely no proof, no study I have ever been shown, that says that gamblers smoke more than the people in the general population. It is not true. The same under 25 percent of people who smoke in the general population is equal to the percentage of people who smoke who like to gamble.

I also oppose making an exception for adults-only establishments. This is exactly what the tobacco industry wants. They want teenagers, who are rebellious, as they should be, to be lured by an activity which is meant to be sold as pleasurable but is not for them. It is only for adults. And the reason the tobacco industry is so interested and was marketing so hard to children before the tobacco settlement made them stop doing it is because they know one fact, and everybody here on the floor who ever used tobacco, who ever smoked cigarettes, knows that this fact is true: The younger you start smoking, the more likely you will become addicted, and because older smokers tend to die, it is necessary to replace them with children. It is not a good idea to allow any adult-only facilities to have smoking in them, for that reason only.

Private clubs, all those places may be to you and to me a play place, but for the people who work there, it is a work place, and in this State I do not believe that we, and particularly those on this side of the aisle who like to think of ourselves as a friend of the working man and woman, should be imposing this deadly toxin on the workers of this State.

Let me say something else about what it costs us, all of this use of cigarettes. It is not only the health statistics that you have

been hearing over and over again. It is the fires. Anybody here who is a supporter of volunteer or nonvolunteer fire companies ought to know that we should discourage smoking. They cause fires. Cigarettes cause fires; cigarettes cause trash. Our cities, our recreation areas are full of trash from cigarettes, and why did the Capitol Preservation Committee ban smoking in this beautiful building? Because secondhand smoke destroys the artwork on the walls here. Cigarettes, there is nothing to redeem them; nothing.

Now, I heard some talk about how dare we tell veterans what they should do about cigarettes. Not so long ago on this floor all of us voted for a resolution recognizing veterans who suffer from the horrible effects of Agent Orange. Here is my scenario. A veteran who suffered those effects would like to go to his or her local VFW, but that person cannot do it because that person cannot breathe, because everybody else is smoking all over that person, and that ought to end.

I oppose having one part of a building be a nonsmoking section and the other part a smoking section. You might as well swim in a pool where one part is for peeing and the other part is not.

In summary, in summary, although, as everybody knows, I am a proponent of gun control, there are some people who use guns and use them right. Although everybody knows I believe that I am a proponent for keeping the State store system, there is some reason in familial and religious context for using alcohol. But there is no justification whatsoever for smoking tobacco or using tobacco. There is no redeeming virtue.

The only people who benefit from the use of tobacco are the growers, the manufacturers, the distributors, the retailers, and the lobbyists. No one else benefits. The tobacco industry is the industry of death. The people who purvey it are the merchants of death.

We need to vote down the Eachus amendment and go on and protect the workers and the people of this State. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the lady.

#### **ANNOUNCEMENT BY MAJORITY LEADER**

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

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

We have 13 more speakers on the Eachus amendment, and subsequent to the final vote on that measure, we have 24 additional amendments, a handful of which will potentially be rendered moot because of the inclusion or lack of inclusion of the Eachus amendment. I would suggest that we continue the debate for another 40 minutes; exit at 8:30; come in tomorrow at 11.

Now, a point of information to the membership, we had originally hoped to get this accomplished, but some of our challenges during the day prohibited that. We wanted to get it finished by the midevening, but tomorrow, if we were to have come in at 11, we would have probably been out by 12, and then come back and pound away on Sunday afternoon, into Sunday evening, Monday afternoon, into Monday evening, with a very, very remote possibility that this whole budget dialectic could be consummated by 11 o'clock Sunday night. That is very, very doubtful, very, very doubtful, but I think it can be potentially finalized on Monday.

But the one thing I would like to share, all of the speakers naturally have been very helpful and impassioned and informative, but if we could at least tomorrow circumscribe some of our enthusiasms for the public debate, we would be able to leave a little bit earlier, or naturally, we can come in a little bit earlier. We will discuss that internally, Mr. McCall and myself and our leadership team, with the help of the Republican leaders, as to what time we will launch tomorrow, but we could get out of here at a reasonable hour tomorrow if everybody that debates somewhat circumscribes their comments. Everybody should debate and have their moment, but nevertheless, we are in a very, very tight scheduling dynamic right now.

So I would anticipate that approximately 8:30 we will break. We will come back tomorrow. We will give you a time just in about 45 minutes as to what that will be. Thank you very much, Mr. Speaker.

### CONSIDERATION OF SB 246 CONTINUED

The SPEAKER pro tempore. On the amendment, the Chair recognizes Representative Wansacz.

Mr. WANSACZ. Thank you, Mr. Speaker.

May the maker of the amendment please stand for interrogation?

The SPEAKER pro tempore. He indicates that he will. The gentleman may proceed.

Mr. WANSACZ. First off, Mr. Speaker, I applaud the gentleman from Luzerne County for all his hard work, and I know this is a difficult issue. A smoking ban is not something that is easy. It affects many people's lives. It affects the bar owners, the taverns, the restaurants, people that are employed by the tobacco industry, so this is a difficult thing. So first off, I respect the gentleman's hard work that he put into this in trying to meet all these difficult challenges.

I do have some concerns about this amendment and some questions, and I would like to know first off, is there a phase-in date on this legislation?

Mr. EACHUS. Mr. Speaker, from the date of—

The SPEAKER pro tempore. Will the gentleman suspend.

The House is entirely too loud. This important debate is going on. The members are entitled to be heard. Will the members please take their seats.

The gentleman may continue.

Mr. EACHUS. Thank you, Mr. Speaker.

Mr. Speaker, from the date of passage, the date signed by the Governor, it is 180 days.

Mr. WANSACZ. Thank you, Mr. Speaker.

A question that I have has to do with the private clubs that are in this exemption part of your bill. I believe you said earlier that a private club, or not yourself, but an earlier colleague of ours asked if a private club has the right to choose whether or not they will allow smoking. Is that correct?

Mr. EACHUS. Yes, Mr. Speaker. The board of that organization, like the American Legion, can determine for its membership, solely for membership-driven organizations, that if they did not invite the public, they can make rules about smoking and nonsmoking based on their own internal decisionmaking.

Mr. WANSACZ. Now, does this private membership have to abide by the same standards as the food sales go?

Mr. EACHUS. No, Mr. Speaker. There are no food sales percentages in the five private club exemptions.

Mr. WANSACZ. What about the restaurants?

Mr. EACHUS. Mr. Speaker, there is no smoking in restaurants under this amendment.

Mr. WANSACZ. What about the bars that sell, let us say, 25 percent of their, let us say 25 percent of their business is in food sales?

Mr. EACHUS. Well, as you can see from the amendment you have got in your hand, Mr. Speaker, 20 percent is the threshold for a tavern, the food sales. If you sell more than 20 percent, you would be a smoke-free environment.

Mr. WANSACZ. I originally had a concern with your last amendment, but I believe this is taken care of. I just want to clarify. On the casino floors, the smoking exemption does not take place with the bars and restaurants, right, if they are in the casinos, that they cannot have any smoking. Am I correct with that?

Mr. EACHUS. Yes, Mr. Speaker. Many of our gaming facilities or casinos will have restaurants and retail facilities that are arrayed around those facilities. Only the gaming floor would allow for smoking. All the other or ancillary businesses, including those in the city of Philadelphia, would fall under the provisions— Actually, let me repeat that. All of those ancillary organizations around them would still be smoke-free. In Philadelphia those organizations around the gaming floor would have their smoke ban apply, their individual local municipal law.

Mr. WANSACZ. What about catering facilities, places where weddings are held, birthday parties, other events? Where would they come under in this smoking ban?

Mr. EACHUS. Mr. Speaker, those would be smoke-free.

Mr. WANSACZ. Thank you, Mr. Speaker. I have no further questions for the maker of the amendment, but on the bill, please?

The SPEAKER pro tempore. The gentleman is in order.

Mr. WANSACZ. Thank you, Mr. Speaker.

This is a very difficult issue because it affects so many people's lives, and it is something that I believe, looking at it from a business perspective, is that you need to have a fair playing field. You have to watch that you are not putting businesses against businesses. When you come from rural parts of the State, such as I represent, some of the places there compete against, whether it is the private clubs or the taverns or the restaurants, they are all the same, where people from that area go and they gather and they enjoy food and beverage. So I am concerned that we are going to put nonprofits versus the private sector, and as we all know here in Pennsylvania, especially in this General Assembly, we depend on these jobs that they create. We depend on the tax revenue that is generated from these restaurants and taverns.

I applaud the maker of the amendment in that he was trying to strike a compromise and he was trying to find the right idea. The problem that I have with this amendment is that I do not believe it strikes that fair playing field, and I believe it is going to put people out of business. I believe it is going to put small mom-and-pop bars and taverns that are above 20 percent in food sales, that are restaurants, that are catering facilities, that they are going to go out of business, and that concerns me, as I never want to stand up here on the House floor and vote for something that does not put people on the same level playing

field, and I think anything that we do in this General Assembly should always create the same level playing field.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Armstrong, Representative Pyle.

Mr. PYLE. Thank you, Mr. Speaker.

Will the maker of the amendment please stand for a question?

The SPEAKER pro tempore. The gentleman indicates that he will stand for interrogation. You are in order.

Mr. PYLE. Thank you, Mr. Speaker; thank you.

Would the maker of the amendment please differentiate for me the difference between a private and a public club?

Mr. EACHUS. Sure, Mr. Speaker. Let me take one quick moment and refer to the language in the bill. If you will just give me one moment, please.

Mr. PYLE. Thank you.

Mr. EACHUS. Okay, Mr. Speaker. Let me take a read at this for you.

Mr. PYLE. Mr. Speaker? Mr. Speaker? I am having problems hearing him.

The SPEAKER pro tempore. Will the House come to order. The gentleman is entitled to be heard. Will members please take their seats.

Mr. PYLE. Thank you.

Mr. EACHUS. Let me try again, Mr. Speaker. I will read it to the gentleman.

"A private club, except where the club is: (i) open to the public through general advertisement for a club sponsored event; or is leased or used for a private event that is not club sponsored." So a private organization is a private club, like a VFW, a golf club, for example, an American Legion post, an organization that has a private, nonprofit status.

Mr. PYLE. Mr. Speaker, in your opinion, would it be accurate to say that one of the differentiation points between a public and a private club is paying a membership fee to belong to a private club?

Mr. EACHUS. Mr. Speaker, could you help me with what you would consider a public club?

Mr. PYLE. Well, for example, Mr. Speaker, in a private fraternal organization, such as an Elks club or a Moose or an Eagles, there is a membership fee assessed each year to belong to that club, but it is my understanding, and please feel free to correct, Mr. Speaker, that a public club, there is no membership fee to enter the premises?

Mr. EACHUS. Mr. Speaker, I am not trying to evade your question. Mr. Speaker, I am not clear on what a public club is.

Mr. PYLE. I guess I am misspeaking, Mr. Speaker. Let us put this in context. A public bar versus a private club with a bar.

Mr. EACHUS. Yes. Thank you. A tavern under the definition of—

Mr. PYLE. Correct.

Mr. EACHUS. —this would be a privately owned organization, and the exemption here would allow for that tavern with less than 20 percent sales in food to have smoking in that facility. Any tavern with greater than 20-percent food sales would be smoke-free. A private club, a fraternal organization, as you mentioned, would have the ability for their internal structure to make decisionmaking about whether they were able to smoke in that facility or not. We leave smoking allowable in those private fraternal organizations.

Mr. PYLE. Mr. Speaker, would you consider it fair to say that a person who willingly offers money to buy a membership to belong to one of these private clubs you categorized would imply an understanding of what happens within that club?

Mr. EACHUS. I would say that is a good inference.

Mr. PYLE. So if a person in my Ford City joins the Eagles, pays the membership fee and has been there and knows that smoking is permitted inside the Eagles Club, would they also be free to choose not to join because of the presence of smoke there?

Mr. EACHUS. Yes, Mr. Speaker. That would be an individual choice to join the organization, and this law in no way prohibits that private fraternal organization to be a smoke-free environment.

Mr. PYLE. Thank you.

On the amendment, Mr. Speaker?

The SPEAKER pro tempore. The gentleman is in order and may proceed.

Mr. PYLE. Thank you, Mr. Speaker.

I rise in support of the Eachus amendment. I think what we have on our hands here is a differentiation. Are we going to impose the will on a private membership organization that they may not necessarily agree with, or are we going to cover them with one blanket amendment or one blanket ruling that deters from their patrons a right of membership? I would contend, Mr. Speaker, that by paying that fee to belong to that private organization, knowledgeable about what happens within that club, is, in fact, an implied and inferred consent that they accept that smoking is present.

I would encourage all the members on this side of the aisle to support the Eachus amendment.

Mr. Speaker, may I continue?

The SPEAKER pro tempore. The gentleman is in order.

Mr. PYLE. Thank you, Mr. Speaker.

What we have here is a matter of choice, and what I have noticed, as the gentleman from Mount Carmel brought up, is we have to make the choice: Are we going to be State-sponsored health care? Are we going to mandate what people can and cannot do from their own free will, or are we going to allow them to choose? Again, it is the private club membership that brings me to support the Eachus amendment. It is understood when a person lays down their membership fee that that takes place in the club, and their choice similarly to choose not to pay the membership fee if the smoking egregiously offends them.

Again, Mr. Speaker, it is a matter of free will versus, I do not even know what to call the other. Anyway, I support the Eachus amendment and encourage everyone else who supports free choice to do the same. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes Representative Kortz from Allegheny County.

Mr. KORTZ. Thank you, Mr. Speaker.

I do not smoke. I choose not to. Many of my friends do smoke. They are my friends, and I choose to be with them, and I do not begrudge them their right to smoke. Additionally in my area, I have many mom-and-pop taverns – Valley Hotel, Secrets, Clancy's Pub. I have many fire halls, many American Legions, many VFWs. People frequent these places for the camaraderie. They frequent it because they like to go there and have a bite to eat and a beverage, and yes, they light up from time to time, and I choose to go with them because they are my

friends. It does not bother me. Okay. And I do not see that as being wrong.

Mr. Speaker, I also have many bingo halls in my area where seniors frequent. They like to play bingo. They sit with their friends. They enjoy themselves, and yes, they light up a cigarette once in a while. They enjoy that. That is their pursuit of happiness. Are we to take that away? Are we to stop that? I think not.

Items for this House to consider, Mr. Speaker: Number one, are cigarettes legal in Pennsylvania? The answer is yes. And since they are legal, then the answer is truly not legislation but education. That is the answer, education.

One of the other prior speakers mentioned that this was a moral issue. To that I say, Mr. Speaker, hogwash. This is not a moral issue. It is an issue of choice. Tell the veterans from World War II, Vietnam, and all the other wars that we have had since who smoked that this is a moral issue, and I think they would take high offense to that. I know my father would.

Mr. Speaker, I believe we need to use common sense, we need to be realistic, and I urge support for the Eachus amendment, and I do not smoke.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes, from Allegheny County, Representative Wheatley.

Mr. WHEATLEY. Thank you, Mr. Speaker.

I know the hour is pretty late and we are on a very tight schedule, so I am going to try to keep it concise and to the point.

I listened to the conversation on this amendment, and quite frankly, Mr. Speaker, there are no more additional facts I can give you that you have not already pretty much heard. The fact of the matter is, secondhand smoke kills. I mean, no matter how you cut it up, you can talk about personal choice and personal freedoms and liberty and all those other good things. You can talk about the men and women who come and serve this country and come back home and those people having the ability to do what they want to do to enjoy their liberties. I am one of those men who fought for the liberties that we speak about. I am one of those men who want and enjoy from time to time a good cigar. But, Mr. Speaker, the thing that I think we are losing in this conversation is we are talking about public health that has more to do not with the smokers themselves but with the people who are exposed to the smoke, be they workers or be they other patrons of whatever establishment.

And then on top of that in this particular amendment, Mr. Speaker, you have, in my opinion, for those of us who believe in a fair business environment, we are practically creating winners and losers in the business world. We are going to say that you cannot smoke in these particular types of establishments but you can smoke or there can be smoking in competitive establishments. So for example, if you have a restaurant that does not meet the definitions of these exemptions in this particular amendment, they will be banned from smoking. If you have a bar or tavern or casino that is open and competing for business with other businesses, they can smoke.

For those of us who believe in fairness of, you know, not having separate counties being able to do what we as a State are not allowing other counties to do, this amendment allows for that. So, Mr. Speaker, it seems to me we from time to time start losing ourselves in these arguments and we try to bring all of the advantages that we can to our discussion, but when we look at this, when we look at this, and the maker of the amendment can say to you he accepts the research that says this is

dangerous not just for children but for adults. He can accept that, but then on the other hand, he says even with those dangers, we as a Commonwealth, we as a group of people, believe that we should allow various establishments to continue to expose our adults and families to this danger.

You know, Mr. Speaker, I read an article in a paper once that talked about if we were talking about other hazardous, poisonous toxins like asbestos, we would not be trying to figure out which establishment should be allowed to have workers exposed to asbestos and which ones we should not. We would immediately move to try to address that situation for the health and well-being of our citizenry.

Mr. Speaker, this is not just about choice; it is not. This is not just about money and people's liberties; it is not. This is a serious, serious public health problem, and we as a body should look at this not just from a perspective of deciding which one of our constituencies we want to come out looking good at the end of this decision, because in general, Mr. Speaker, in general, all the factual evidence, all the factual evidence points to the need for us to have a clean indoor air act that really means something, that really means something. It means something in the way of public health policy.

So, Mr. Speaker, I know, again, my colleagues on both sides of the aisle are getting weary and they want to go, and they want to go home and rest themselves and come back here tomorrow, but I would encourage each one of us, I would encourage each one of us to really look at this issue seriously on the three points that I am trying to make – on the point of what this does as it relates to the public health and public well-being of our citizenry, not just the smoker and not just the patrons but of the workers; on the fact that this is really, this amendment will make winners and losers in the business world, and we will be supporting that decision of winners and losers; and lastly and primarily I think one of the most important ones, what are we setting as the course of our environment, what are we saying to the citizenry of Pennsylvania as it relates to their public health when we make a conscious decision to make it all right for people to be exposed constantly to poisonous toxins that we know will ultimately lead to death and destruction?

So, Mr. Speaker, I hope our conscience moves us to do the right thing.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes Representative Lentz on the amendment.

Mr. LENTZ. Thank you, Mr. Speaker.

I would like to speak on the amendment.

The SPEAKER pro tempore. The gentleman is in order and may proceed.

Mr. LENTZ. I would just ask my colleagues in considering whether or not to vote for this amendment to keep in mind that this is a product we are producing here. We hear other States before us have had this exact same debate. The difference is in those other States they debated either to have a ban or to have no ban.

Now, I have heard members stand up and talk about liberty and veterans and the right to smoke or not smoke. I would assume from those arguments that you are against any ban, and if you are against any ban, you should vote against the Eachus amendment and then you should vote against a freestanding ban when it comes up for a final vote. If you believe that workers, whether they be in casinos or bars or

restaurants, should not be forced to be exposed to smoke, then you should be for a ban.

The Eachus amendment has so many holes and exceptions in it that it cannot be considered a ban. In fact, it should be called the Yogi Berra amendment. Yogi Berra, if he were here, would say that I think we should ban smoking anywhere so long as people can smoke everywhere.

So if you are for a ban, vote against this amendment. If you are against the ban, vote against this amendment. That is the only consistent position to take. I, for one, will vote against this amendment and for a ban because I do not think people, not smokers, people that work, that choose to work in casinos, that choose to work in places where they may not have other options should be forced to be exposed to what everybody agrees is a poisonous substance.

Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes Representative Ken Smith on the amendment.

Mr. K. SMITH. Thank you, Mr. Speaker.

Mr. Speaker, I rise today to oppose amendment A02970, and as I said last night on the floor, I rise not just as a Representative but also as a business owner and a restaurant owner as well.

I can tell you, Mr. Speaker, that I understand the challenges that a smoking ban brings to a business. Our business is in Scranton, and Scranton instituted a smoking ban that was eventually repealed by the courts, but as of January 1, we went smoke-free because of the ban, but after the repeal we stayed smoke-free. Prior to the ban, I had waitresses that would come to me and say, why do we have to be subjected to the smoking section of the restaurant and others do not?

So to look at a broader picture, Mr. Speaker, when you start making exceptions throughout the State, then the playing field becomes uneven, so therefore, Mr. Speaker, as I reflect upon all the speakers, I start to understand how we need to minimize the exceptions and even the playing field.

So I guess what I am trying to say, Mr. Speaker, at the end of the day is that for the sake of all Pennsylvanians, we need a smoke-free environment, and I would ask my colleagues to vote against the Eachus amendment.

Thank you, Mr. Speaker.

### THE SPEAKER (DENNIS M. O'BRIEN) PRESIDING

The SPEAKER. The Chair recognizes Representative Ross.  
Mr. ROSS. Thank you, Mr. Speaker.

I will be brief.

The Restaurant Association told us in no uncertain terms that a smoking ban only works if it is broadly constructed and applies across the board. We cannot have some people let in and some people let out.

Secondly, if we are going to protect workers' health, we should not pick some workers' health to protect and others not to protect. It should be generally true that we protect workers across the board from secondhand smoke.

So therefore I urge a negative vote on the Eachus amendment. Thank you.

The SPEAKER Representative Gerber.

Mr. GERBER. Thank you, Mr. Speaker.

I appreciate all my colleagues participating in this very lively debate, very long debate, and I appreciate the effort of my colleague, Representative Eachus, in putting this amendment together and his intention, his intentions to try to craft something that we can pass in this House, but I firmly believe, firmly believe that we can do better. I believe we can send a bill with a statewide smoking ban over to the Senate that the entire chamber can be proud of.

Unlike the bill that came to us from the Senate, I am concerned with an amendment like this with as many exceptions that are involved and as many loopholes that are contained within those exceptions; that this product will not be something that is viewed upon favorably and certainly will not be something that protects the public health as well as we can with the base language that is in the bill itself.

I encourage my colleagues to vote "no" on the amendment and look forward to continuing debate and voting "no" on further exceptions so we can send a clean bill to the Senate.

Thank you, Mr. Speaker.

The SPEAKER. Are there any other members seeking recognition before the Chair recognizes the prime sponsor of the amendment?

The Chair sees no other speakers seeking recognition.

The Chair recognizes Representative Eachus.

Mr. EACHUS. Thank you, Mr. Speaker.

We have had a thorough discussion tonight and we have had what I would consider to be a very collegial dialogue about a very serious and sometimes thorny issue.

This amendment tonight allows us to move the bar forward for Pennsylvania, which currently has smoking everywhere. Everywhere you go and no matter where you go, you are exposed to secondhand smoke.

What we have done again, just to quickly review, is to create exemptions in 12 categories that allow for smoking under very strict guidelines, only for adults. They must be posted for the public so that consumers know at the front door where these smoking facilities are before they ever go in, and if they want to take their economic money and go to another organization and take their cash somewhere else to a smoke-free environment, they can for the first time.

This also creates an array of public spaces and workplaces. It prohibits smoking in all those areas. This is a huge step forward. But more importantly and most importantly, as a father, this is a step forward for the children of Pennsylvania, the innocent; those who have no choice. Anywhere there is smoking, whether it is a casino, a tavern, a private club, it does not matter where the 12 exemptions are, there will be no children—

The SPEAKER. Will the gentleman suspend.

Members will please keep their conversations to a minimum. We are at the very end of the debate. Please allow the prime sponsor to be heard.

Mr. EACHUS. There will be no children present, Mr. Speaker, in any of these facilities where smoking will be. It also honors the home rule in Philadelphia and the smoking ban that is in place and creates consistency, consistency across the rest of the Commonwealth so that businesses, consumers, and those who come through as tourists have continuity as they move across Pennsylvania, whether it be smoking or smoke-free.

This is a big step forward tonight. I understand what we are asking members to do. I think it is a serious, serious step forward, and I am asking members to support the Eachus amendment tonight.

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

The following roll call was recorded:

## YEAS—82

Belfanti	Fairchild	Major	Rohrer
Beyer	Fleck	Mann	Sainato
Biancucci	Gabig	Marsico	Santoni
Brooks	George	McCall	Schroder
Buxton	Gergely	Mensch	Seip
Caltagirone	Godshall	Metcalfe	Siptroth
Cappelli	Goodman	Millard	Smith, S.
Casorio	Haluska	Miller	Solobay
Causer	Harhai	Moul	Sonney
Civera	Harhart	Myers	Staback
Creighton	Harkins	Pallone	Stairs
Cruz	Hershey	Pashinski	Stevenson
Daley	Hornaman	Perry	Sturla
Dally	Hutchinson	Perzel	Surra
Denlinger	James	Petrarca	Taylor, J.
Dermody	Keller, M.	Pickett	White
DeWeese	Keller, W.	Preston	Williams
Eachus	Kirkland	Pyle	Yewcic
Ellis	Kortz	Rapp	Youngblood
Evans, D.	Kula	Raymond	Yudichak
Fabrizio	Mahoney		

## NAYS—113

Adolph	Geist	McGeehan	Ross
Argall	Gerber	McI. Smith	Rubley
Baker	Gibbons	McIlhattan	Sabatina
Barrar	Gillespie	Melio	Samuelson
Bear	Gingrich	Micozzie	Saylor
Benninghoff	Grell	Milne	Scavello
Bennington	Grucela	Moyer	Shapiro
Bishop	Hanna	Mundy	Shimkus
Blackwell	Harper	Murt	Smith, K.
Boback	Harris	Mustio	Smith, M.
Boyd	Helm	Nailor	Steil
Brennan	Hennessey	Nickol	Stern
Carroll	Hess	O'Brien, M.	Swanger
Clymer	Hickernell	Oliver	Taylor, R.
Cohen	Josephs	Parker	True
Conklin	Kauffman	Payne	Turzai
Costa	Kessler	Payton	Vereb
Cox	Killion	Peifer	Vitali
Curry	King	Petrone	Vulakovich
Cutler	Kotik	Phillips	Wagner
DeLuca	Leach	Quigley	Walko
DePasquale	Lentz	Quinn	Wansacz
DiGirolamo	Longietti	Ramaley	Waters
Donatucci	Mackereth	Readshaw	Watson
Evans, J.	Maher	Reed	Wheatley
Everett	Manderino	Reichley	
Frankel	Mantz	Roae	O'Brien, D., Speaker
Freeman	Markosek	Rock	
Galloway	Marshall	Roebuck	

## NOT VOTING—0

## EXCUSED—8

Bastian	Levdansky	Petri	Thomas
Kenney	O'Neill	Tangretti	Wojnaroski

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 second consideration?

The SPEAKER. For what purpose does the gentleman, Representative Ross, rise?

Mr. ROSS. Mr. Speaker, I would like to move to revert to previous printer's number 25.

The SPEAKER. Will the gentleman come to the rostrum for a moment.

(Conference held at Speaker's podium.)

## PARLIAMENTARY INQUIRY

The SPEAKER. For what purpose does the gentleman, Representative Schroder, rise?

Mr. SCHRODER. Mr. Speaker, a question of parliamentary inquiry.

The SPEAKER. If the gentleman will suspend for one second.

The gentleman will state his point of parliamentary inquiry.

Mr. SCHRODER. Thank you, Mr. Speaker.

Mr. Speaker, if the House does in fact revert to the prior printer's number, where does that leave all the amendments that have not yet been voted upon?

The SPEAKER. They would have to be redrafted.

Mr. SCHRODER. So we would be reverting to a prior printer's number, and would they be redrafted— Would there be, I guess, a time period we would have to wait, or is it just as soon as LRB—

The SPEAKER. They would be redrafted under the rules as replacement amendments.

Mr. SCHRODER. So we would be able to in fact offer them?

The SPEAKER. The gentleman is correct.

Mr. SCHRODER. All right. Thank you.

The SPEAKER. The gentleman, Representative Ross's motion is in order, and it is the intention of the Chair to take it up tomorrow morning.

## PARLIAMENTARY INQUIRY

The SPEAKER. For what purpose does Representative Daley rise?

Mr. DALEY. Point of parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. DALEY. Mr. Speaker, if that is the case and if we take it up tomorrow and we have the opportunity according to custom and rule of the House, where does that put this vote on this particular bill? Does it put it out 24 hours from that moment, or does it put it out 48 hours from that moment?

The SPEAKER. If the bill was amended tomorrow, it would take the bill out 24 hours.

Mr. DALEY. Thank you, Mr. Speaker.

**PARLIAMENTARY INQUIRY**

The SPEAKER. For what purpose does Representative Pallone rise?

Mr. PALLONE. Thank you, Mr. Speaker.

Point of parliamentary inquiry.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. PALLONE. In the same vein, if we vote on this tomorrow and assuming it passes to be accepted as the prior printer's number, is there then a 24-hour period for all amendments to be able to be redrafted or are there just no amendments or the old amendments? What happens with the whole amendment process?

The SPEAKER. There is no time limit for the replacement amendments. Very simply, the members will get their replacement amendments drafted as soon as possible and they will be considered.

Mr. PALLONE. So it theoretically could be the same day then?

The SPEAKER. That is correct.

Mr. PALLONE. All right. Thank you, Mr. Speaker.

**PARLIAMENTARY INQUIRY**

The SPEAKER. For what purpose does Representative Dally rise?

Mr. DALLY. Thank you, Mr. Speaker.

I guess for the first instance a point of parliamentary inquiry to ask the Chair if a conference committee has been appointed yet for the budget?

The SPEAKER. No.

Mr. DALLY. And my next question is, when does the Chair intend to appoint that conference committee?

The SPEAKER. I have not consulted with the majority and minority leaders. As soon as that consultation takes place, the Chair will take it under advisement.

Mr. DALLY. Okay. Mr. Speaker, my concern is that it is July 13 at 8:30 in the evening. I understand that the Treasury Department has sent a letter indicating that furlough notices will go out again for employees—

The SPEAKER. The gentleman will suspend.

The gentleman had asked a point of parliamentary inquiry.

Mr. DALLY. Then I would like to interrogate the majority leader, please.

The SPEAKER. That is not in order. The gentleman may ask for unanimous consent, if he consults with the majority and minority leaders. If you recall, the Chair will only recognize an individual under unanimous consent if no one objects and he has consulted with the majority and minority leaders on an agreed-upon time.

**MOTION TO SUSPEND RULES**

The SPEAKER. For what purpose does Representative Everett rise?

Mr. EVERETT. Mr. Speaker, I would like to make a motion to suspend the rules to consider a temporary rule, and the adoption of that temporary rule and the substance of it would be to have—

The SPEAKER. The gentleman will suspend.

The gentleman may continue.

Mr. EVERETT. The point would be to have HB 1717 discharged from the Appropriations Committee for first consideration here this evening, and my concern is that, as we have addressed, we are facing an impending mandatory furlough and shutdown of the government.

The SPEAKER. The gentleman will suspend.

The gentleman is permitted to speak on the motion to suspend only.

Mr. EVERETT. All right. Again, I would like to suspend the rules. I have a proposed temporary rule here that I would like to have considered this evening, and I would like to suspend the rules in order to do that, and so I would ask that we vote on that rule suspension at this time.

The SPEAKER. The gentleman moves that the rules be suspended for the purpose of considering a temporary rule.

On the question,

Will the House agree to the motion?

The SPEAKER. The Chair will remind the members that only the floor leaders and Representative Everett are allowed to speak on this motion.

**PARLIAMENTARY INQUIRY**

Mr. S. SMITH. Mr. Speaker?

The SPEAKER. Representative Smith.

Mr. S. SMITH. Mr. Speaker, a point of parliamentary inquiry.

Is the gentleman either allowed or required to give some explanation, a brief explanation, of what this is really about? I mean, normally we do that, I believe.

The SPEAKER. The gentleman did explain that the temporary rule was for the express purpose of discharging HB 1717 from the Appropriations Committee.

Mr. S. SMITH. Well, Mr. Speaker, I thought the gentleman would be allowed to explain that what the suspension of the rules would do is it would allow for a vote on bringing HB 1717 out of committee and onto the floor for a first reading.

The SPEAKER. The gentleman already stated that, and the gentleman is permitted to debate the motion. The floor leaders are generally afforded more latitude, but the gentleman already stated that purpose.

Mr. S. SMITH. Thank you, Mr. Speaker.

I appreciate your answers to my questions, and I would yield to the gentleman from Lycoming.

The SPEAKER. The gentleman is in order and may proceed.

Mr. EVERETT. Mr. Speaker, thank you.

The purpose of this is because we have a bill that would put a supplementary appropriation in for a month, and my fear is that given the status of the budget process, that by Monday we may not have a budget in place. I am not saying that we are not going to have a budget in place, but we may not have a budget in place by Monday, and in order for this stopgap bill to receive the appropriate consideration it needs, we need first consideration today, second consideration on Saturday, and final consideration on Sunday in order for us to be able to consider it.

So all I am asking is that we suspend the rules and have a temporary rule that will discharge this bill from the Appropriations Committee so that we can do our responsibility and make sure that this State government is not shut down accidentally by us not being able to reach a final budget resolution by the appointed time next week. It would just give us some options to make sure we can keep the government open in case we cannot reach a final resolution.

### PARLIAMENTARY INQUIRY

The SPEAKER. For what purpose does the gentleman, Representative Schroder, rise?

Mr. SCHRODER. Thank you, Mr. Speaker.

Just one more point of parliamentary inquiry on this process.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. SCHRODER. If we vote to suspend the rules right here, will we then have to take a second vote to actually adopt the temporary rule that Representative Everett is offering?

The SPEAKER. The gentleman is correct.

Mr. SCHRODER. Okay. And will we have the opportunity then to learn the complete text of the rule, of the temporary rule that he is offering before that vote?

The SPEAKER. Yes.

Mr. SCHRODER. Thank you, Mr. Speaker.

The SPEAKER. For what purpose does Representative Buxton rise?

Mr. BUXTON. Mr. Speaker, I rise to support the gentleman's motion to suspend the rules.

The SPEAKER. The gentleman will suspend.

Only the maker of the motion and the floor leaders are allowed to speak.

The Chair recognizes the majority leader, Representative DeWeese.

Mr. DeWeese.

### PARLIAMENTARY INQUIRY

The SPEAKER. Representative Everett.

For what purpose does the gentleman, Representative Everett, rise?

Mr. EVERETT. Point of parliamentary inquiry.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. EVERETT. With respect to Representative Buxton rising, is it not true that the primary sponsor of the bill is allowed to speak under suspension of the rules? I am referring to rule No. 77.

The SPEAKER. The Chair was not aware that Representative Buxton was the prime sponsor of the amendment. The Chair is in error.

The Chair recognizes Representative Buxton.

The gentleman will suspend. Wait a minute.

For clarification, under the motion, the maker of the motion and the prime sponsor of bill would be recognized. However, this is a motion to suspend the rules to adopt a temporary rule, so the bill is not before us. So the Chair cannot recognize Representative Buxton.

The Chair recognizes the majority leader, Representative DeWeese.

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

I would rise to oppose my honorable colleague, Mr. Everett, on his motion to suspend the rules.

### PARLIAMENTARY INQUIRY

Mr. S. SMITH. Mr. Speaker? Mr. Speaker?

A point of parliamentary inquiry.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. S. SMITH. I apologize for interrupting.

When the gentleman from Harrisburg, the city of Harrisburg, Dauphin County, spoke a few minutes ago, was that the leaders yielding to that gentleman or was he—

The SPEAKER. The gentleman was not recognized. The gentleman did not speak.

Mr. S. SMITH. Okay. I thought I heard him speak, but, okay. Was that stricken?

The SPEAKER. It is getting late, Sam. Maybe you are hearing things.

Mr. S. SMITH. Was that stricken from the record?

The SPEAKER. Pardon?

Mr. S. SMITH. What I thought I heard, was that stricken from the record then? Was that struck?

The SPEAKER. The Chair clarified that the bill is not before this House. So the prime sponsor, Representative Buxton, of the bill that the gentleman, Representative Everett, is trying to bring before this body is not before this body, so he cannot be recognized. Only the maker of the motion to suspend the rules can be recognized.

Mr. S. SMITH. Thank you, Mr. Speaker.

The SPEAKER. Representative DeWeese.

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

I have four quick points to make.

### PARLIAMENTARY INQUIRY

The SPEAKER. For what purpose does Representative Pallone rise?

Mr. PALLONE. Thank you, Mr. Speaker.

I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. PALLONE. Thank you, Mr. Speaker.

When the gentleman from Dauphin County indicated to the body that he was in favor of this motion for a suspension of the rules so that HB 1717 can be called up, should not that then be stricken from the record since it was not appropriate under our current circumstances, even though a number of members here today may be in favor of this bill?

The SPEAKER. No. The Chair does not have to strike that from the record because the Chair asked, for what purpose does the gentleman rise. He stated that purpose, and that is appropriately recorded in the record.

Mr. PALLONE. Thank you, Mr. Speaker.

Representative DeWeese.

Mr. DeWEESE. Thank you, Mr. Speaker.

Succinctly, I have four reasons why I think the honorable gentleman's motion needs to be countervailed. Number one, budget negotiations have proceeded favorably. I was just on the phone a short time ago with Senator Pileggi. Mr. Evans has been engaged throughout the day with Fiscal Code matters. I had conversation earlier in this session day with the gentleman, Mario Civera, and we have a handshake and the mechanisms of the process are moving forward. That is reason number one.

Reason number two: Even if my honorable gentleman's plan were to come to dizzying, happy fruition, it would be Friday, Saturday, Sunday in this chamber and Monday, Tuesday, Wednesday in the other chamber. So I really believe that reason number one plus reason number two add up to reason number three, and that is, this is a bad precedent. We do not need this measure if our negotiators have an honorable outcome, and I am confident that we shall.

Reason number four: I would question the bumping up against, I will not say the assault on, but the bumping up against the Constitution. Article III, section 2, indicates that a proposal will go to a committee and it will come out of a committee, and my honorable friend's endeavors, I think, are very, very questionable regarding the way they interact with our constitutional tradition.

For those four reasons I would ask that the honorable gentleman's effort to suspend the rules be negated. Thank you.

Mr. S. SMITH. Mr. Speaker?

The SPEAKER. On the motion, Representative Smith.

Mr. S. SMITH. On this motion, Mr. Speaker, just real briefly.

Number one, there is nothing about this motion that circumvents the Constitution. The Constitution requires that each bill, upon being introduced, be referred to a committee and then reported out if so be, if that is the business of the committee. In this case, this motion would only allow us to consider a temporary rule which would in a sense work like a discharge resolution to bring that bill out of committee. So it does not circumvent the Constitution. As the gentleman from Lycoming noted, it would simply bring that bill to the floor for its first constitutional reading. It would then be subject to moving forward through the process for additional constitutional readings and then to the Senate presumably, on that order.

Number two, Mr. Speaker, I think it is important to note that the primary reason that this procedure is being undertaken is simply, in my opinion, to give us options. Clearly, there is a bill that is sitting on the precipice of being in a conference committee, and that legislation, Mr. Speaker, could become the ultimate document that would be the budget of the Commonwealth. However, as we all know, there are things that happen and glitches that occur, and what this would allow us to do is simply have an option should something go awry. I do not think that we are predicting anything. We are just saying that it is good to have an option, some other way to get from here to there if necessary.

So to support this motion to suspend the rules and ultimately the gentleman's temporary rule, which would allow the bill to be brought out of committee and given first consideration, first constitutional reading, is not a subversive vote. It is not a vote against the budget that is being discussed and negotiated

throughout the building over the last couple days. It is simply a vote to give us an option to try to take the threat away that if something goes awry, the people of Pennsylvania, the people that work for the Commonwealth of Pennsylvania would be shut down once again.

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

The following roll call was recorded:

#### YEAS—101

Adolph	Fleck	Marsico	Raymond
Argall	Gabig	McIlhattan	Reed
Baker	Geist	Mensch	Reichley
Barrar	Gillespie	Metcalfe	Roae
Bear	Gingrich	Micozzie	Rock
Benninghoff	Godshall	Millard	Rohrer
Beyer	Grell	Miller	Ross
Boback	Harhart	Milne	Rubley
Boyd	Harper	Moul	Saylor
Brooks	Harris	Moyer	Scavello
Buxton	Helm	Murt	Schroder
Cappelli	Hennessey	Mustio	Smith, S.
Causer	Hershey	Nailor	Sonney
Civera	Hess	Nickol	Stairs
Clymer	Hickernell	Payne	Steil
Cox	Hornaman	Peifer	Stern
Creighton	Hutchinson	Perry	Stevenson
Cutler	Kauffman	Petzel	Swanger
Dally	Keller, M.	Petrarca	Taylor, J.
Denlinger	Killion	Phillips	True
DePasquale	Mackereth	Pickett	Turzai
DiGirolamo	Maher	Pyle	Verub
Ellis	Major	Quigley	Vulakovich
Evans, J.	Mantz	Quinn	Watson
Everett	Marshall	Rapp	Yewic
Fairchild			

#### NAYS—94

Belfanti	Galloway	Manderino	Seip
Bennington	George	Mann	Shapiro
Bianucci	Gerber	Markosek	Shimkus
Bishop	Gergely	McCall	Siptroth
Blackwell	Gibbons	McGeehan	Smith, K.
Brennan	Goodman	McI. Smith	Smith, M.
Caltagirone	Grucela	Melio	Solobay
Carroll	Haluska	Mundy	Staback
Casorio	Hanna	Myers	Sturla
Cohen	Harhai	O'Brien, M.	Surra
Conklin	Harkins	Oliver	Taylor, R.
Costa	James	Pallone	Vitali
Cruz	Josephs	Parker	Wagner
Curry	Keller, W.	Pashinski	Walko
Daley	Kessler	Payton	Wansacz
DeLuca	King	Petrone	Waters
Dermody	Kirkland	Preston	Wheatley
DeWeese	Kortz	Ramaley	White
Donatucci	Kotik	Readshaw	Williams
Eachus	Kula	Roebuck	Youngblood
Evans, D.	Leach	Sabatina	Yudichak
Fabrizio	Lentz	Sainato	
Frankel	Longietti	Samuelson	O'Brien, D., Speaker
Freeman	Mahoney	Santoni	

#### NOT VOTING—0

#### EXCUSED—8

Bastian	Levdansky	Petri	Thomas
Kenney	O'Neill	Tangretti	Wojnaroski

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.

## HOUSE SCHEDULE

### DEMOCRATIC CAUCUS

The SPEAKER. Are there any further announcements?

Mr. DeWEESE. Just a scheduling reminder.

The House Democrats will caucus at 10, and we will meet on the floor for floor session and take up the Ross proposal and more of the smoking-ban dialogue tomorrow at 11.

The SPEAKER. For the information of the members, there will be no further votes.

### BILLS RECOMMITTED

The SPEAKER. The Chair recognizes the majority leader, who moves the following bills be recommitted to the Committee on Appropriations: HB 1150 and SB 413.

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

### BILLS ON SECOND CONSIDERATION

The House proceeded to second consideration of **HB 1320**, **PN 1625**, entitled:

An Act providing for a program for the disposal of home-generated medical sharps, and for powers and duties of the Department of Environmental Protection.

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

### BILL TABLED

The SPEAKER. The Chair recognizes the majority leader, who moves that HB 1320 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. The Chair recognizes the majority leader, who moves that HB 1320 be removed from the table.

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

\* \* \*

The House proceeded to second consideration of **HB 1044**, **PN 1642**, entitled:

An Act amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, further providing for powers and duties of the Municipal Police Officers' Education and Training Commission and for police training.

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

### BILL TABLED

The SPEAKER. The Chair recognizes the majority leader, who moves that HB 1044 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. The Chair recognizes the majority leader, who moves that HB 1044 be removed from the table.

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

\* \* \*

The House proceeded to second consideration of **HB 983**, **PN 1980**, entitled:

An Act amending the act of January 19, 1967 (1968, P.L.992, No.442), entitled "An act authorizing the Commonwealth of Pennsylvania and the local government units thereof to preserve, acquire or hold land for open space uses," further providing for acquisition of interests in real property, for local taxing options and for exercise of eminent domain.

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

### BILL TABLED

The SPEAKER. The Chair recognizes the majority leader, who moves that HB 983 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. The Chair recognizes the majority leader, who moves that HB 983 be removed from the table.

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

**RESOLUTIONS**

Mr. DeWEESE called up **HR 352, PN 2084**, entitled:

A Resolution directing the Legislative Budget and Finance Committee to study alternatives to the liquid fuels tax for purposes of funding the Commonwealth's transportation infrastructure and to report its findings to the General Assembly.

On the question,  
Will the House adopt the resolution?

**RESOLUTION TABLED**

The SPEAKER. The Chair recognizes the majority leader, who moves that HR 352 be placed on the table.

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

**RESOLUTION REMOVED FROM TABLE**

The SPEAKER. The Chair recognizes the majority leader, who moves that HR 352 be removed from the table.

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

\* \* \*

Mr. DeWEESE called up **HR 353, PN 2085**, entitled:

A Resolution directing the Legislative Budget and Finance Committee to study the feasibility and cost-effectiveness of placing transit agency employees under the Commonwealth's jurisdiction for the purposes of providing health benefits and pension benefits and to make a report.

On the question,  
Will the House adopt the resolution?

**RESOLUTION TABLED**

The SPEAKER. The Chair recognizes the majority leader, who moves that HR 353 be placed on the table.

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

**RESOLUTION REMOVED FROM TABLE**

The SPEAKER. The Chair recognizes the majority leader, who moves that HR 353 be removed from the table.

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

**REPUBLICAN CAUCUS**

The SPEAKER. The Chair recognizes Representative Major. Miss MAJOR. Thank you, Mr. Speaker.

I would like to announce that Republicans will caucus tomorrow morning at 10 a.m.; that is, Republicans will caucus at 10 a.m. Thank you.

The SPEAKER. Does the Democratic leader have an announcement?

**PARLIAMENTARY INQUIRY**

The SPEAKER. For what purpose does the gentleman, Representative Dally, rise?

Mr. DALLY. Parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. DALLY. Mr. Speaker, under rule 48, the conference committee, you had mentioned in response to my previous inquiry that you did not appoint a conference committee in regard to the budget because you have not consulted with the minority and majority leaders.

Mr. Speaker, I would like an interpretation of rule 48, because I do not see anywhere in rule 48 where it says the Speaker must consult with anyone to appoint the conference committee, and I think there are a lot of people in this chamber, employees, members, and their families at home would like to know when a conference committee is going to be appointed so we can do the budget.

The SPEAKER. The gentleman has stated his point of parliamentary inquiry and will suspend.

The Chair is following past precedent of this House and he will continue to do so. It is at the discretion of the Chair.

**PARLIAMENTARY INQUIRY**

The SPEAKER. For what purpose does the gentleman, Representative Reichley, rise?

Mr. REICHLEY. Point of parliamentary inquiry, actually as well for the majority leader.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. REICHLEY. Mr. Speaker, is the majority leader able to state to the House exactly how many bills are necessary?

The SPEAKER. The gentleman will suspend.

That is not a point of parliamentary inquiry.

Mr. REICHLEY. Let me address it to the Chair then.

Mr. Speaker, would it be accurate to state that in addition to the general appropriations bill, HB 1286, there are at least three other major pieces of legislation necessary to pass before the General Assembly has concluded its work?

The SPEAKER. That is not a point of parliamentary inquiry.

Mr. REICHLEY. Mr. Speaker, as a parliamentary inquiry, does the Chair have any idea as to a date and time when it will appoint the conference committee conferees on HB 1286?

The SPEAKER. The Chair has already stated that he intends to consult with the floor leaders. The Chair thanks the gentleman.

### **BILLS AND RESOLUTIONS PASSED OVER**

The SPEAKER. Without objection, any remaining bills and resolutions on today's calendar will be passed over. The Chair hears no objection.

### **ADJOURNMENT**

The SPEAKER. The gentleman, Representative Smith from Lackawanna County, moves that this House do now adjourn until Saturday, July 14, 2007, at 11 a.m., e.d.t., unless sooner recalled by the Speaker.

On the question,

Will the House agree to the motion?

Motion was agreed to, and at 8:51 p.m., e.d.t., the House adjourned.