

# COMMONWEALTH OF PENNSYLVANIA

## LEGISLATIVE JOURNAL

WEDNESDAY, FEBRUARY 4, 2004

SESSION OF 2004

188TH OF THE GENERAL ASSEMBLY

No. 7

### HOUSE OF REPRESENTATIVES

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

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

#### PRAYER

REV. DR. KIRBY NELSON KELLER, Chaplain of the House of Representatives, offered the following prayer:

Let us pray:

God our Father, centuries ago Your servant, King David, wrote, "The Lord is my shepherd, I shall not want." These ancient words still resonate with our hearts today, because when the veneer of our public persona is stripped away, we all feel lost, lonely, and afraid. We all long for someone to love us, forgive us, and protect us, even from ourselves.

At every desk in this chamber sits a human being who carries burdens, faces struggles, and often copes with some form of personal pain. In every office in this Capitol, staff go about their work quietly, often bearing heavy burdens. Hear our prayers today for all who struggle. Bless us with Your love which overcomes all barriers, even the barriers of partisanship, so that we will not be too proud to seek Your help and to offer a hand of friendship to each other.

We pray for Your help this day, in the name of the Good Shepherd. Amen.

#### PLEDGE OF ALLEGIANCE

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

#### JOURNAL APPROVAL POSTPONED

The SPEAKER pro tempore. Without objection, the approval of the Journal of Tuesday, February 3, 2004, will be postponed until printed.

#### HOUSE BILLS INTRODUCED AND REFERRED

**No. 2339** By Representatives OLIVER, KENNEY, DeWEESE, WASHINGTON, TIGUE, GEORGE, WHEATLEY, WALKO, HENNESSEY, REICHLEY, LEACH, McGEEHAN, LaGROTTA, LAUGHLIN, MELIO, COY, WATERS, JAMES, STABACK, BELFANTI, JOSEPHS,

PISTELLA, BEBKO-JONES, BUXTON, FRANKEL, RIEGER, HARHAI, BISHOP, CAPPELLI, SCRIMENTI, WOJNAROSKI, BROWNE, CURRY, CRUZ, GOODMAN, TANGRETTI, J. TAYLOR, LEDERER, FABRIZIO, DALEY, YOUNGBLOOD, HORSEY, DeLUCA and FREEMAN

An Act amending the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, further providing for the eligibility of domestic abuse victims for subsidized child day-care services.

Referred to Committee on CHILDREN AND YOUTH, February 4, 2004.

**No. 2340** By Representatives CAPPELLI, ALLEN, BELFANTI, BROWNE, CAUSER, CREIGHTON, DeWEESE, FLEAGLE, FRANKEL, GEIST, GRUCELA, KOTIK, LEACH, LEDERER, LEVDANSKY, MARKOSEK, NAILOR, REICHLEY, R. STEVENSON, E. Z. TAYLOR, TURZAI, WASHINGTON, YUDICHAK, HORSEY, MELIO, J. TAYLOR, PETRARCA, YOUNGBLOOD and SAINATO

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 personal income tax credit for blood donors; and imposing duties on the individual to provide proof of donation upon filing his or her tax return each year.

Referred to Committee on FINANCE, February 4, 2004.

**No. 2341** By Representatives DALLY, O'BRIEN, BLAUM, BELFANTI, BUNT, HENNESSEY, McNAUGHTON and DERMODY

An Act amending the act of July 23, 1970 (P.L.563, No.195), known as the Public Employe Relations Act, further providing for public employer unit; and adding law enforcement officers of limited jurisdiction as an additional category of covered employee.

Referred to Committee on JUDICIARY, February 4, 2004.

**No. 2342** By Representatives MAJOR, BAKER, BOYD, CAPPELLI, CIVERA, CLYMER, CREIGHTON, DENLINGER, DeWEESE, GEIST, GINGRICH, GOOD, HARHAI, HARRIS, HENNESSEY, HERMAN, PHILLIPS, RAYMOND, ROSS, SAINATO, SATHER, SCAVELLO, STERN, E. Z. TAYLOR, WILT and YOUNGBLOOD

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

Referred to Committee on JUDICIARY, February 4, 2004.

**No. 2343** By Representatives PETRARCA, SAINATO, TIGUE, BARRAR, TURZAI, GRUCELA, SURRA, CRAHALLA, CASORIO, MYERS, LEACH, PISTELLA, HERMAN, STERN, READSHAW, SCAVELLO, WATERS, NAILOR, HARRIS, CAPPELLI, COLEMAN, DALEY, DeLUCA, FABRIZIO, JAMES, LEH, ROEBUCK, ROHRER, ROONEY, YOUNGBLOOD, BOYD and DENLINGER

An Act amending the act of May 21, 1937 (P.L.774, No.211), referred to as the Pennsylvania Turnpike Commission Act, further providing for the authority of the Pennsylvania Turnpike Commission to fix and revise tolls.

Referred to Committee on STATE GOVERNMENT, February 4, 2004.

**No. 2344** By Representatives PETRARCA, LaGROTTA, CASORIO, CAPPELLI, GERGELY, SCAVELLO, HERMAN, TIGUE, YUDICHAK, LAUGHLIN, JAMES, GEORGE, DALEY, TANGRETTI, BEBKO-JONES, HORSEY and YOUNGBLOOD

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for emission inspections.

Referred to Committee on TRANSPORTATION, February 4, 2004.

**No. 2345** By Representatives PALLONE, BELFANTI, BROWNE, CAPPELLI, CORRIGAN, CURRY, DALEY, GEORGE, GERGELY, GOOD, GRUCELA, HARHAI, HERMAN, KELLER, MELIO, PISTELLA, REICHLEY, ROEBUCK, SAINATO, SHANER, THOMAS, TIGUE and YOUNGBLOOD

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, further providing for cyber charter school requirements and prohibitions.

Referred to Committee on EDUCATION, February 4, 2004.

**No. 2346** By Representatives PALLONE, BIANCUCCI, COSTA, DALEY, HARHAI, HENNESSEY, HERSHEY, KELLER, KOTIK, LEDERER, MUNDY, PISTELLA, READSHAW, REICHLEY, SCAVELLO, SCRIMENTI, SHANER, SOLOBAY, THOMAS, WALKO, WANSACZ and WATSON

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for windshield obstructions.

Referred to Committee on TRANSPORTATION, February 4, 2004.

**No. 2347** By Representatives PAYNE, MACKERETH, HERSHEY, BAKER, BALDWIN, BEBKO-JONES, BELFANTI, BOYD, CAPPELLI, CIVERA, COLEMAN, COSTA, CRAHALLA, CREIGHTON, CRUZ, DALEY, DENLINGER, J. EVANS, GEIST, GINGRICH, HARPER, HICKERNELL, HORSEY, JOSEPHS, KELLER, KOTIK, LAUGHLIN, LEH, LESCOVITZ, McGEEHAN, MELIO, S. MILLER, MUSTIO, PICKETT, PISTELLA, REED, REICHLEY, ROBERTS, SAINATO, SANTONI, SCAVELLO,

B. SMITH, SOLOBAY, STERN, R. STEVENSON, TANGRETTI, E. Z. TAYLOR, J. TAYLOR, WALKO, WASHINGTON, WILT and YOUNGBLOOD

An Act selecting, designating and adopting chocolate as the official State candy of the Commonwealth of Pennsylvania.

Referred to Committee on STATE GOVERNMENT, February 4, 2004.

**No. 2349** By Representatives REICHLEY, R. STEVENSON, NAILOR, DeWEESE, BAKER, BALDWIN, BELFANTI, BOYD, CREIGHTON, DALLY, J. EVANS, FAIRCHILD, GEIST, GILLESPIE, GOOD, GOODMAN, GRUCELA, HALUSKA, HARHAI, HARHART, HORSEY, KELLER, KOTIK, LEACH, LEVDANSKY, MANN, R. MILLER, O'NEILL, PAYNE, PICKETT, PISTELLA, REED, SOLOBAY, TIGUE, WANSACZ, WHEATLEY and YOUNGBLOOD

An Act amending the act of December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade Practices and Consumer Protection Law, further defining "unfair methods of competition" and "unfair or deceptive acts or practices."

Referred to Committee on CONSUMER AFFAIRS, February 4, 2004.

**No. 2350** By Representatives REICHLEY, TURZAI, REED, BROWNE, ADOLPH, BAKER, BALDWIN, BARRAR, BENNINGHOFF, BOYD, CAPPELLI, CAUSER, DALLY, DENLINGER, FAIRCHILD, FORCIER, GEIST, GEORGE, GINGRICH, GOODMAN, GRUCELA, HARPER, HARRIS, HENNESSEY, HERMAN, HUTCHINSON, LEH, MANN, MARKOSEK, MARSICO, METCALFE, R. MILLER, MUSTIO, S. MILLER, NAILOR, NICKOL, PAYNE, PICKETT, ROSS, RUBLEY, SATHER, SCHRODER, STERN, R. STEVENSON, T. STEVENSON, E. Z. TAYLOR, TIGUE, WATSON, WEBER, WILT and ZUG

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, further providing, in corporate net income tax, for the definition of "taxable income."

Referred to Committee on FINANCE, February 4, 2004.

**No. 2351** By Representative PHILLIPS

An Act amending the act of February 1, 1966 (1965 P.L.1656, No.581), known as The Borough Code, providing for retirement benefits of employees transferred to wastewater authorities.

Referred to Committee on FINANCE, February 4, 2004.

**No. 2352** By Representatives RUFFING, DeWEESE, WALKO, KELLER, BELFANTI, BIANCUCCI, DALEY, FABRIZIO, GEORGE, GERGELY, HARHAI, HORSEY, KOTIK, LAUGHLIN, LEVDANSKY, McGEEHAN, PALLONE, PISTELLA, RAYMOND, SOLOBAY, WASHINGTON and YOUNGBLOOD

An Act establishing the Landslide Insurance and Assistance Program within the Pennsylvania Emergency Management Agency; providing for related powers and duties of the Pennsylvania Emergency

Management Agency; establishing and providing for the powers and duties of the Landslide Insurance and Assistance Board; establishing the Landslide Insurance Fund and the Landslide Assistance Fund; and making appropriations.

Referred to Committee on INSURANCE, February 4, 2004.

**No. 2353** By Representatives ARGALL, DeWEESE, BARRAR, BEBKO-JONES, BOYD, CAPPELLI, DENLINGER, FABRIZIO, FICHTER, GEIST, GEORGE, HARRIS, HERMAN, HUTCHINSON, LAUGHLIN, MANN, MARKOSEK, McCALL, PETRARCA, PICKETT, REED, SAINATO, SATHER, SCAVELLO, SCHRODER, B. SMITH, STERN, R. STEVENSON, TANGRETTI, WALKO, WILT, YEWIC, GOOD, GOODMAN, WEBER, J. EVANS, FORCIER, O'NEILL, HARHAI and CRAHALLA

An Act amending the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, providing for staffing levels and limitations on inmate capacity at State correctional institutions.

Referred to Committee on JUDICIARY, February 4, 2004.

### HOUSE RESOLUTIONS INTRODUCED AND REFERRED

**No. 554** By Representatives SURRA, BELARDI, BELFANTI, GERGELY, BEBKO-JONES, CRUZ, DeLUCA, EACHUS, GOOD, GRUCELA, HARHAI, JAMES, KOTIK, LAUGHLIN, LEDERER, LESCOVITZ, LEVDANSKY, MARKOSEK, McCALL, MUNDY, PALLONE, PETRARCA, PISTELLA, READSHAW, ROBERTS, SATHER, SOLOBAY, THOMAS, TRAVAGLIO, WALKO and WATERS

A Resolution recommending that the Congress of the United States conduct a study of the Bush administration's program granting undocumented workers legal status in the United States.

Referred to Committee on INTERGOVERNMENTAL AFFAIRS, February 4, 2004.

**No. 556** By Representatives PALLONE, BEBKO-JONES, BIANCUCCI, BROWNE, CLYMER, COY, CRUZ, DALEY, DeWEESE, FRANKEL, FREEMAN, GABIG, GEORGE, GOOD, GRUCELA, HARHAI, HENNESSEY, HORSEY, JOSEPHS, KELLER, KIRKLAND, KOTIK, LAUGHLIN, LEACH, LEDERER, LEVDANSKY, MANN, McGEEHAN, MELIO, PISTELLA, ROBERTS, SCRIMENTI, SHANER, SOLOBAY, THOMAS, TIGUE, WALKO, WHEATLEY, WOJNAROSKI and YOUNGBLOOD

A Resolution memorializing the Congress of the United States to adequately fund implementation of the Help America Vote Act of 2002.

Referred to Committee on INTERGOVERNMENTAL AFFAIRS, February 4, 2004.

### RULES COMMITTEE MEETING

The SPEAKER pro tempore. The majority leader calls for an immediate meeting of the Rules Committee at the majority leader's desk.

### BILL REREPORTED FROM COMMITTEE

**HB 2006, PN 2804**

By Rep. S. SMITH

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

RULES.

### BILL ON CONCURRENCE REPORTED FROM COMMITTEE

**HB 500, PN 3187**

By Rep. S. SMITH

An Act providing for a residential neighborhood enhancement program to be administered by the Department of Community and Economic Development; and making an allocation of appropriated funds.

RULES.

### SENATE MESSAGE

#### SENATE CONCURRENCE IN HOUSE AMENDMENTS

The clerk of the Senate, being introduced, presented the following extract from the Journal of the Senate, which was read as follows:

In the Senate  
February 3, 2004

RESOLVED, (the House of Representatives concurring), That when the Senate adjourns this week, it reconvene on Monday, February 9, 2004, unless sooner recalled by the President Pro Tempore of the Senate; and be it further

~~RESOLVED, That when the Senate adjourns the week of February 9th, it reconvene on Monday, March 8, 2004, unless sooner recalled by the President Pro Tempore of the Senate; and be it further~~

~~RESOLVED, That when the Senate adjourns the week of March 8th, it reconvene on Monday, March 15, 2004, unless sooner recalled by the President Pro Tempore of the Senate; and be it further~~

RESOLVED, That when the House of Representatives adjourns this week, it reconvene on Tuesday, February 17, 2004, unless sooner recalled by the Speaker of the House of Representatives; and be it further

~~RESOLVED, That when the House of Representatives adjourns the week of February 17th, it reconvene on Monday, March 15th, unless sooner recalled by the Speaker of the House of Representatives.~~

RESOLVED, That when the House of Representatives adjourns this week, it reconvene on Monday, February 9, 2004, unless sooner recalled by the Speaker of the House of Representatives.

Informed that the Senate has concurred in the amendments made by the House of Representatives.

**BILLS REMOVED FROM TABLE**

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

Mr. S. SMITH. Madam Speaker, I move that the following bills be taken off the table: HBs 497 and 537.

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

**BILLS TABLED**

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

Mr. S. SMITH. Madam Speaker, I move that the following bills be placed on the table: HBs 497 and 537.

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

**BILL REMOVED FROM TABLE**

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

Mr. S. SMITH. Madam Speaker, I move that the following bill be taken from the table: HB 1796.

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

**BILL ON SECOND CONSIDERATION**

The following bill, having been called up, was considered for the second time and agreed to, and ordered transcribed for third consideration:

**HB 1796, PN 2337.**

**BILL RECOMMITTED**

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

Mr. S. SMITH. Madam Speaker, I move that the following bill be recommitted to the Appropriations Committee: HB 1796.

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

**LEAVES OF ABSENCE**

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

The Chair recognizes the majority whip, who requests a leave of absence for the day for the gentleman from Bucks County, Mr. WRIGHT, and the gentleman from

Delaware County, Mr. ADOLPH. Without objection, the leaves of absence are granted.

The Chair recognizes the minority whip, who requests a leave of absence for the day for the lady from Philadelphia, Ms. JOSEPHS. Without objection, the leave of absence is granted.

**MASTER ROLL CALL**

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

The following roll call was recorded:

**PRESENT—198**

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

ADDITIONS—0

NOT VOTING—0

## EXCUSED—3

Adolph                      Josephs                      Wright

## LEAVES ADDED—3

Dailey                      Gingrich                      Washington

### MANHEIM CENTRAL HIGH SCHOOL FOOTBALL TEAM PRESENTED

The SPEAKER pro tempore. The Chair recognizes the gentleman from Lancaster County, Mr. Creighton, for the purpose of a citation presentation.

Will members please take their seats. Would members please take their seats.

Mr. CREIGHTON. Madam Speaker, I present to the House members with great pride and privilege the Manheim Barons football team. Will you please stand.

They are the AAA Pennsylvania State football champs. These young men, these young coaches, these audacious buccaneers, have made a life commitment to become State champs, and they accomplished their goal. Over the years they have knocked on the door of the State title nine times and have been turned away, and so this win serves to make the taste of victory very sweet.

Now, let me tell you about the greatest football game I have ever seen, and I have seen a lot of games. The game was held at Hershey in a snowy blizzard. It was fantasyland like you would not believe. You would look up at the sky and you would sense that it should be black but it was white, because every snowflake was like a lightbulb. You looked down on the ground and it should be green but it was white, because we had over 3 inches of snow descend upon us during the game. You looked in the stands, and the huddled mass of fans were covered in white.

Pine-Richland, represented by Mike Turzai from Allegheny County, was a very worthy opponent. The lead changed eight times, and it seemed like we were losing most of the game. It is said that in a very difficult, contentious game, that football is a sequence of errors, and it is the team that makes the next to the last error that wins the game, and this is what the case was in this game. We were in double overtime, and one of our players was very good and he was almost getting to block the extra point. Pine-Richland was kicking the extra point to tie and put us into triple overtime. But Pine-Richland wisely decided to send an extra blocker to block this player that was going to block the extra point, but unwisely they opened an alley for another player. Shawn was able to run in there and block the punt and seal the victory for Manheim.

Since Manheim owes much of its success to its high intensity of football in Lancaster County, I have asked the Lancaster delegation to support me in making this presentation. We are accused of being a little too conservative in Lancaster, but we also want to be accused of having great football in Lancaster.

I would like to have Katie step up to the mike. Katie and I share the same district and some of the same anguishes that we have gone through in the last few years.

Mrs. TRUE. Thank you, Representative Creighton.

As the first Representative of the 37th District since 1993, I just appreciate the opportunity Representative Creighton has

given me to say to Manheim Central, the school administration, certainly the coach, job well done. I have never, and I have to tell you, I have a son that played football for Hempfield. Nothing against Hempfield, nothing against Penn Manor, but it was the best football game I have ever seen in my life. You guys were a class act as was the other team, and I just want to tell you, job well done. We are so very proud of you.

Congratulations.

Mr. CREIGHTON. In recognition of their outstanding performance not only at the championship game but throughout the season, I am proud to present to Mike Williams, the head coach, this citation. I am so proud to award to the captains – Jarryd Moyer, Mike Byrne, and Neil Hershey – citations. The citation congratulates the team on its championship and commends the team and coaches for their ability, their dedication, their hard work, and pursuit of excellence, and expresses wishes from the House that they have success in their future endeavors.

Thank you very much.

## CALENDAR

### RESOLUTIONS PURSUANT TO RULE 35

Mr. DONATUCCI called up **HR 551, PN 3260**, entitled:

A Resolution recognizing the month of March 2004 as “National Colorectal Cancer Awareness Month.”

On the question,

Will the House adopt the resolution?

The following roll call was recorded:

#### YEAS—194

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

Coy	Herman	Petri	Walko
Crahalla	Hershey	Petrone	Wansacz
Creighton	Hess	Phillips	Washington
Cruz	Hickernell	Pickett	Waters
Curry	Hutchinson	Pistella	Watson
Dailey	James	Preston	Weber
Daley	Keller	Raymond	Wheatley
Dally	Kenney	Readshaw	Williams
DeLuca	Killion	Reed	Wilt
Denlinger	Kirkland	Reichley	Wojnaroski
Dermody	LaGrotta	Rieger	Yewcic
DeWeese	Laughlin	Roberts	Youngblood
DiGirolamo	Leach	Roebuck	Yudichak
Diven	Lederer	Rohrer	Zug
Donatucci	Leh	Rooney	
Eachus	Lescovitz	Ross	Perzel,
Egolf	Levdansky	Rubley	Speaker

NAYS—0

NOT VOTING—4

Horsey	Kotik	Solobay	Tigue
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EXCUSED—3

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

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Mr. BAKER called up **HR 552, PN 3261**, entitled:

A Resolution recommending that the Secretary of Public Welfare submit a letter of intent for the Commonwealth to apply for a \$250,000 grant from the Robert Wood Johnson Foundation to implement a Cash & Counseling Program.

On the question,  
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—198

Allen	Evans, J.	Lewis	Sainato
Argall	Fabrizio	Lynch	Samuelson
Armstrong	Fairchild	Mackereth	Santoni
Baker	Feese	Maher	Sather
Baldwin	Fichter	Maitland	Saylor
Bard	Fleagle	Major	Scavello
Barrar	Flick	Manderino	Schroder
Bastian	Forcier	Mann	Scrimenti
Bebko-Jones	Frankel	Markosek	Semmel
Belardi	Freeman	Marsico	Shaner
Belfanti	Gabig	McCall	Smith, B.
Benninghoff	Gannon	McGeehan	Smith, S. H.
Biancucci	Geist	McGill	Solobay
Birmelin	George	McIlhattan	Staback
Bishop	Gergely	McIlhinney	Stairs
Blaum	Gillespie	McNaughton	Steil
Boyd	Gingrich	Melio	Stern
Browne	Godshall	Metcalfe	Stetler
Bunt	Good	Micozzie	Stevenson, R.
Butkovitz	Goodman	Miller, R.	Stevenson, T.
Buxton	Grucela	Miller, S.	Sturla
Caltagirone	Gruitza	Mundy	Surra

Cappelli	Habay	Mustio	Tangretti
Casorio	Haluska	Myers	Taylor, E. Z.
Causer	Hanna	Nailor	Taylor, J.
Cawley	Harhai	Nickol	Thomas
Civera	Harhart	O'Brien	Tigue
Clymer	Harper	Oliver	Travaglio
Cohen	Harris	O'Neill	True
Coleman	Hasay	Pallone	Turzai
Corrigan	Hennessey	Payne	Vance
Costa	Herman	Petrarca	Veon
Coy	Hershey	Petri	Vitali
Crahalla	Hess	Petrone	Walko
Creighton	Hickernell	Phillips	Wansacz
Cruz	Horsey	Pickett	Washington
Curry	Hutchinson	Pistella	Waters
Dailey	James	Preston	Watson
Daley	Keller	Raymond	Weber
Dally	Kenney	Readshaw	Wheatley
DeLuca	Killion	Reed	Williams
Denlinger	Kirkland	Reichley	Wilt
Dermody	Kotik	Rieger	Wojnaroski
DeWeese	LaGrotta	Roberts	Yewcic
DiGirolamo	Laughlin	Roebuck	Youngblood
Diven	Leach	Rohrer	Yudichak
Donatucci	Lederer	Rooney	Zug
Eachus	Leh	Ross	
Egolf	Lescovitz	Rubley	Perzel,
Evans, D.	Levdansky	Ruffing	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—3

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

**REPUBLICAN CAUCUS**

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

Mrs. TAYLOR. Thank you, Madam Speaker.

At the call of the recess there will be a very important caucus meeting immediately following. It will probably take us probably an hour so that we would be expected to come back to the floor at 12. That is, immediately following this recess, there will be a majority Republican caucus.

Thank you.

The SPEAKER pro tempore. The Chair thanks the lady.

**DEMOCRATIC CAUCUS**

The SPEAKER pro tempore. The Chair recognizes the gentleman from Westmoreland, Mr. Casorio, for the purpose of a caucus announcement.

Mr. CASORIO. Thank you, Madam Speaker.

The House Democrats will caucus; I believe we will need more than half an hour. We have a very important caucus on today's voting schedule, and there will also be informal discussions.

Thank you, Madam Speaker.

**BILLS REPORTED FROM COMMITTEE,  
CONSIDERED FIRST TIME, AND Tabled**

**HB 133, PN 3282** (Amended) By Rep. KENNEY

An Act requiring the Department of Health to establish bloodborne pathogen standards for emergency services personnel and public employees; establishing the Bloodborne Pathogen Fund; and repealing an act relating to bloodborne pathogen standards.

HEALTH AND HUMAN SERVICES.

**HB 615, PN 716** By Rep. KENNEY

An Act regulating tattoo, body-piercing and corrective cosmetic artists; providing for powers and duties of the Department of Health; and imposing penalties.

HEALTH AND HUMAN SERVICES.

**HB 661, PN 3283** (Amended) By Rep. KENNEY

An Act regulating the sale to minors of dangerous inhalants; prohibiting misuse of those inhalants; and conferring powers and duties on the Department of Health.

HEALTH AND HUMAN SERVICES.

**HB 1187, PN 3284** (Amended) By Rep. KENNEY

An Act authorizing and directing the Department of Health to establish a task force to investigate toxic mold in homes, schools and buildings and the potential health hazards it may cause; and providing for exposure limits.

HEALTH AND HUMAN SERVICES.

**BILL REPORTED AND REREFERRED  
TO COMMITTEE ON  
AGRICULTURE AND RURAL AFFAIRS**

**HB 2260, PN 3101** By Rep. KENNEY

An Act amending the act of May 23, 1945 (P.L.926, No.369), referred to as the Public Eating and Drinking Place Law, providing for frequency of inspection by the Department of Health of public eating or drinking and public eating and drinking places.

HEALTH AND HUMAN SERVICES.

**GUEST INTRODUCED**

The SPEAKER pro tempore. The Chair is pleased to welcome to the hall of the House, as the guest of Representative Allan Egolf, Jessica Runk, who is shadowing Representative Egolf as well as serving as guest page today. Jessica is homeschooled and currently in the 11th grade. Would the lady please rise.

**RECESS**

The SPEAKER pro tempore. This House now stands in recess until 1 p.m. – 1 p.m.

**AFTER RECESS**

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

**THE SPEAKER (JOHN M. PERZEL)  
PRESIDING**

**JUDICIARY COMMITTEE MEETING**

The SPEAKER. The Chair recognizes the gentleman, Mr. O'Brien.

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

I would like to call an immediate meeting of the Judiciary Committee in the back of the House.

The SPEAKER. The Chair thanks the gentleman.

Judiciary will meet immediately in the back of the House.

**BILLS REPORTED FROM COMMITTEE,  
CONSIDERED FIRST TIME, AND Tabled**

**HB 316, PN 3285** (Amended) By Rep. HERMAN

An Act amending the act of May 1, 1933 (P.L.103, No.69), known as The Second Class Township Code, further providing for connection to water system.

LOCAL GOVERNMENT.

**HB 2190, PN 3286** (Amended) By Rep. HERMAN

An Act amending the act of May 1, 1933 (P.L.103, No.69), known as The Second Class Township Code, further providing for sale of real property owned by township.

LOCAL GOVERNMENT.

**BILL REPORTED AND REREFERRED  
TO COMMITTEE ON URBAN AFFAIRS**

**HB 2304, PN 3213** By Rep. HERMAN

An Act amending the act of July 7, 1947 (P.L.1368, No.542), known as the Real Estate Tax Sale Law, further providing for property subject to or exempt from claim and for content of claims entered; and providing for public record lists.

LOCAL GOVERNMENT.

**LEAVE OF ABSENCE**

The SPEAKER. The Chair recognizes the gentleman from Lycoming, Mr. Feese, who moves for a leave of absence for the remainder of the day for the gentlelady from Montgomery, Mrs. DAILEY. Without objection, that leave will be granted.

CALENDAR CONTINUED

BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 2066, PN 2797**, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further defining "collectible motor vehicle"; defining "I-CAR"; further providing for application for certificate of title, for transfer of vehicle ownership and for reconstructed vehicles; providing for titling and inspection of reconstructed, modified and specially constructed vehicles; further providing for required registration and certificate of title; providing for fees for reconstructed, modified and specially constructed vehicle inspection and for certificate of appointment for reconstructed vehicle inspection sites; and further providing for issuance of certificate of inspection and for State replacement vehicle identification number plate.

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

BILL RECOMMITTED

The SPEAKER. The Chair recognizes the gentleman, Mr. Geist.

Mr. GEIST. Mr. Speaker, I move that HB 2066, PN 2797, be recommitted to the Committee on Transportation.

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

\* \* \*

The House proceeded to third consideration of **SB 152, PN 1324**, entitled:

An Act amending Titles 12 (Commerce and Trade) and 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, adding provisions relating to trade secrets; and further providing for the offense of theft of trade secrets.

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

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

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS-197

Allen	Fabrizio	Lynch	Samuelson
Argall	Fairchild	Mackereth	Santoni
Armstrong	Feese	Maher	Sather
Baker	Fichter	Maitland	Saylor
Baldwin	Fleagle	Major	Scavello
Bard	Flick	Manderino	Schroder
Barrar	Forcier	Mann	Scrimenti
Bastian	Frankel	Markosek	Semmel
Bebko-Jones	Freeman	Marsico	Shaner

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

NAYS-0

NOT VOTING-0

EXCUSED-4

Adolph	Dailey	Josephs	Wright
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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 return the same to the Senate with the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

\* \* \*

The House proceeded to third consideration of **HB 428, PN 506**, entitled:

An Act designating the polka as the official dance of Pennsylvania; and designating the square dance as the official American folk dance of Pennsylvania.

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



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

The question is, shall the bill pass finally?

The Chair recognizes the gentleman from Cambria, Mr. Wojnaroski.

Mr. WOJNAROSKI. Thank you, Mr. Speaker.

Once again I rise to ask my colleagues to support HB 428, which would name the polka as the Commonwealth's official dance. It will also include the square dance as the State official American folk dance.

I am sorry, Mr. Speaker? Okay.

The SPEAKER. Continue.

Mr. WOJNAROSKI. Thank you.

We currently have 17 official State symbols. Like other State symbols, both the polka and the square dance have proud legacies in the Commonwealth and continue to be enjoyed by residents across the State.

Mr. Speaker, today marks the third time this legislation has come up for a vote on the floor of the House. It has received overwhelming support in the past, only to be faded in the Senate. There is an old saying that the third time is a charm. Well, with your support we can send this legislation to the Senate and to the Governor to recognize the polka and square dance as official symbols of our Commonwealth.

Thank you very much, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The Chair would like the gentleman to know that at least I am with you, Mr. Wojnaroski. We will find out whether the rest of the members are in a moment.

On the question recurring,  
Shall the bill pass finally?

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

The following roll call was recorded:

YEAS-195

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

Clymer	Harris	Pallone	True
Cohen	Hasay	Payne	Turzai
Coleman	Hennessey	Petrarca	Vance
Corrigan	Herman	Petri	Veon
Costa	Hershey	Petrone	Vitali
Coy	Hess	Phillips	Walko
Crahalla	Hickernell	Pickett	Wansacz
Creighton	Horsey	Pistella	Washington
Cruz	Hutchinson	Preston	Waters
Curry	James	Raymond	Watson
Daley	Keller	Readshaw	Weber
Dally	Kenney	Reed	Wheatley
DeLuca	Killion	Reichley	Williams
Denlinger	Kirkland	Rieger	Wilt
Dermody	Kotik	Roberts	Wojnaroski
DeWeese	LaGrotta	Roebuck	Yewcic
DiGirolamo	Laughlin	Rohrer	Youngblood
Diven	Leach	Rooney	Yudichak
Donatucci	Lederer	Ross	Zug
Eachus	Leh	Rubley	
Egolf	Lescovitz	Ruffing	Perzel,
Evans, D.	Levdansky	Sainato	Speaker
Evans, J.			

NAYS-2

Lewis	Nickol
-------	--------

NOT VOTING-0

EXCUSED-4

Adolph	Dailey	Josephs	Wright
--------	--------	---------	--------

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 700, PN 1049**, entitled:

An Act selecting, designating and adopting celestite, more commonly known as celestine, as the official State mineral of the Commonwealth of Pennsylvania.

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

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.  
The question is, shall the bill pass finally?

LEAVE OF ABSENCE

The SPEAKER. The Chair returns to leaves of absence.  
The Chair recognizes the gentleman from Beaver, Mr. Veon, who moves for a leave of absence for the gentledady from Philadelphia, Ms. WASHINGTON. Without objection, that leave will be granted.

CONSIDERATION OF HB 700 CONTINUED

The SPEAKER. The Chair recognizes the gentleman from York, Mr. Smith.

Mr. B. SMITH. Thank you, Mr. Speaker.

This is nearly as exciting as a polka, but what we are voting on now is the State mineral, and I want to give a little background so everybody understands.

A group of fifth graders from Wellsville Elementary School visited the Capitol and presented me with a huge selection of letters urging me to make celestine the State mineral. Having been a former English teacher, I said to them, I thought coal would be a better State mineral. The fifth graders educated me and said, coal is a rock; it is not a mineral; we want celestine as the State mineral. These students came to Harrisburg in the midst of the summer, conducted a hearing in front of Representative Paul Clymer and me. One of them even came from Pittsburgh, because she was there with her family on vacation, to urge celestine as the State mineral. Not only these students, but the Central Pennsylvania Rock and Mineral society, RJ Harris, president, urges that you adopt celestine as the State mineral.

Please join me in voting for celestine as the State mineral.

Thank you, Mr. Speaker.

I have a celestine with me if anybody wants to see what it looks like. It is from the word, if you know the word "celestial," "heavenly." It is found in a number of counties, including York County, and I ask for your vote, sir.

Thank you.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

Shall the bill pass finally?

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

The following roll call was recorded:

YEAS-195

Table with 4 columns of names: Allen, Argall, Armstrong, Baker, Baldwin, Bard, Barrar, Bastian, Bebk-Jones, Belardi, Belfanti, Benninghoff, Biancucci, Birmelin, Bishop, Blaum, Boyd, Browne, Bunt, Butkovitz, Buxton, Caltagirone, Cappelli, Casorio, Causer, Cawley, Civera, Fabrizio, Fairchild, Feese, Fichter, Fleagle, Flick, Forcier, Frankel, Freeman, Gabig, Gannon, Geist, George, Gergely, Gillespie, Gingrich, Godshall, Good, Goodman, Grucela, Gruitza, Habay, Haluska, Hanna, Harhai, Harhart, Harper, Lynch, Mackereth, Maher, Maitland, Major, Manderino, Mann, Markosek, Marsico, McCall, McGeehan, McGill, McIlhattan, McIlhinney, McNaughton, Melio, Metcalfe, Micozzie, Miller, R., Miller, S., Mundy, Mustio, Myers, Nailor, Nickol, O'Brien, Oliver, Sainato, Samuelson, Santoni, Sather, Saylor, Scavello, Schroder, Scrimenti, Semmel, Shaner, Smith, B., Smith, S. H., Solobay, Staback, Stairs, Steil, Stern, Stetler, Stevenson, R., Stevenson, T., Sturla, Surra, Tangretti, Taylor, E. Z., Taylor, J., Thomas, Tigue

Table with 4 columns of names: Clymer, Cohen, Coleman, Corrigan, Costa, Coy, Crahalla, Creighton, Cruz, Curry, Daley, Dally, DeLuca, Denlinger, Dermody, DeWeese, DiGirolamo, Diven, Donatucci, Eachus, Egolf, Evans, D., Evans, J., Harris, Hasay, Hennessey, Herman, Hershey, Hess, Hickernell, Horsey, Hutchinson, James, Keller, Kenney, Killion, Kirkland, Kotik, LaGrotta, Laughlin, Leach, Lederer, Leh, Lescovitz, Levdansky, O'Neill, Pallone, Payne, Petrarca, Petri, Petrone, Phillips, Pickett, Pistella, Preston, Raymond, Readshaw, Reed, Reichley, Rieger, Roberts, Roebuck, Rohrer, Rooney, Ross, Rubley, Ruffing, Travaglio, True, Turzai, Vance, Veon, Vitali, Walko, Wansacz, Waters, Watson, Weber, Wheatley, Williams, Wilt, Wojnaroski, Yewcic, Youngblood, Yudichak, Zug, Perzel, Speaker

NAYS-1

Lewis

NOT VOTING-0

EXCUSED-5

Table with 4 columns of names: Adolph, Dailey, Josephs, Washington, Wright

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 310, PN 356, entitled:

An Act designating a portion of State Route 1040 known as Spur Road in East Cocalico Township, Lancaster County, Pennsylvania, as Colonel George Howard Boulevard.

On the question,

Will the House agree to the bill on third consideration?

Bill was agreed to.

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

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS-196

Table with 4 columns of names: Allen, Argall, Armstrong, Baker, Fabrizio, Fairchild, Feese, Fichter, Lynch, Mackereth, Maher, Maitland, Sainato, Samuelson, Santoni, Sather

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

NA YS-0

NOT VOTING-0

EXCUSED-5

Adolph	Josephs	Washington	Wright
Dailey			

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 842, PN 3002**, entitled:

An Act amending the act of June 23, 1931 (P.L.932, No.317), known as The Third Class City Code, further providing for residency requirements for vacancy appointments.

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

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

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS-196

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

NAYS-0

NOT VOTING-0

EXCUSED-5

Adolph Josephs Washington Wright
Dailey

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 2332, PN 3228, entitled:

An Act authorizing submission of a question to the electorate pertaining to incurring certain indebtedness; and provisionally authorizing the incurring of debt for water and wastewater treatment projects.

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

Ms. WEBER offered the following amendment No. A0185:

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

Providing for

Amend Title, page 1, lines 2 and 3, by striking out all of line 2, "provisionally authorizing the incurring of debt" in line 3 and inserting authorizing incurring indebtedness

Amend Sec. 2, page 2, by inserting between lines 10 and 11

(d) Election procedure.—The election shall be conducted in accordance with the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, except that any time limits for advertising notice related to the question are hereby waived.

Amend Sec. 3, page 2, lines 13 through 16, by striking out all of said lines and inserting

Proceeds of the borrowing, not to exceed \$250,000,000, shall be used for loans and grants for the acquisition, repair, construction, expansion, extension, reconstruction, rehabilitation or improvements of water supply and wastewater infrastructure as hereafter provided by law.

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

The SPEAKER. On that question, the Chair recognizes the gentelady, Ms. Weber.

Ms. WEBER. Thank you, Mr. Speaker.

Amendment A0185 essentially is a technical amendment. The purpose of the amendment is to ensure the language is clear that the election in which the question is to be asked is conducted in accordance with the provisions of the Election Code, and it is also to clarify that the proceeds of the borrowing are to be used for grants and loans for acquisition, repair, construction, expansion, et cetera, of water supply and wastewater infrastructure as hereinafter provided by law.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentelady.

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

The following roll call was recorded:

YEAS-196

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

NAYS-0

NOT VOTING-0

EXCUSED-5

Adolph Josephs Washington Wright
Dailey

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

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

Bill as amended was agreed to.

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

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

## YEAS-196

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

## NAYS-0

## NOT VOTING-0

## EXCUSED-5

Adolph	Josephs	Washington	Wright
Dailey			

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.

## SUPPLEMENTAL CALENDAR B

BILL ON CONCURRENCE  
IN SENATE AMENDMENTS

The House proceeded to consideration of concurrence in Senate amendments to **HB 500, PN 3187**, entitled:

An Act providing for a residential neighborhood enhancement program to be administered by the Department of Community and Economic Development; and making an allocation of appropriated funds.

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

The SPEAKER. It is moved by the gentleman, Mr. Freeman, that the House concur in the amendments inserted by the Senate.

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

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

The following roll call was recorded:

## YEAS-196

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

Creighton	Horsey	Pickett	Wansacz
Cruz	Hutchinson	Pistella	Waters
Curry	James	Preston	Watson
Daley	Keller	Raymond	Weber
Dally	Kenney	Readshaw	Wheatley
DeLuca	Killion	Reed	Williams
Denlinger	Kirkland	Reichley	Wilt
Dermody	Kotik	Rieger	Wojnaroski
DeWeese	LaGrotta	Roberts	Yewcic
DiGirolamo	Laughlin	Roebuck	Youngblood
Diven	Leach	Rohrer	Yudichak
Donatucci	Lederer	Rooney	Zug
Eachus	Leh	Ross	
Egolf	Lescovitz	Rubley	
Evans, D.	Levdansky	Ruffing	Perzel,
Evans, J.	Lewis		Speaker

NAYS—0

NOT VOTING—0

EXCUSED—5

Adolph	Josephs	Washington	Wright
Dailey			

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.

**RULES COMMITTEE MEETING**

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

**SENATE MESSAGE**

HOUSE AMENDMENTS  
CONCURRED IN BY SENATE

The clerk of the Senate, being introduced, informed that the Senate has concurred in the amendments made by the House of Representatives to **SB 748, PN 1371**.

**SENATE MESSAGE**

AMENDED SENATE RESOLUTION RETURNED  
FOR CONCURRENCE AND  
REFERRED TO COMMITTEE ON RULES

The clerk of the Senate, being introduced, informed that the Senate has concurred in the amendments made by the House of Representatives by amending said amendments to **SR 98, PN 1377**.

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

**BILLS SIGNED BY SPEAKER**

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

**HB 500, PN 3187**

An Act providing for a residential neighborhood enhancement program to be administered by the Department of Community and Economic Development; and making an allocation of appropriated funds.

**SB 748, PN 1371**

An Act amending the act of June 14, 1961 (P.L.324, No.188), known as The Library Code, providing for fiscal year 2003-2004 waiver of standards and for temporary emergency aid to local libraries.

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

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

**HB 2353, PN 3281**

By Rep. O'BRIEN

An Act amending the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, providing for staffing levels and limitations on inmate capacity at State correctional institutions.

JUDICIARY.

**RESOLUTION REPORTED  
FROM COMMITTEE**

**HR 40, PN 135**

By Rep. S. SMITH

A Resolution amending House Rule 14.

RULES.

**STATEMENT BY MR. VITALI**

The SPEAKER. For what purpose does the gentleman from Delaware, Mr. Vitali, rise?

Mr. VITALI. For the purpose of giving notice.

The SPEAKER. The gentleman is in order.

Mr. VITALI. Thank you, Mr. Speaker.

I am happy to report that the House Rules Committee has just released HR 40, which would prohibit moneys for so-called public service announcements and others. I am now giving this House formal notice pursuant, I assume, to rule 21 that on Tuesday, next Tuesday, I will be calling up HR 40 for consideration of the full House.

The SPEAKER. The Chair thanks the gentleman.

**CALENDAR CONTINUED**

**BILL ON THIRD CONSIDERATION**

The House proceeded to third consideration of **HB 2128, PN 3025**, entitled:

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, establishing the Emergency Basic Education Subsidy Fund; and providing for basic education subsidy continuation funding.

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

### CONSTITUTIONAL POINT OF ORDER

The SPEAKER. Does the gentleman, Mr. DeWeese, wish to be recognized? The Chair recognizes the gentleman, Mr. DeWeese.

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

I would like to ask that the House consider the constitutionality of HB 2128. The General Counsel's Office has asserted that they believe there are manifest and manifold constitutional problems in this proposal, and notwithstanding the efficacy of the idea that propels this legislation, it should be done aggressively year in and year out by our traditional budgetary process.

Occasionally, as we know, and during the last budget cycle, we were the lamentable participants in a very slothful budget engagement. We still somehow fumbled, stumbled, and regrouped and did the business of the budget.

A stopgap idea, it is a good concept, but it goes against the grain of the Pennsylvania Constitution. Mr. Speaker, specifically, and we are buttressing this constitutional exchange, and I am sure the Parliamentarian – I am sure the Parliamentarian, I am sure the Parliamentarian, I am sure the Parliamentarian – is well aware of the constitutional dynamics at hand. Article VIII, section 12, establishes a yearly budget process. Section 13: "Operating budget appropriations made by the General Assembly shall not exceed the actual and estimated revenues and surplus available in the same fiscal year."

Now, many of us – I look at the young man from Monessen, look at the young man from Armstrong County – many of us are devoid of much academic attainment past the baccalaureate. We are not all lawyers in this room, Mr. Speaker. We are not all lawyers, Mr. Parliamentarian. We are not all lawyers, Mr. Conservatives and Ms. Conservatives on the Republican side of the aisle. I want to know, I want to know where the Commonwealth Caucus is on this issue. You talk about strict construction. Strict construction of the Constitution is one of the sacred conservative hallmarks of our legislative history.

And one more time, section 13, Article VIII, of the Pennsylvania Constitution tells me and should tell anyone with a scintilla of common sense that what the gentleman is trying to do in HB 2128 is unconstitutional. Here it is again; it is only one delicious sentence: "Operating budget appropriations made by the General Assembly shall not exceed the actual and estimated revenues and surplus available in the same fiscal year." What the gentleman is trying to do by a stopgap proposal ad infinitum, year in year out, orchestrated by us today, goes against the grain, especially of those last five words, "in the same fiscal year."

Again, there is merit in the Hickernell proposal; there is idealism in the Hickernell proposal, but it smashes against the grain of our Constitution. You cannot do it, sir, year in and year out when you are going to smash up against Article VIII, section 13. I think if the gentleman wants to do what he wants to do, Mr. Speaker, he should introduce a constitutional amendment. He may even prevail. He may get votes from both sides of the aisle.

Again, my argument is constitutionality. You cannot do something year in and year out, projecting money ahead of time,

especially when Article VIII, section 13, stands as a bulwark against the Hickernell proposal 2128. I would ask for a vote against its constitutional ability to withstand the views of our attorneys and the process as it ensues.

Thank you very much.

The SPEAKER. The Chair thanks the gentleman.

The gentleman, Mr. DeWeese, raises the point of order that HB 2128, PN 3025, is unconstitutional.

The Speaker under rule 4 is required to submit questions affecting the constitutionality of a bill to the House for decision, which the Chair now does.

On the question,  
Will the House sustain the constitutionality of the bill?

The SPEAKER. The Chair recognizes the gentleman, Mr. DeWeese. Do you wish to be recognized again?

Mr. DeWEESE. If it is acceptable to the gentleman, I would like to hear his proposals. It would make for a more constructive debate.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Lancaster, Mr. Hickernell.

Mr. HICKERNELL. Thank you, Mr. Speaker.

It is ironic that the gentleman, Mr. DeWeese, would raise the issue of constitutionality in that that is one of the primary reasons why I introduced this bill, because we clearly shirked our constitutional duty during the 5 1/2 months when we did not provide funding for public education in Pennsylvania. It is very clear to me, and I can read the Constitution as Mr. DeWeese can, that Article III, section 14, of the Constitution says that we have a duty, an absolute duty, to provide for a thorough and efficient system of public education in this Commonwealth. Now, that is pretty obvious.

You know, we can debate other elements of the Constitution, but to me, we clearly violated that section of the Constitution for 5 1/2 months when we did not provide one dollar of education funding for our public schools across the State. My bill very simply says that if that situation would ever happen again, that we would have a mechanism in place to temporarily get those dollars out to the schools based on the prior year's funding formula on a temporary basis. Certainly in no way does it impede the duties, responsibilities, of this legislature to annually appropriate those dollars, but in the unusual situation, should it ever occur again, we would have a mechanism in place so that we could never hold schools, and most importantly our students, hostage again where school districts would be forced to borrow money, use their interest moneys, and ultimately, potentially, have to close their doors.

I argue, Mr. Speaker, that this measure is indeed constitutional and actually prevents us from breaking the Constitution again as we did for 5 1/2 months in 2003.

Thank you.

The SPEAKER. The gentleman, Mr. DeWeese.

Mr. DeWEESE. My concern— Thank you very much, Mr. Speaker.

My concern is that the gentleman's proposal would shackle subsequent sessions of the General Assembly. Again, I am not necessarily arguing with what he is trying to do. I am just saying that every session of the General Assembly should have the chance to project stopgap legislation in the budget process,

and I think, sir, by doing what you are trying to do, you are saying that the sessions from this day forward into eternity would have this automatically built in, and I just think it would be more appropriate and constitutional – and constitutional – if each session of the General Assembly made our own decisions.

I think we are shirking the opportunity to allow subsequent members of the General Assembly, including yourself and hopefully myself and many of the rest of us, to either favorably vote on stopgaps or deny them in future years. I just do not think that our constitutional system, the way it is prescribed, will accept the gentleman's effort. I think it will be vetoed. I think it would also have problems in court. And again, if he wants to do what he obviously wants to do, the way to do it is with a constitutional amendment.

Thank you very much.

The SPEAKER. Does Mr. Leach desire recognition? The gentleman from Montgomery, Mr. Leach.

Mr. LEACH. Thank you, Mr. Speaker.

I just want to discuss very briefly the constitutional issue involved here. I would state that the Representative who introduced this and who mentioned that we have an absolute duty to provide an education and so forth, in terms of constitutional interpretation, that is a general statement of policy. That is not a roadmap for the specific mechanism by which we appropriate funds. That roadmap leads to the conclusion that the minority leader made.

And let me just say, first of all, I have an amendment on this bill and I support the general policy behind it, and I would like to see my amendment attached to a bill that would become law, but I do think that the constitutional issues here are compelling. I am not going to go through a lengthy exposition of the constitutional issues and the case law, but I do want to make a couple of points because I think it is important – unless you would like me to, I am prepared to.

I would like to make a point about just the specific constitutional issue involved. There is a Supreme Court case, Commonwealth ex rel. Schnader v. Liveright, that talks about how the expenses of public schools are current expenses, and that case says, "Appropriations in excess of estimated revenues..." which this would do, "are simply ineffective; they incur no liability or obligation on the part of the State; they simply abate..." So we are doing something that would have no effect, if this decision is good law.

They also say in the same case, "...the Court held that attempts by the legislature to expend future funds," which this does, "were merely an expression of the intent to appropriate the funds and not" in itself "an effective appropriation."

Finally, the Attorney General's opinion from 1966 when this constitutional provision was originally passed held that an appropriation enacted in a given year could extend beyond the fiscal year – we could appropriate money for several years – "...but that expenditure of funds is limited to the amount...appropriated." This bill does not appropriate any specific funds. All it does is mandate that we spend money in the future if a certain set of circumstances occurs. And the Attorney General's opinion said, "...while an appropriation for education made in a given year can be spent in subsequent years, additional monies cannot be spent until appropriated," which means they cannot be spent until we actually go through the budget process, which is what the holdup was this year.

So rather than passing yet another bill which is unconstitutional, which requires these expenditures of moneys that we have not yet appropriated in a budget process, which the Supreme Court and the Attorney General's Office says we cannot do, and then attach all these other amendments to a bill that is likely to be struck down – and as I understand, the Governor has indicated he will not sign – I urge a "yes" vote or a vote that would declare this to be an unconstitutional bill, which it is, and maybe we can find another mechanism, which I would certainly be open to, which would accomplish the same thing but which would survive constitutional scrutiny.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The gentleman from Lancaster, Mr. Sturla.

Mr. STURLA. Thank you, Mr. Speaker.

Mr. Speaker, while I certainly understand the maker of this bill's intent in terms of trying to make sure that we fund the public schools, I have risen on this occasion and others to question the constitutionality of encumbering future legislatures. I think I did it with Representative Bard when she was trying to do some legislation regarding funding for medical malpractice. So this should not be construed as anything other than trying to make sure that we follow the Constitution.

The concern here is that, as has been pointed out by several speakers, this is not constitutional in that it does not appropriate the dollars necessary to meet this mandate for future legislatures. The fact of the matter is that an attempt to create a perpetual appropriation is constitutionally suspect, and it is likely that the Treasurer would not make payments even if such a stopgap proposal is enacted. If a party sought a mandamus action to compel payment, the continuing appropriation would not likely be enforceable. The idea that we are going to say to a future legislature, not even knowing what revenues they would have available there, while I would hope we never reach the day where our projected revenues are such that we could not even cover the portion of the budget that funds education, there is a real possibility that this could be in effect in a year when there was not even enough money to cover this portion of the budget for future legislatures, which would require then a future legislature to come back and render this null and void.

Now, I understand the concern that we did not fund education for 5 1/2 months this year, but I would also contend that if in fact this provision were put into law, we still would not have funded education in this State at a level that we were supposed to, because the stopgap measure may have been done, although I think it would have run into problems for funding anyway, and we would have just shirked our responsibility to do the things that we needed to do with the budget, the point of this all being that I believe that the gentleman would be better off trying to look at a constitutional amendment if in fact we are going to do this. There are other States that have done constitutional amendments or whose Constitutions permit this type of future funding.

Three States have standing annual appropriations via a constitutional mandate – those States being Minnesota, South Carolina, and West Virginia – and six States have funding via a permanent education fund established in their State Constitutions – Nevada, New Jersey, Mississippi, Oklahoma, Texas, and Wyoming. It is not that this could not be done if it was done appropriately by amending the Constitution.



The Constitution as it stands today in Pennsylvania prohibits this.

So I would ask all members to rule this unconstitutional, and if we want to come back and do it the other route that would make this constitutionally feasible in the State of Pennsylvania, I would think we could get the support of many members to do this, to guarantee that we were going to get funding for education in the State of Pennsylvania. But as it stands right now, our Constitution does not permit this, and I would encourage members to affirm that. Thank you.

The SPEAKER. The Chair thanks the gentleman.

The Chair now recognizes the gentleman from Greene, Mr. DeWeese.

The Chair apologizes. The gentleman, Mr. Metcalfe.

Mr. DeWEESE. Mr. Speaker, I can see how you got us mixed up.

Mr. METCALFE. Except I do not wear a bow tie.

Thank you, Mr. Speaker.

Mr. Speaker, I rise in support of the gentleman's bill, and I would ask the members to consider voting that this is a constitutional measure, that it is not unconstitutional.

I think we have to look at the clear constitutional charge that we have to provide for a thorough and efficient system of public education here in the State of Pennsylvania and not look at the gray lines that are being drawn by many from the other side; that last year, from the Governor's own actions, after proposing his own budget and vetoing his own proposal to fund basic education, our schools went without those moneys for most of the year. This bill would clearly put an end to that kind of political jockeying that our new Governor was trying to use last year. So I think this is an excellent measure to ensure that this year our schools will get their money on time, no matter what our new Governor says or does not say.

So I would ask for support of the gentleman's bill and for a finding that this is constitutional, and let us move on to a real vote, and let us see who is going to cast a vote against providing educational funding.

The SPEAKER. The Chair thanks the gentleman.

### PARLIAMENTARY INQUIRY

The SPEAKER. The Chair recognizes the gentleman from Jefferson, Mr. Smith.

Mr. S. SMITH. Thank you, Mr. Speaker.

Just as a parliamentary inquiry, I presume that a "yes" vote means that you believe the proposed legislation is constitutional? Okay.

Thank you, Mr. Speaker.

To speak on this motion, I would urge the members to defeat the minority leader's contention. I believe this legislation is constitutional. And he challenged it under section 13 of Article VIII, where it refers to the "Operating budget...made by the General Assembly shall not exceed the actual and estimated revenues and surplus available in the same fiscal year."

And I agree that there is some room to debate this, but it seems to me that if we set aside, if down the road we were to set aside money for a fund that would be used in a contingency way in a future year, there is certainly nothing unconstitutional about that, and the simple fact that each year, come July 1, the

first day of the new budget, if in fact we did not have a budget in place, there are actual revenues coming in and those moneys are available to be spent. And at the end of the day, we have not limited our ability to spend more or less money over the whole year; we have only provided for a contingency fund that would be used in a particular situation.

So, Mr. Speaker, I do not see that we are either limiting our ability to do our constitutional duty in crafting an entire budget, nor are we going beyond the limits of the Constitution by spending money that has not been identified, granted the revenue estimate may not be in place if in fact a final budget has not been signed, at which point in time the Budget Secretary normally certifies that revenue estimate, but there would be known actual revenues in the State's coffers that we could use.

So, Mr. Speaker, I would urge the members to support this legislation first by voting that it is constitutional and allow us to consider it further on its merits.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

### GUESTS INTRODUCED

The SPEAKER. Just for one moment, Representative Ed Staback has some special guests here today. His son, Ed Staback, Jr., is to the left of the Speaker, along with his wife, Maria, and his grandson, Nicholas. Would those guests please rise and be recognized by the House.

### CONSIDERATION OF HB 2128 CONTINUED

The SPEAKER. The Chair at this time recognizes the gentleman from Greene, Mr. DeWeese.

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

I think the arguments have been set forth. I think this is why we have a General Assembly. I think this is obviously a constitutional question where there is some legitimate disagreement.

We have had intimate dialogue with the General Counsel's Office. I would certainly say that the Governor is not comfortable with this proposal. His battalion of attorneys are not comfortable with this proposal. I would entreat with all of my Democratic colleagues to vote that this is not a constitutional provision. I would one more time, although I think it is an ill-fated supplication, ask that true, strict constructionists of the Constitution – and I do not think I will get any on the Republican side of the aisle – gainsay Mr. Hickernell's proposal.

I do not think it is constitutional to set in motion by this General Assembly a process that will go on ad infinitum. I think we have to appropriate moneys for our schools year in and year out, and each General Assembly should have that option.

So I would ask for a negative vote. I believe that the gentleman's proposal is not constitutional.

Thank you very much.

The SPEAKER. The Chair thanks the gentleman.

For the information of the gentleman, each member, with the exception of the leaders, is allowed to speak one time on this issue. The majority leader can speak again, and the minority leader would be allowed to speak again. I am sorry, Mr. Hickernell.

Those voting “aye” will vote to declare the bill to be constitutional; those voting “no” will vote to declare the bill unconstitutional.

On the question recurring,  
Will the House sustain the constitutionality of the bill?

The following roll call was recorded:

YEAS-104

Allen	Fichter	Mackereth	Ross
Argall	Fleagle	Maher	Rubley
Armstrong	Flick	Maitland	Sather
Baker	Forcier	Major	Saylor
Baldwin	Gabig	Marsico	Scavello
Bard	Gannon	McGill	Schroder
Barrar	Geist	McIlhattan	Semmel
Bastian	Gillespie	McIlhinney	Smith, B.
Benninghoff	Gingrich	McNaughton	Smith, S. H.
Birmelin	Godshall	Metcalfe	Stairs
Boyd	Good	Micozzie	Steil
Browne	Habay	Miller, R.	Stern
Bunt	Harhart	Miller, S.	Stevenson, R.
Cappelli	Harper	Mustio	Stevenson, T.
Causar	Harris	Nailor	Taylor, E. Z.
Civera	Hasay	Nickol	Taylor, J.
Clymer	Hennessey	O'Brien	True
Coleman	Herman	O'Neill	Turzai
Crahalla	Hershey	Payne	Vance
Creighton	Hess	Petri	Watson
Dally	Hickernell	Phillips	Weber
Denlinger	Hutchinson	Pickett	Wilt
DiGirolamo	Kenney	Raymond	Zug
Egolf	Killion	Reed	
Evans, J.	Leh	Reichley	
Fairchild	Lewis	Rohrer	Perzel,
Feese	Lynch		Speaker

NAYS-92

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

NOT VOTING-0

EXCUSED-5

Adolph	Josephs	Washington	Wright
Dailey			

The majority having voted in the affirmative, the question was determined in the affirmative and the constitutionality of the bill was sustained.

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

The SPEAKER. Does the gentleman, Mr. Zug, wish to offer his two amendments? The gentleman waives off. The Chair thanks the gentleman.

The Chair recognizes the gentleman, Mr. Haluska, for the purpose of offering an amendment. The gentleman waives off.

The Chair recognizes the gentleman, Mr. Roebuck, for the purpose of the two amendments that he has.

The Chair recognizes the gentleman, Mr. Sturla, for the two amendments that he has to offer. Mr. Sturla, the two amendments. You have one amendment? Could the gentleman just give us the number that he is still submitting? Mr. Sturla, the number?

Mr. STURLA. 4537.

The SPEAKER. The gentleman, Mr. Sturla, is offering amendment A4537.

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

Mr. STURLA offered the following amendment No. **A4537**:

Amend Title, page 1, line 7, by inserting after “FOR”  
distinguished educator program and for

Amend Sec. 1, page 1, lines 11 and 12, by striking out  
“a section” and inserting  
sections

Amend Sec. 1, page 1, by inserting between lines 12 and 13

Section 1715.5-B. Distinguished Educators.—(a) The department shall establish a Distinguished Educator Program for recognizing outstanding qualified educators and organizing them into a State corps of educators for the purpose of making them available throughout this Commonwealth to help eligible schools improve the quality of education.

(b) The department shall develop guidelines, standards and criteria for the selection of participants. At a minimum, candidates shall be educators certified by the department and have active experience as a teacher or school administrator for a minimum of five (5) years prior to the date of application. Candidates selected for participation shall have knowledge and skills relating to school leadership, management, curriculum and instruction.

(c) Applications shall be submitted to the department in a form and manner prescribed by the department. The application form and information relating to applying for the program, along with the criteria to be used to review applications, shall be published in the Pennsylvania Bulletin and may be placed on the department’s World Wide Web site.

(d) The department shall annually select from the applications received from educators to participate in the program. Following completion of the training program required by this section, the department shall recognize a participant in the program as a Distinguished Educator, award a special certificate of achievement and accord special Statewide recognition and honors deemed appropriate by the department.

(e) By participating in the program, all educators recognized as Distinguished Educators by the department agree to provide assistance to eligible schools at the request of the department.

(f) The department shall establish an intensive and comprehensive training program for Distinguished Educators to participate in the program. Educators must attend and complete the training program before being named a Distinguished Educator. The department may require additional training from time to time to ensure the competencies of Distinguished Educators and the integrity of the program. Training shall be provided at no cost to participants. The training program shall include, but not be limited to, instruction relating to school management, methods of personnel evaluation, school organization, school curriculum and assessment techniques and methodologies. Participants in the program will be compensated by the department during training pursuant to the provisions of the collective bargaining agreement or contract of employment applicable to the participant.

(g) (1) Upon request of the department, a Distinguished Educator may be assigned to provide assistance to an eligible school.

(2) Upon receipt of a request from an eligible school for assistance, the department may assign a Distinguished Educator to provide assistance.

(3) (i) A Distinguished Educator may be assigned to provide assistance to an eligible school for a period of at least one (1) school semester, which period may be extended upon mutual agreement of the Distinguished Educator and the department. A Distinguished Educator shall not be required to accept an assignment more than once within two (2) consecutive years. A Distinguished Educator shall not be assigned to a school from which leave was granted for the Distinguished Educator pursuant to subsection (h).

(ii) While on assignment, a Distinguished Educator shall:

(I) Report to and cooperate with the superintendent where the school is located.

(II) Assist the school improvement team, the principal and the school staff with the development and implementation of a school improvement plan.

(III) Notwithstanding the provisions of section 1123, in a school or school district in a corrective action or school improvement cycle, evaluate and rate school staff and staff effectiveness.

(IV) Recommend staff adjustments and advise the superintendent on the reconstitution of schools when appropriate.

(h) Upon the request of the department, a school district shall grant leave to a Distinguished Educator to serve under and in accordance with the provisions of this article.

(i) During the leave granted pursuant to subsection (h), the department shall pay the Distinguished Educator the salary, compensation and employe benefits payable or due to the Distinguished Educator under collective bargaining agreement or contract of employment applicable to the educator. The department shall further pay a Distinguished Educator assigned to a school in a school improvement cycle or in a corrective action cycle an annual salary supplement equal to fifty per centum (50%) of the Distinguished Educator's regular salary, prorated for the length of the assignment. Vehicle mileage shall be reimbursed as provided by law. Distinguished Educators shall maintain the rights established in sections 1167, 1168 and 1170, but not the requirements in section 1166. The fifty per centum (50%) salary supplement shall not be compensation for the purposes of computing the final average salary of a member of the Public School Employees' Retirement System or the State Employees' Retirement System. The department shall not pay any costs incurred by a school district to fill a vacancy resulting from the absence of a Distinguished Educator during the leave granted pursuant to subsection (h).

On the question,

Will the House agree to the amendment?

The SPEAKER. For that purpose, the Chair recognizes the gentleman from Lancaster, Mr. Sturla.

Mr. STURLA. Thank you, Mr. Speaker.

Mr. Speaker, this amendment establishes the Distinguished Educators Program. We all know that No Child Left Behind is placing increasing mandates on our school districts. We have over 1,000 school districts right now that are schools that are in need of help in terms of technical assistance, and with this program we will be able to give those schools the type of help that they need in meeting No Child Left Behind.

I would encourage members to approve this amendment. Thank you.

The SPEAKER. The Chair thanks the gentleman.

On that question, the Chair recognizes the gentleman from Lancaster, Mr. Hickernell.

Mr. HICKERNELL. Thank you, Mr. Speaker.

I am not going to discuss the merits of the Sturla amendment, but I know I am a freshman and I am new here, but I am kind of confused as to why a member who just spoke against a piece of legislation that he felt was unconstitutional would now stand up and offer an amendment to that bill when he believes it is actually unconstitutional.

I would urge members to vote "no." Thank you.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman, Mr. DeWeese.

Mr. DeWEESE. If I might politely respond to the gentleman from Lancaster County, it would seem to be axiomatic; it would seem to be a very basic and fundamental tactic in any kind of concussion, whether it is military or parliamentary. The gentleman thinks the proposal is unconstitutional, but woe be it, if it were to make its lamentable way into statute, he would like to augment it with his amendment.

The SPEAKER. The Chair thanks the gentleman.

Mr. Sturla. The Chair recognizes the gentleman.

Mr. STURLA. Thank you, Mr. Speaker.

Mr. Speaker, you know, I saw the vote. The majority of members said they thought it was constitutional. I do not agree with that, but as was pointed out, should it pass and should it make it past the Governor's desk, I would like this to be included. This is a critical part of any education proposal.

I must say I was probably remiss in not putting a severability clause on my portion of the bill, so that when the other part gets struck down as unconstitutional, at least this part would stand, but that being said, I will let this ride on the fate of this other piece of legislation either making it through or not and will continue to offer this amendment on this bill and other bills until we get the schools the kind of help that they need. It is one thing to say we want to make sure they have money in the future; it is another to say we want to make sure they have the kinds of teachers and assistance that they need in order to meet No Child Left Behind.

So I would encourage members to understand that they are not voting now about whether it is constitutional or not; they are voting about whether or not they want to give technical assistance to school districts for a Distinguished Educator Program in their districts.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The gentleman, Mr. Tigie.

Mr. TIGUE. Thank you, Mr. Speaker.

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

The SPEAKER. The gentleman indicates that he will stand for interrogation. The gentleman is in order and may proceed.

Mr. TIGUE. Thank you, Mr. Speaker.

Mr. Speaker, in your amendment you talk about “eligible schools.” What determines what is an eligible school for these distinguished educators to participate in?

Mr. STURLA. Ones that are on the No Child Left Behind list as falling below the standards as set by Federal law.

Mr. TIGUE. But who determines what those schools are, our department or Federal guidelines – I mean, our department in conjunction with the Federal guidelines?

Mr. STURLA. It is our department in conjunction with the Federal guidelines. Our department set a plan out to the Federal government, which was approved, and that established our criteria by which we measure our students and which schools fall under certain categories, and that is who would be eligible for these teachers.

Mr. TIGUE. Mr. Speaker, as far as who applies and if they are selected, does the school district where these teachers are employed have any say in whether or not they can leave for 2 years, up to 2 years?

Mr. STURLA. Mr. Speaker, I would believe that they would. While it does not specifically spell that out in the legislation, the legislation does say that the department shall develop guidelines and standards, and I would assume that the State would not set up guidelines whereby they were trying to forcefully remove a teacher from a school district where they had not agreed to allow that teacher to become a distinguished teacher and to serve in another district for a year or a designated period of time.

One of the criteria used to review the applications, as is pointed out in the legislation, I would hope would be that we have the cooperation of all people involved, and I would hope that in this State of Pennsylvania we would get the cooperation of school districts to allow this to happen. If there are no school districts that are going to allow their teachers to go and work in some of these school districts that are distressed, I would think ultimately there will be teachers leaving for those distressed school districts anyway, because they will know that their district does not have the type of cooperative effort that we are trying to do here in Pennsylvania to raise all boats as we deal with No Child Left Behind.

Mr. TIGUE. One last question, Mr. Speaker: Can administrators and teachers from districts that are on the list as not being academically up to par, can they apply for this program?

Mr. STURLA. I am sorry. Can you say that again? I did not hear.

Mr. TIGUE. Can teachers and administrators who are employed by districts which are on the No Child Left Behind list as having problems, can they apply?

Mr. STURLA. Yes.

Mr. TIGUE. Thank you, Mr. Speaker.

Mr. Speaker, I would like to make a statement, please.

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

Mr. TIGUE. Thank you, Mr. Speaker.

Mr. Speaker, I think the intent of the amendment is probably good. However, I think the actual wording of the amendment leaves a lot to be desired.

I think we should be looking at ways to find topnotch educators to help improve our school districts throughout the Commonwealth. However, I think there is a problem in saying to school districts, we are going to take your people and send them somewhere else and now you have to replace these people, especially if you are a distressed community or school district where they may take a teacher or an administrator in a district that has already been identified as needing help and this teacher says, “Well, I want to get out of here; I’m going to apply for this,” so we are going to send him to another district to help them.

So as much as I would like to say I would support this, I cannot. So I would ask that you vote “no” on this amendment and we come up with a better wording of the amendment.

Thank you, Mr. Speaker.

The SPEAKER. The gentleman from Luzerne, Mr. Eachus.

Mr. EACHUS. Thank you, Mr. Speaker.

Will the gentleman stand for brief interrogation?

The SPEAKER. The gentleman indicates he will.

Mr. EACHUS. Mr. Speaker, I generally do not understand how this would apply to the law. Can you explain that to me, sir? I apologize. Maybe it is just the day.

Mr. STURLA. Thank you, Mr. Speaker.

Mr. Speaker, essentially what we are trying to do here is establish a program that will allow teachers and administrators that have expertise in certain areas to be loaned out to another school district for a period of time, and I understand the previous gentleman’s concerns that how dare we take a teacher from a school district that might actually fall under this category. However, not all of those administrators and/or teachers in that school district are necessarily concentrated on the area where the school district has problems.

Under No Child Left Behind, we desegregate scores and we figure out specific areas that those school districts are not meeting certain requirements. Some of these distinguished educators may not have contact with any of the students at any point in time in that particular school related to a specific reason why they are on the distressed list, and so we are not going to be taking teachers that are already working with the kids that are having the problems and take them to another district and put them with kids that are already having the problems. We are going to be taking teachers and administrators from areas that are already succeeding and letting them go and teach other teachers and administrators best practices to bring the tide up for all children in this State.

This is a pretty simple but effective measure that has been used in other States, and certainly, we are not going to have our own administration trying to foil the progress with this program. They are going to work individually with schools and administrators and teachers to make sure that we get the best bang for the buck everywhere, in every school, in the State of Pennsylvania.

Mr. EACHUS. Thank you for the explanation, Mr. Speaker.

The SPEAKER. On the Sturla amendment, the Chair recognizes the majority leader, Mr. Smith.

Mr. S. SMITH. Thank you, Mr. Speaker.

Mr. Speaker, I rise in opposition to this amendment.

Clearly, the purpose of the amendment is something that is worthy of debate and consideration. However, I think there are a number of questions that have not been fully answered either in

the context of the actual amendment or in the context of debating it and discussing it.

First of all, while this may be a worthy program to initiate, it is noted that there was not actual money identified for it, and so it has not really achieved that level of support. There are questions relative to the definition of an eligible school district: How would that be defined? Are there any limits on the number of educators in a given year? There are other questions that go on relative to how this would be done: What would be the costs of the training program for these educators? If these are distinguished educators, why should they need comprehensive training?

I am just not so sure that this issue has been fully digested by the members, and I think that relative to where we are in the process, obviously, there will be many other opportunities to consider this with other subsequent Education Code bills throughout the spring as we deal with the budget process, and I would urge the members to vote against this amendment, until we can further understand and answer some of the questions that have been identified.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

**LEAVE OF ABSENCE**

The SPEAKER. The Chair returns to leaves of absence. The Chair recognizes the majority whip, who moves for a leave of absence for the gentlelady from Lebanon, Mrs. GINGRICH. Without objection, that leave will be granted, and her name will be stricken from the roll.

**CONSIDERATION OF HB 2128 CONTINUED**

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

The following roll call was recorded:

**YEAS-90**

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

**NAYS-105**

Allen	Fichter	Maher	Sather
Argall	Fleagle	Maitland	Saylor
Armstrong	Flick	Major	Scavello
Baker	Forcier	Marsico	Schroder
Baldwin	Gabig	McGill	Semmel
Bard	Gannon	McIlhattan	Smith, B.
Barrar	Geist	McIlhinney	Smith, S. H.
Bastian	Gillespie	McNaughton	Stairs
Benninghoff	Godshall	Metcalfe	Steil
Birmelin	Good	Micozzie	Stern
Boyd	Habay	Miller, R.	Stevenson, R.
Browne	Harhart	Miller, S.	Stevenson, T.
Bunt	Harper	Mustio	Taylor, E. Z.
Cappelli	Harris	Nailor	Taylor, J.
Causar	Hasay	Nickol	Tigue
Civera	Hennessey	O'Brien	True
Clymer	Herman	O'Neill	Turzai
Coleman	Hershey	Payne	Vance
Crahalla	Hess	Petri	Watson
Creighton	Hickernell	Phillips	Weber
Dally	Hutchinson	Pickett	Wilt
Denlinger	Kenney	Raymond	Yewcic
DiGirolamo	Killion	Reed	Zug
Egolf	Leh	Reichley	
Evans, J.	Lewis	Rohrer	
Fairchild	Lynch	Ross	Perzel,
Feese	Mackereth	Rubley	Speaker

**NOT VOTING-0**

**EXCUSED-6**

Adolph	Gingrich	Washington	Wright
Dailey	Josephs		

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

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

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Leach, for the purpose of an amendment. The gentleman withdraws the amendment.

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

Mr. **TRAVAGLIO** offered the following amendment No. **A0118**:

Amend Title, page 1, line 5, by inserting after "thereto," " further providing for regulation of expelled students;

Amend Bill, page 1, lines 10 through 12, by striking out all of said lines and inserting

Section 1. Section 1317.2(e.1) of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, amended June 25, 1997 (P.L.297, No.30), is amended to read:

Section 1317.2. Possession of Weapons Prohibited.—\* \* \*

(e.1) A school district receiving a student who transfers from a public or private school during a period of expulsion for an act or offense involving a weapon may assign that student to an alternative assignment or provide alternative education services, provided that the assignment may not exceed the period of expulsion. Nothing in this

subsection shall limit the authority of the superintendent of a school district or an administrative director of an area vocational-technical school to recommend modifications to the expulsion of a student who has transferred from a public school or private school.

\* \* \*

Section 2. The act is amended by adding a section to read:

Amend Sec. 2, page 3, line 26, by striking out "2. This" and inserting

3. The addition of section 2599.2 of the

Amend Sec. 3, page 3, line 28, by striking out all of said line and inserting

Section 4. This act shall take effect as follows:

(1) The amendment of section 1317.2(e.1) of the act shall take effect in 60 days.

(2) The remainder of this act shall take effect immediately.

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Chair recognizes the gentleman.

Mr. TRAVAGLIO. Mr. Speaker, in this amendment, what we are trying to do is, a school district who is receiving an expelled student from another school would be able to give modifications to that expulsion for the student that was transferred from either a public school or a private school.

Mr. Speaker, I would like to have an affirmative vote.

The SPEAKER. The gentleman, Mr. Travaglio, asks for an affirmative vote on amendment A0118.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS-195

Table listing names of members who voted 'YEAS-195' in four columns: Allen, Argall, Armstrong, Baker, Baldwin, Bard, Barrar, Bastian, Bebk-Jones, Belardi, Belfanti, Benninghoff, Biancucci, Birmelin, Bishop, Blaum, Boyd, Browne, Bunt, Butkovitz, Buxton, Caltagirone, Cappelli, Casorio, Causer, Cawley, Civera, Clymer, Cohen, Coleman, Corrigan, Costa, Fabrizio, Fairchild, Feese, Fichter, Fleagle, Flick, Forcier, Frankel, Freeman, Gabig, Gannon, Geist, George, Gergely, Gillespie, Godshall, Good, Goodman, Grucela, Gruitza, Habay, Haluska, Hanna, Harhai, Harhart, Harper, Harris, Hasay, Hennessey, Herman, Hershey, Hess, Lynch, Samuere, Mahler, Maitland, Major, Manderino, Mann, Markosek, Marsico, McCall, McGeehan, McGill, McIlhattan, McIlhinney, McNaughton, Melio, Metcalfe, Micozzie, Miller, R., Miller, S., Mundy, Mustio, Myers, Nailor, Nickol, O'Brien, Oliver, O'Neill, Pallone, Payne, Petrarca, Petri, Sainato, Samuelson, Santoni, Sather, Saylor, Scavello, Schroder, Scrimenti, Semmel, Shaner, Smith, B., Smith, S. H., Solobay, Staback, Stairs, Steil, Stern, Stetler, Stevenson, R., Stevenson, T., Sturla, Surra, Tangretti, Taylor, E. Z., Taylor, J., Thomas, Tigue, Travaglio, True, Turzai, Vance, Veon.

Table listing names of members who did not vote in four columns: Coy, Crahalla, Creighton, Cruz, Curry, Daley, Dally, DeLuca, Denlinger, Dermody, DeWeese, DiGirolamo, Diven, Donatucci, Eachus, Egolf, Evans, D., Evans, J., Hickernell, Horsey, Hutchinson, James, Keller, Kenney, Kirkland, Kotik, LaGrotta, Laughlin, Leach, Lederer, Leh, Lescovitz, Levdansky, Lewis, Petrone, Phillips, Pickett, Pistella, Preston, Raymond, Readshaw, Reed, Reichley, Rieger, Roberts, Roebuck, Rohrer, Rooney, Ross, Rubley, Ruffing, Vitali, Walko, Wansacz, Waters, Watson, Weber, Wheatley, Williams, Wilt, Wojnarowski, Yewcic, Youngblood, Yudichak, Zug, Perzel, Speaker.

NAYS-0

NOT VOTING-0

EXCUSED-6

Table listing names of members who were excused in four columns: Adolph, Dailey, Gingrich, Josephs, Washington, Wright.

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

On the question,

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

The SPEAKER. The Chair recognizes the gentleman from Delaware, Mr. Barrar, for the purpose of offering an amendment. The gentleman waives off the amendment.

On the question recurring,

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

Bill as amended was agreed to.

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

The question is, shall the bill pass finally?

The Chair recognizes the gentleman from Philadelphia, Mr. Roebuck, on that question.

Mr. ROEBUCK. Mr. Speaker, I believe there are two amendments that I have that have not been withdrawn at this point.

The SPEAKER. The Chair apologizes. We were advised that you had withdrawn those amendments. We will go to those amendments. Which one would you like to do first, Mr. Roebuck?

Mr. ROEBUCK. Mr. Speaker, it is my intention to withdraw both of those amendments. I do want that on the record, however.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

Shall the bill pass finally?

The SPEAKER. The Chair recognizes the gentleman from Greene, Mr. DeWeese.

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

We have argued on behalf of Governor Rendell's administration relative to the constitutionality of the main thrust of the proposal, and I certainly am aware of the dynamics in the room right now. I am not going to request that our members do anything except vote their conscience, but if and when we ever see this proposal again in a gubernatorial veto message or in some other capacity, we will do everything we can to thwart its advance and sustain the administration's perspective.

So I do want to repeat one more time, especially to my Democratic colleagues, this was an important vote a few minutes ago on constitutionality. We did express collectively the perspective of the Rendell administration and really what I think was the constitutional purity of the position. Notwithstanding that, I would certainly say to the members on my side of the aisle – and I assume Mr. Hickemell has his votes lined up – that we can take this vote and go forward.

Thank you very kindly, sir.

On the question recurring,  
Shall the bill pass finally?

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

The following roll call was recorded:

#### YEAS-138

Allen	Fichter	Mackereth	Samuelson
Argall	Fleagle	Maher	Sather
Armstrong	Flick	Maitland	Saylor
Baker	Forcier	Major	Scavello
Baldwin	Gabig	Marsico	Schroder
Bard	Gannon	McGeehan	Semmel
Barrar	Geist	McGill	Shaner
Bastian	George	McIlhattan	Smith, B.
Bebko-Jones	Gillespie	McIlhinney	Smith, S. H.
Benninghoff	Godshall	McNaughton	Stairs
Birmelin	Good	Metcalfe	Steil
Boyd	Grucela	Miller, R.	Stern
Browne	Gruitza	Miller, S.	Stevenson, R.
Bunt	Habay	Mustio	Stevenson, T.
Butkovitz	Hanna	Myers	Surra
Cappelli	Harhai	Nailor	Tangretti
Casorio	Harhart	Nickol	Taylor, E. Z.
Causar	Harper	O'Brien	Taylor, J.
Civera	Harris	Oliver	Thomas
Clymer	Hasay	O'Neill	Tigue
Cohen	Hennessey	Payne	Travaglio
Coleman	Herman	Petrarca	True
Corrigan	Hershey	Petri	Turzai
Crahalla	Hess	Phillips	Vance
Creighton	Hickernell	Pickett	Watson
Cruz	Hutchinson	Raymond	Weber
Dally	James	Readshaw	Wilt
Denlinger	Keller	Reed	Wojnaroski
DiGirolo	Kenney	Reichley	Yewcic
Donatucci	Killion	Rieger	Youngblood
Egolf	LaGrotta	Rohrer	Yudichak
Evans, D.	Lederer	Ross	Zug
Evans, J.	Leh	Rubley	
Fairchild	Lescovitz	Ruffing	Perzel,
Feece	Lynch	Sainato	Speaker

#### NAYS-56

Belardi	DeWeese	Lewis	Rooney
Belfanti	Diven	Manderino	Santoni
Biancucci	Eachus	Mann	Scrimenti
Bishop	Fabrizio	Markosek	Solobay
Blaum	Frankel	McCall	Staback
Buxton	Freeman	Melio	Stetler
Caltagirone	Gergely	Micozzie	Sturla
Cawley	Goodman	Mundy	Veon
Costa	Haluska	Pallone	Vitali
Coy	Kirkland	Petrone	Walko
Curry	Kotik	Pistella	Wansacz
Daley	Laughlin	Preston	Waters
DeLuca	Leach	Roberts	Wheatley
Dermody	Levdansky	Roebuck	Williams

#### NOT VOTING-1

Horsey

#### EXCUSED-6

Adolph	Gingrich	Washington	Wright
Dailey	Josephs		

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.

### SUPPLEMENTAL CALENDAR A

#### BILL ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 2006, PN 2804**, entitled:

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

On the question,

Will the House agree to the bill on third consideration?

Mr. **TURZAI** offered the following amendment No. **A0198**:

Amend Bill, page 1, lines 1 through 17; page 2, lines 1 through 19, by striking out all of said lines on said pages and inserting Providing for intergovernmental cooperation in cities of the second class; establishing an intergovernmental authority; providing for financing, for bankruptcy and for sovereign immunity; and making an appropriation.

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Amend Bill, page 2, lines 22 through 30; pages 3 through 41, lines 1 through 30; page 42, lines 1 through 9, by striking out all of said lines on said pages and inserting

CHAPTER 1  
GENERAL PROVISIONS

Section 101. Short title.

This act shall be known and may be cited as the Intergovernmental Cooperation Authority Act for Cities of the Second Class.

Section 102. Purpose and legislative intent.

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

(b) Legislative intent.—

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

(i) provide cities of the second class with the legal tools with which such cities can perform essential municipal services; and

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

(A) increased managerial accountability;  
 (B) consolidation or elimination of inefficient city programs and authorities;

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

(D) increased collection of existing tax revenues;

(E) privatization or outsourcing of appropriate city services;

(F) sale of city assets as appropriate;

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

(H) review of compensation and benefits of city employees; and

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

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

Section 103. Legislative findings.

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

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

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

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

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

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

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

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

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

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

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

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

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

(13) Several task forces have studied the fiscal condition of a city of the second class and have published findings and suggestions regarding the fiscal structure of the city and actions that could be taken concerning preservation of the financial viability of the city into the future. Those reports, widely known as the Competitive Pittsburgh report, the PGH 21 report and the Governor's Pittsburgh Economic Improvement Task Force report



should be evaluated by the authority in making its recommendations to the city. However, it is intended that the authority established by this act examine the fiscal affairs of the entire city of the second class, including all of its authorities and related corporate entities.

#### Section 104. Definitions.

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

“Assisted city.” A city of the second class which receives assistance from the Intergovernmental Cooperation Authority for Cities of the Second Class. The term includes any municipal authority, other authority or other corporate entity which directly or indirectly performs a governmental function on behalf of the city, is directly or indirectly controlled by the city or to which the city has direct or indirect power of appointment or has directly or indirectly pledged or designated the city’s revenues or the city’s credit.

“Authority.” The Intergovernmental Cooperation Authority for Cities of the Second Class established in section 201.

“Board.” The governing board of the Intergovernmental Cooperation Authority for Cities of the Second Class.

“City.” A city of the second class.

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

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

“Deficit.” Such negative fund balance in any principal operating fund or funds of a city or corporate entity existing at the beginning of a fiscal year or projected to exist as of the close of a fiscal year, as may be more specifically identified, calculated and set forth in an intergovernmental cooperation agreement or financial plan of an assisted city described in section 209.

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

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

“Government agency.” The Governor, departments, boards, commissions, authorities and other officers and agencies of State government, including those which are not subject to the policy supervision and control of the Governor, any political subdivision, municipal or other local authority, and any officer or agency of any such political subdivision or local authority, but the term does not include any court or other officer or agency of the unified judicial system or the General Assembly or its officers and agencies.

“Intergovernmental cooperation agreement.” Any agreement made by the authority and a city under the provisions of section 203(d).

“Party officer.” The following members or officers of any political party:

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

“Public official.” Any elected or appointed official or employee in the executive, legislative or judicial branch of the Commonwealth or any political subdivision thereof, provided that it shall not include members of advisory boards that have no authority to expend public funds other than reimbursement for personal expense or to otherwise exercise the power of the Commonwealth or any political subdivision thereof. The term shall not include any appointed official who receives no compensation other than reimbursement for actual expenses.

## CHAPTER 2

### INTERGOVERNMENTAL COOPERATION AUTHORITY FOR CITIES OF THE SECOND CLASS

#### Section 201. Authority established.

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

#### Section 202. Governing board.

##### (a) Composition of board.—

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

(i) One member shall be appointed by the President pro tempore of the Senate.

(ii) One member shall be appointed by the Minority Leader of the Senate.

(iii) One member shall be appointed by the Speaker of the House of Representatives.

(iv) One member shall be appointed by the Minority Leader of the House of Representatives.

(v) One member shall be appointed by the Governor.

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

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

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

(b) Term.—Appointing authorities shall appoint the initial members of the board within seven days of the effective date of this act, and the appointed members shall select a chairperson from among themselves at the initial organizational meeting of the board and upon any subsequent vacancy in the office of chairperson. The term of a board member shall begin on the date of the appointment. A member’s term shall be coterminous with that of the appointing authority. The member selected as chairperson shall serve in that capacity for two years from the date of selection or for the duration of his term on the board, whichever is less, and may be reelected to subsequent two-year terms. An appointed board member shall serve at the pleasure of the member’s appointing authority. Whenever a vacancy occurs among the appointed members on the board, whether prior to or on the expiration of a term, the appointing authority who originally appointed the board member whose seat has become vacant shall appoint a successor member within 30 days of the vacancy. A member appointed by an appointing authority to fill a vacancy occurring prior to the expiration of a term shall serve the unexpired term.

(c) Organization.—The appointees of the President pro tempore of the Senate and the Speaker of the House of Representatives shall set a date, time and place for the initial organizational meeting of the board within five days of the appointment of the initial members of the board. The initial organizational meeting shall be held within 15 days of the effective date of this act. In addition to chairperson, the members shall

elect such other officers as they may determine. A member may hold more than one office of the board at any time.

(d) Meetings.—After the initial organizational meeting, the board shall meet as frequently as it deems appropriate but at least once during each quarter of the fiscal year. In addition, a meeting of the board shall be called by the chairperson if a request for a meeting is submitted to the chairperson by at least two members of the board. A majority of the board shall constitute a quorum for the purpose of conducting the business of the board and for all other purposes. All actions of the board shall be taken by a majority of the board, except as otherwise specifically noted. The provisions of 65 Pa.C.S. Ch. 7 (relating to open meetings) shall apply to the board.

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

(f) Employees and agents.—The board shall fix and determine the number of employees of the authority and their respective compensation and duties. The board may contract for or receive the loan of services of persons in the employ of other government agencies, and other government agencies shall be authorized to make such employees available. The board may retain an executive director upon a majority vote. The board may, by a majority vote, hire an independent general counsel to the authority and may engage consultants and contract for other professional services upon a majority vote. The board may, upon the approval of a majority, delegate to the executive director such powers of the board as the board deems necessary to carry out the purposes of the authority, subject in every case to the supervision and control of the board.

(g) Public officials and party officers; conflicts of interest prohibited.—

(1) Except for the Secretary of the Budget, neither members of the board nor the executive director shall seek or hold a position as any other public official within this Commonwealth or as a party officer while in the service of the authority. Members of the board and the executive director shall not seek election as public officials or party officers for one year after their service with the authority. Members of the board and the executive director may serve as appointive public officials any time after their periods of service with the authority.

(2) Employees and agents of the authority shall not seek or hold other positions as public officials or party officers while in the employ of the authority. The authority may receive the loan of services of persons in other government agencies in accordance with subsection (f), notwithstanding that such persons are public officials. Employees of the authority shall not seek election as public officials or party officers for one year after leaving the employ of the authority.

(3) No member of the board or employee of the authority may directly or indirectly be a party to or be interested in any contract or agreement with the authority or with the assisted city. No member or employee may use his office or employment or any confidential information received through his office or employment for the private pecuniary benefit of himself, a member of his immediate family, or a business with which he or a member of his immediate family is associated. Any member or employee who shall willfully violate this provision shall forfeit his office or employment and shall be subject to such other criminal and civil sanctions as may be imposed by law. Any contract or agreement knowingly made in contravention of this provision is void.

(h) Statutes applying to authority.—

(1) The provisions of the following acts shall apply to the authority:

(i) 65 Pa.C.S. Ch. 7 (relating to open meetings).

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

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

(iv) The act of October 4, 1978 (P.L.883, No.170), referred to as the Public Official and Employee Ethics Law.

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

(i) Advisory committee.—

(1) The board may appoint by majority vote one advisory committee comprised of professionals engaged in municipal management and finance or other experts as it may deem necessary. The members of an advisory committee shall reside within an assisted city or a county within the statistical metropolitan area in which the assisted city is located.

(2) The provisions of subsection (g) shall be applicable to members of an advisory committee; however, the board may allow city council to designate a liaison from city council to serve on an advisory committee.

(3) The advisory committee shall consist of no more than six members, excluding any council liaison.

Section 203. Powers and duties.

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

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

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

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

(3) To negotiate intergovernmental cooperation agreements with cities containing such terms and conditions as will enable such cities to eliminate and avoid deficits, maintain sound budgetary practices and avoid interruption of municipal services.

(4) To make annual signed reports within 120 days after the close of the assisted city's fiscal year, commencing with the fiscal year ending December 31, 2003, to the Governor and the General Assembly describing the city's financial condition and the authority's progress with respect to restoring the financial stability of assisted cities and achieving balanced budgets for assisted cities. Such reports shall be filed with the Governor, with the presiding officers of the Senate and the House of Representatives, with the chairperson and minority chairperson of the Appropriations Committee of the Senate and the chairperson and the minority chairperson of the Appropriations Committee of the House of Representatives and with the governing body, mayor and controller of the assisted city and be publicly available in the assisted city during normal business hours for public inspection, and may be reproduced by any member of the public at commercial costs of reproduction. Such report shall clearly show by consistent category the last five years of operating revenues and expenditures, capital expenditures, gross and net indebtedness transactions, including a schedule of principal and interest, five-year projections of the assisted city's operating and capital budgets, and the entire projected indebtedness transactions, including a schedule of principal and interest of such indebtedness until any and all debt has been completely retired. Such report shall contain a narrative

explaining progress of the assisted city in meeting its annual and five-year budgetary objectives, an appraisal by the authority of the progress the assisted city is making to achieve its goals, and an appraisal of the extent to which the assisted city is making a good faith effort to achieve its goals. Such report shall disclose any violations of Federal and State law that the authority may have discovered. Such report shall include as appendixes all historical loans or other contracts entered into by the assisted city and its authorities.

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

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

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

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

(4) To make recommendations to an assisted city and the General Assembly concerning the budgetary and fiscal affairs of the assisted city, which shall include consideration of the following issues and other issues at the discretion of the authority:

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

(ii) Consolidation of public safety services.

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

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

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

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

(vii) Reduction or restructuring of debt obligations.

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

(ix) Cooperative agreements between the assisted city and the school district in which it is located.

(x) Collective bargaining agreements and other contracts of the assisted city.

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

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

(xiii) Increased managerial accountability.

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

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

(xvi) Improvements in procurement practices.

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

(xviii) Privatization and outsourcing of appropriate assisted city services.

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

(xx) Competitive bidding of appropriate assisted city services, and competitive bidding practices.

(xxi) The use of technology to achieve cost savings.

(xxii) A study of health care and other benefits offered by the assisted city to its employees.

(xxiii) The sale of the assisted city's worker's compensation fund.

(xxiv) The sale of unencumbered assets of the assisted city or its authorities.

(xxv) The elimination or reorganization of authorities or departments.

(xxvi) The use by the assisted city of tax and other revenues received, including those received under the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, and the proper use of such revenues.

(xxvii) The use of budgetary practices and principles as they relate to forecasting, public openness, projections, estimates, tax policy, lending, borrowing and strategic planning.

(xxviii) The transfers of employees and assets by and between bureaus, departments and authorities of the assisted city.

(xxix) Prior suggestions published by others prior to the enactment of this act with regard to the assisted city.

(xxx) A review of the taxing authority of the city as compared with the taxing authority of school districts of the first class A.

(xxxi) A review of the ratio of debt service to general fund outlays of the assisted city, the appropriate ratio and the means to achieve it.

(xxxii) A review of outstanding debt, debt payments and the ability to prepay such debt.

(5) To make recommendations to the Governor and the General Assembly regarding legislation or resolutions which relate to an assisted city's fiscal stability. The authority shall submit a preliminary report of the recommendations to the Governor and the General Assembly within 60 days of the effective date of this act. The report shall include, but not be limited to, recommendations as to whether or not the city needs additional revenues, the best sources of such revenues and ways for the city to reduce expenditures. Any recommendations for new revenue, if warranted, shall state whether such revenues should be earmarked for specific expenditures, including but not limited to prepayment of debt, and whether such revenues should be subject to sunset provisions.

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

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

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

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

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

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

(12) To appoint officers, agents, employees and servants and to prescribe their duties and to fix their compensation as set forth in section 202(f).

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

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

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

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

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

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

(19) To invest any funds held by the authority as set forth in section 212.

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

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

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

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

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

(1) A city may enter into an intergovernmental cooperation agreement in which it, consistent with this act, covenants to cooperate or agree in the exercise of any function, power or responsibility with, or delegate or transfer any function, power or responsibility to, the authority upon the adoption by the governing body of such city of an ordinance authorizing and approving the intergovernmental cooperation agreement.

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

- (i) the purpose and objectives of the agreement;
- (ii) the conditions of the agreement; and

(iii) the term of the agreement, including provisions relating to its termination.

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

Section 204. Term of existence.

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

Section 205. Fiscal year.

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

Section 206. Annual budget of authority.

(a) Budget.—Before March 1, 2004, for the fiscal year July 1, 2004, to June 30, 2005, and before October 15, 2005, and each October 15 thereafter, the authority shall adopt a budget by a majority of the board setting forth in reasonable detail the projected expenses of operation of the authority for the ensuing fiscal year, including the salary and benefits of the executive director and any other employees of the authority, and the projected revenues of the authority to be derived from investment earnings and any other moneys of the authority which are estimated to be available to pay the operating expenses set forth in the budget. A copy of the authority's budget shall be submitted to the Governor and to the General Assembly. The authority or its designated representatives may be afforded an opportunity to appear before the Governor and the Appropriations Committee of the Senate and the Appropriations Committee of the House of Representatives regarding the authority's budget.

(b) Limit on operating expenses.—Following the submission of the authority's budget to the Governor and the General Assembly and any hearing held by an appropriations committee under subsection (a), the General Assembly, by concurrent resolution with presentment to the Governor, in accordance with section 9 of Article III of the Constitution of Pennsylvania, may limit the operating expenses of the authority. In that event, it shall be unlawful for the authority to spend more for operating expenses than the limit established for that fiscal year by the concurrent resolution. If the General Assembly does not adopt a concurrent resolution prior to May 30, the authority's budget shall be deemed approved for that fiscal year.

(c) Funding.—After July 1, 2005, upon request of the authority and pursuant to the limits established in subsection (b), the city shall annually fund any portion of the budget of the authority which exceeds the authority's State appropriation, including its reasonable and necessary expenses and costs incurred for consultants engaged by the board to carry out its duties.

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

Section 207. Annual report to be filed; annual audits.

The authority shall file a signed annual report with the chairperson and the minority chairperson of the Appropriations Committee of the Senate and chairperson and the minority chairperson of the Appropriations Committee of the House of Representatives, which shall make provisions for the accounting of revenues and expenses. The authority shall have its books, accounts and records audited annually in accordance with generally accepted auditing standards by an independent auditor who shall be a certified public

accountant, and a copy of his audit report shall be attached to and be made a part of the authority's annual report. A concise financial statement shall be published annually in the Pennsylvania Bulletin.

Section 208. Limit on city borrowing.

A city and its corporate entities may not borrow or receive funds for any lawful purpose unless the city has entered into an intergovernmental cooperation agreement with the authority and there is an approved financial plan in effect.

Section 209. Financial plan of an assisted city.

(a) Requirement of a financial plan.—An assisted city shall develop, implement and periodically revise a financial plan as described in this section.

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

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

(2) Plan components that will:

(i) eliminate any projected deficit for the current fiscal year and for subsequent fiscal years;

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

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

(iv) provide procedures to avoid a fiscal emergency condition in the future; and

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

(c) Standards for formulation of plan.—

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

(2) All revenue and appropriation estimates shall be on a modified accrual basis in accordance with generally accepted standards agreed to by the authority such as those promulgated by the Governmental Accounting Standards Board. Revenue estimates shall recognize revenues in the accounting period in which they become both measurable and available. Estimates of city-generated revenues shall be based on current or proposed tax rates, historical collection patterns and generally recognized econometric models. Estimates of revenues to be received from the State government shall be based on historical patterns, currently available levels or on levels proposed in a budget by the Governor. Estimates of revenues to be received from the Federal Government shall be based on historical patterns, currently available levels or on levels proposed in a budget by the President or in a congressional budget resolution. Nontax revenues shall be based on current or proposed rates, charges or fees, historical patterns and generally recognized econometric models. Appropriation estimates shall include, at a minimum, all obligations incurred during the fiscal year and estimated to be payable during the fiscal year or in the 24-month period following the close of the current fiscal year and all obligations of prior fiscal years not covered by encumbered funds from prior fiscal years. Any deviations from these standards of estimating revenues and appropriations proposed to be used by an assisted city shall be specifically disclosed and shall be approved by a majority of the board.

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

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

(1) be in such form and shall contain:

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

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

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

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

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

(e) Annual submission of plan.—Within 90 days of the effective date of this section, an assisted city shall develop, and the authority shall review and act upon, an initial five-year financial plan which includes a report on the status of implementation of prior published suggestions regarding consolidation and cost savings. During each subsequent fiscal year, the mayor or chief executive officer of each assisted city shall, at least 100 days prior to the beginning of its fiscal year or on such other date as the authority may approve upon the request of the assisted city, prepare and submit its proposed five-year plan. At the same time the plan is submitted, the mayor or chief executive officer shall also submit to the authority:

(1) the mayor's or chief executive officer's proposed annual operating budget and capital budget which shall be consistent with the first year of the financial plan and which shall be prepared in accordance with the assisted city's home rule charter or other optional plan of government; and

(2) a statement by the mayor or chief executive officer that such budget:

(i) is consistent with the financial plan;

(ii) contains funding adequate for debt service payments, legally mandated services and lease payments securing bonds of other government agencies;

(iii) is based upon prudent, reasonable and appropriate assumptions and methods of estimation; and

(iv) complies with any balanced budget requirements contained in the charter and ordinances of the city or State law.

(f) Balanced budget requirement.—The mayor of every city and assisted city shall submit, and the city council of every city and assisted city shall adopt, a balanced budget each year consistent with the requirements of 53 Pa.C.S. § 3016 (relating to form and adoption of budget), and the city's or assisted city's home rule charter or other optional plan of government. A balanced budget of a city or assisted

city shall not include projected revenues that in order to be collected require the enactment by the General Assembly of new taxing powers or the approval of a court of common pleas of the county in which the city or assisted city is located. The failure of a city or assisted city to comply with this subsection shall result in the withholding of Commonwealth funds pursuant to section 210(e) and (f).

(g) Authority review and approval of plan.—

(1) The authority shall promptly review each financial plan, proposed operating budget and capital budget submitted by the assisted city. In conducting such review, the authority shall request from the city controller of the assisted city an opinion or certification prepared in accordance with generally accepted auditing standards, with respect to the reasonableness of the assumptions and estimates in the financial plan. The city controller and other elected officials shall comply with any such request from the authority. Not more than 30 days after submission of a financial plan and proposed operating budget, the authority shall determine whether:

(i) the financial plan projects balanced budgets, based upon prudent, reasonable and appropriate assumptions as described in this section, for each year of the plan; and

(ii) the proposed operating budget and capital budget are consistent with the proposed financial plan.

If the authority determines that these criteria are satisfied, the authority shall approve such financial plan by a majority vote.

(2) The authority shall not be bound by any opinions or certifications of the city controller of the assisted city issued pursuant to this subsection.

(3) If the authority fails to take any action within 30 days on a financial plan, the financial plan as submitted shall be deemed approved. However, if during the 30 days a written request by two members of the authority board for a meeting and vote on the question of approval of the financial plan has been submitted to the chairperson and a meeting and vote do not take place, the financial plan shall be deemed disapproved.

(h) Authority disapproval of plan.—

(1) If the authority disapproves the proposed financial plan, the authority shall, when it notifies an assisted city of its decision, state in writing in reasonable detail the reasons for such disapproval, including the amount of any estimated budget imbalance.

(2) The assisted city shall submit a revised financial plan to the authority within 15 days of such disapproval, which revised plan eliminates the budget imbalance. Not more than 15 days after the submission of such revised financial plan, the authority shall determine whether the revised plan satisfies the criteria set forth in subsection (g)(1). If the authority determines that these criteria are satisfied, the authority shall approve such financial plan by a majority vote. If the authority shall not so approve the financial plan, then the authority shall, in accordance with section 210(e), certify the assisted city's noncompliance with the financial plan to the Secretary of the Budget, the President pro tempore of the Senate and the Speaker of the House of Representatives.

(i) Revisions to plan.—

(1) The plan shall be revised on an annual basis to include the operating budget for the next fiscal year and to extend the plan for an additional fiscal year. In addition, the mayor or chief executive officer of a city shall, within 90 days of assuming office, propose revisions to the financial plan or certify to the authority that he or she adopts the existing plan. An assisted city may, during the course of a fiscal year, submit proposed revisions to the financial plan and shall submit a proposed revision for any amendment to the city's operating or capital budget.

(2) The authority shall review each proposed revision within 20 days of its submission. The authority shall approve the

revision if it will not, based on prudent, reasonable and appropriate assumptions, cause the plan to become imbalanced. Proposed revisions shall become part of the financial plan upon the approval of a majority of the authority board, unless some other method of approval is permitted by authority rules and regulations approved by a majority or pursuant to an agreement with the city contained in an intergovernmental cooperation agreement. If the authority fails to take action within 20 days on a proposed revision, such submission shall be deemed approved unless a written request for a meeting and vote has been made in accordance with subsection (g)(3) in which event, if a meeting and vote does not take place, the proposed revision shall be deemed disapproved.

(3) If the governing body of a city adopts a budget inconsistent with an approved financial plan, the assisted city shall submit the enacted budget to the authority as a proposed revision to the plan. The authority shall review the proposed revision within 30 days of its submission, in accordance with the criteria set forth in subsection (g) and the approval process set forth in paragraph (2).

(j) Supplemental reports.—Within 45 days of the end of each fiscal quarter, or monthly if a variation from the financial plan has been determined in accordance with section 210(c), the mayor or chief executive officer of an assisted city shall provide the authority with reports describing actual or current estimates of revenues and expenditures compared to budgeted revenues and expenditures for such period reflected in its cash flow forecast. Each report required under this section shall indicate any variance between actual or current estimates and budgeted revenues, expenditures and cash for the period covered by such report. An assisted city shall also provide periodic reports on debt service requirements in conformity with section 210(b).

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

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

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

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

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

(i) the approved financial plan; and

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

(2) Such determination shall be in writing and a copy thereof shall be forwarded to each party to the dispute and the authority. Any determination of the board of arbitration which provides for an increase in wages or fringe benefits of any

employee of an assisted city shall state with specificity in writing all factors which the board of arbitration took into account in considering and giving substantial weight to the factors referred to in paragraph (1).

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

(i) consideration under paragraph (1); or

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

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

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

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

(ii) that the board of arbitration has failed to issue a determination under paragraph (2).

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

Section 210. Powers and duties of authority with respect to financial plans.

(a) Formulation and approval of plan.—To advance the financial recovery of each assisted city, the authority shall require the assisted city to submit a five-year financial plan in accordance with section 209. With regard to the formulation of such plan, the authority shall:

(1) Consult with an assisted city as it prepares the financial plan.

(2) Prescribe the form of the financial plan.

(3) Prescribe the supporting information required in connection with such plan, such information to include at a minimum:

(i) debt service payments due or projected to be due during the relevant fiscal years;

(ii) payments for legally mandated services included in the plan and due or projected to be due during the relevant fiscal years; and

(iii) a statement in reasonable detail of the significant assumptions and methods of estimation used in arriving at the projections in the plan.

(4) Exercise any rights of approval or disapproval and issue such recommendations as are authorized by this act in accordance with the standards for formulation of the plan set forth in section 209(c).

(b) Authority functions after plan is approved.—After a financial plan has been approved, the authority shall:

(1) Receive and review:

(i) the financial reports submitted by the mayor or chief executive officer of a city under section 209(j);

(ii) reports concerning the debt service requirements on all bonds, notes of the assisted city and lease payments of the assisted city securing bonds or other government agencies for the following quarter, which reports shall be in such form and contain such information as the authority shall determine, and which shall be issued no later than 60 days prior to the beginning of the quarter to which they pertain, and shall be updated immediately upon each issuance of bonds or notes, by the assisted city or execution of a lease securing bonds of another government agency, after the date of

such report to reflect any change in debt service requirements as a result of such issuance; and

(iii) any additional information provided by the assisted city concerning changed conditions or unexpected events which may affect the assisted city's adherence to the financial plan. The reports described in subparagraph (ii) shall be certified by the city controller.

(2) Determine, on the basis of information and reports described in paragraph (1), whether an assisted city has adhered to the financial plan.

(c) Variation from the plan.—If the authority determines, based upon reports submitted by an assisted city under subsection (b) or independent audits, examinations or studies of the assisted city's finances obtained under subsection (i)(3), that an assisted city's actual revenues and expenditures vary from those estimated in the financial plan, the authority shall require the city to provide such additional information as the authority deems necessary to explain the variation. The authority shall take no action with respect to an assisted city for departures from the financial plan in a fiscal quarter if:

(1) the city provides a written explanation for the variation that the authority deems reasonable;

(2) the city proposes remedial action which the authority believes will restore the assisted city's overall compliance with the financial plan;

(3) information provided by the city in the immediately succeeding quarterly financial report demonstrates that the assisted city is taking such remedial action and otherwise complying with the plan; and

(4) the assisted city submits monthly supplemental reports in accordance with section 209(j) until it regains compliance with the financial plan.

(d) Authority may make recommendations.—The authority may at any time issue recommendations as to how an assisted city may achieve compliance with the financial plan and shall provide copies of such recommendations to the mayor or chief executive officer and the governing body of the city and to the officials named in section 203(b)(4).

(e) When Commonwealth shall withhold funds.—

(1) The authority shall certify to the Secretary of the Budget an assisted city's noncompliance with the financial plan during any period when the authority has determined by the vote of a majority that the assisted city has not adhered to the plan and has not taken acceptable remedial action during the next quarter following such departure from the plan.

(2) The authority shall certify to the Secretary of the Budget that an assisted city is not in compliance with the plan if the assisted city:

(i) has no financial plan approved by the authority, has failed to provide requested documents or has failed to file a financial plan with the authority; or

(ii) has failed to file mandatory revisions to the plan or reports as required by section 209(i), (j), (k) or (l).

(3) If the authority certifies that an assisted city is not in compliance with the financial plan under paragraph (1) or (2), the Secretary of the Budget shall notify the city that such certification has been made and that each grant, loan, entitlement or payment to the assisted city by the Commonwealth shall be suspended pending compliance with the financial plan. Funds withheld shall be held in escrow by the Commonwealth until compliance with the plan is restored as set forth in paragraph (4). Funds held in escrow pursuant to this subsection shall not lapse pursuant to section 621 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, or any other law.

(4) The authority shall, by majority vote, determine when the conditions which caused an assisted city to be certified as not in compliance with the financial plan have ceased to exist

and shall promptly notify the Secretary of the Budget of such vote. The Secretary of the Budget shall thereupon release all funds held in escrow, together with all interest and income earned thereon during the period held in escrow, and the disbursements of amounts in the city account shall resume.

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

- (1) funds granted or allocated to an assisted city directly from an agency of the Commonwealth or from the Federal Government for distribution by the Commonwealth after the declaration of a disaster resulting from a catastrophe;
- (2) funds for capital projects under contract in progress;
- (3) pension fund payments required by law; and
- (4) funds the assisted city has pledged to repay bonds or notes.

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

(h) Assisted city to determine expenditure of available funds.—Nothing in this act shall be construed to limit the power of an assisted city to determine, from time to time, within available funds of the assisted city, the purposes for which expenditures are to be made by the assisted city and the amounts of such expenditures then permitted under the financial plan of the assisted city.

(i) Documents and examinations to be reviewed or undertaken by the authority.—The authority shall:

- (1) receive from an assisted city and review the reports, documents, budgetary and financial planning data and other information prepared by or on behalf of such assisted city and which are to be made available to the authority under this act;
- (2) inspect and copy such books, records and information of an assisted city as the authority deems necessary to accomplish the purposes of this act; and
- (3) conduct or cause to be conducted such independent audits, examinations or studies of an assisted city's finances as the authority deems appropriate.

(j) Remedies of authority for failure of an assisted city to file financial plans and reports.—In the event that an assisted city shall fail to file with the authority any financial plan, revision to a financial plan, report or other information required to be filed with the authority pursuant to this act, the authority, in addition to all other rights which the authority may have at law or in equity, shall have the right by mandamus to compel the assisted city and the officers, employees and agents thereof to file with the authority the financial plan, revision to a financial plan, report or other information which the assisted city has failed to file. The authority shall give the assisted city written notice of the failure of the assisted city to file and of the authority's intention to initiate an action under this subsection and shall not initiate such an action earlier than ten days after the giving of such notice.

Section 211. Limitation on authority and on assisted cities to file petition for relief under Federal bankruptcy law.

(a) Limitation on bankruptcy filing.—Notwithstanding any other provision of law, the authority and any assisted city shall not be authorized to file a petition for relief under 11 U.S.C. Ch. 9 (relating to adjustments of debts of a municipality) or any successor Federal bankruptcy law, and no government agency shall authorize the authority or such city to become a debtor under 11 U.S.C. Ch. 9 or any successor Federal bankruptcy law.

(b) Bankruptcy filing approval.—In addition to the limitation set forth in subsection (a), and notwithstanding any other provision of law, no city shall be authorized to file a petition for relief under 11 U.S.C. Ch. 9 or any successor Federal bankruptcy law, unless such petition has been submitted to, and the filing thereof has been approved in writing by the Governor. The Governor is designated, in accordance with

11 U.S.C. § 109(c)(2) (relating to who may be a debtor), as the organization of the Commonwealth which shall have power to approve or disapprove the filing of any such petition of a political subdivision, and to approve or disapprove any plan of readjustment of the debts of any such political subdivision prepared, filed and submitted with the petition to the court, as provided under 11 U.S.C. Ch. 9.

(c) Review of bankruptcy petition.—

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

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

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

Section 212. Investment of funds.

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

Section 213. Sovereign immunity.

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

## CHAPTER 7

### MISCELLANEOUS PROVISIONS

Section 701. Appropriation.

The sum of \$200,000 is hereby appropriated from the General Fund to the Intergovernmental Cooperation Authority for Cities of the Second Class as a continuing appropriation for the purpose of providing operating funds for the Intergovernmental Cooperation Authority for Cities of the Second Class. This appropriation shall lapse June 30, 2005.

Section 702. General rights and prohibitions.

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

Section 703. Nondiscrimination.

The authority shall comply in all respects with the nondiscrimination and contract compliance plans used by the



Department of General Services to assure that all persons are accorded equality of opportunity in employment and contracting by the authority and its contractors, subcontractors, assignees, lessees, agents, vendors and suppliers.

Section 704. Construction of act.

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

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

Section 705. Limitation of authority powers.

Except as provided in section 210(i), nothing contained in this act shall be construed to confer upon the authority any powers with respect to a school district.

Section 706. Repeal.

All acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 707. Effective date.

This act shall take effect immediately.

On the question,

Will the House agree to the amendment?

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

This amendment was listed under the gentleman, Mr. Stevenson's name.

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

Mr. TURZAI. Mr. Speaker, that amendment will remain under Representative Stevenson's name, and Mr. Stevenson is prepared to address.

Thank you.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman, Mr. Stevenson.

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

Amendment 198 is being presented today as a result of the Governor's veto of SB 940. This amendment makes changes to HB 2006, entitled the "Intergovernmental Cooperation Authority Act for Cities of the Second Class," or in this case, Pittsburgh. The amendment is being offered as a means to finish the task we began last fall when we worked in close cooperation with Republican and Democratic members in the Senate to respond to the city's financial and fiscal crisis.

Ultimately, the House passed SB 940, as you will remember, by a vote of 116 to 79, and the Senate followed suit by a vote of 41 to 8. However, SB 940, as I said, was vetoed by the Governor on December 30 for specific reasons. He outlined those reasons in a meeting with the members of the House and Senate in the Allegheny County delegation and followed up with a memo and a detailed veto message, which, if anybody is interested in, the papers have a copy of the veto message.

This amendment we are taking up today would incorporate a majority of the provisions contained in the veto message and that were contained in SB 940. The Governor stated in his December 19 letter to the Allegheny County delegation that "To move this process forward I would be willing to sign the original Senate approved version of Senator Orié's bill, S.940,...with a few specific changes.

"First, that the bill makes no reference to Act 47...." In this amendment I have removed the language that would suspend the provisions of Act 47 during the operation of the authority.

The second point the Governor made is that the authority "...established under the bill is explicitly directed to examine the need to enhance revenue to the City and identify specific revenue options..." I am now, through this amendment, requiring the authority to formulate a preliminary report, including a recommendation as to whether the city needs additional revenues, the best sources of the revenues, and the way the city can reduce expenditures. So we have satisfied the second point in the Governor's veto message.

His third point that he wanted to see us do is that the authority "...is required to report back to the Governor and the Legislature on its findings in 60 days." And I have stipulated in this amendment that the authority must issue its preliminary report to the General Assembly and the Governor within 60 days of the bill's enactment.

Meeting all the Governor's requests in his veto message, I now ask the members for their approval of this amendment and ultimate passage of HB 2006.

Thank you.

The SPEAKER. The Chair thanks the gentleman.

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

Mr. FRANKEL. Thank you, Mr. Speaker.

Mr. Speaker, I rise to oppose this amendment, because I really, truly do not believe we ought to be here still debating this. We have at this point had five separate, independent reviews of the city's expenses and its revenues – blue-ribbon panels, the most astute business leaders in the city of Pittsburgh, who have examined every aspect of the city's expenses and revenues – and again, as I said last time when we debated SB 940, they have all reached the same exact conclusion, and that conclusion is, the city does not have the ability to cut its way out of this problem.

Five separate groups – leaders of the Allegheny Conference, the Pennsylvania Economy League, the committee established by the Senator who had originally proposed this legislation, the Hillman-Roderick Commission – all agreed that the city was in a desperate situation. While it had expenditures that had to be reviewed and cut, it needed additional revenue. This bill does nothing to address the aspect of revenue in terms of enabling the city to define its own fate by addressing its narrow tax base in creating a fair tax structure.

The city to date has laid off 750 people, and those of us who live there know that our streets are not being cleared. There is ice. Our children, who are cooped up in this weather, do not have access to recreation centers. Our seniors, who seek the comfort of social interaction with other seniors, cannot go to their senior centers because we have had to close them all down. This is not right.

Now the Governor, in his wisdom, seeing not much other alternative, vetoed this bill last time after Public Financial Management, in another indepth review of the city's expenditures, determined that the city qualified to be financially distressed under Act 47.

Now, that Act 47 process is in place. The bill as it is written here would supersede the ability of the city to continue in Act 47 without an amendment. Now, I understand there potentially is another amendment that will be drawn here. But right now this amendment, because it is drafted specifically to second-class cities, would prohibit the city from seeking redress under Act 47.

So until we see this other amendment that would potentially address this issue, I would have to oppose this amendment.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

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

Mr. PRESTON. Just one minute.

Mr. Speaker, may I be recognized?

The SPEAKER. Mr. Preston.

Mr. PRESTON. On the amendment – the Stevenson amendment, namely – the previous speaker, with all of his good intentions, has repeated his statement in many different ways. The unfortunate issue that he is dealing with is that we have sat down with members of both sides of the aisle from the Allegheny County delegation, with not taking any of our own personal ambitions but taking the region and the city of Pittsburgh to be responsible for itself, with all of us and the five of us within that delegation, with both sides of the aisle even sitting down and talking to the Governor, and in that conversation, the previous speaker is right: the Governor was going to veto the previous piece of legislation. But what he said – and I sat down with the Governor right there, including the previous speaker – he said that if we do A, B, C, and D – and you will see that today, and it is in this amendment, and following this we will need to suspend the rules with an amendment that I also will be introducing to amend this amendment – we will have met the requirement of the Governor in being able to deal with a fiscal control board over the city of Pittsburgh, and not to dilute in any way and to be able to give the Governor a hammer, if he should so choose, to be able to use Act 47, to be able to give total fiscal control and also some flexibility. And for someone to simply say that this is exactly the same is not the case.

So we have been working together, those members who live in the city of Pittsburgh and in the suburbs, both Democrat and Republican, and I would ask the members on both sides here to be able to give us an opportunity so that we can have a long-term, a long-term fiscal control and to develop an effective direction that the city of Pittsburgh and that the region can be able to go.

The city of Pittsburgh is the hub; it is the wheel; it is the spokesperson for this whole region, and to be able to have a viable, meaningful relationship with all of the counties within the MSA (metropolitan statistical area), we need to be able to have a good fiscally sound municipality. Now, I am not saying that the word “distressed” is such a negative, because it is only a temporary setback, and what the fiscal control board will do is give us the effective opportunity, step by step, to report to the county elected officials, to the local municipal elected officials,

and to us, here in the House of Representatives, both the House and the Senate – effective management techniques and effective fiscal controls not for next year but for the next 7 years.

I want to ask that we wholeheartedly adopt the Stevenson amendment and then we can get on about my business, where we can suspend the rules and amend the Stevenson amendment.

I would like to encourage the members to vote for the Stevenson amendment. Thank you.

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

Mr. WALKO. Thank you, Mr. Speaker.

May I interrogate the maker of the amendment, please?

The SPEAKER. The gentleman, Mr. Stevenson, indicates he will stand for interrogation. The gentleman is in order and may proceed.

Mr. WALKO. Mr. Speaker, one simple question. I am very confused. Does this amendment that we are voting on at this time supersede the provisions of Act 47?

Mr. T. STEVENSON. Mr. Speaker, no, it does not. In fact, this fact will be made perfectly clear with the Preston amendment to my amendment, that they are to run concurrently.

Mr. WALKO. So, Mr. Speaker, there is not an independent amendment to the bill? Is there an amendment to the bill that we will be voting on that would address that issue? You are not amending the amendment; you are amending the bill with the Preston amendment, or are we amending the amendment? I do not understand that, Mr. Speaker.

Mr. T. STEVENSON. It is my understanding we are amending the amendment.

Mr. WALKO. Well, if we vote on this amendment, Mr. Speaker, what mechanism do we use to amend the amendment? Does that throw out the entire amendment? Perhaps that is a point of parliamentary inquiry, Mr. Speaker.

The SPEAKER. Would the gentleman please direct his questions on parliamentary inquiry to the Chair, not to the members.

Mr. WALKO. Thank you, Mr. Speaker.

I am sorry about that.

### PARLIAMENTARY INQUIRY

Mr. WALKO. Mr. Speaker—

The SPEAKER. I do have a job up here.

The gentleman is in order and may proceed. I am sorry.

Mr. WALKO. Thank you, Mr. Speaker.

We are going to be amending the amendment, Mr. Speaker?

The SPEAKER. If the Stevenson amendment is adopted, it will become part of the bill, so we will be adopting a bill as amended, or amending the bill as amended.

Mr. WALKO. Okay. So the Preston amendment, Mr. Speaker, then would be offered to the bill as amended.

The SPEAKER. The gentleman is correct.

Mr. WALKO. Thank you, Mr. Speaker.

Thank you, Mr. Speaker, for the interrogation.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

## YEAS-142

Allen	Fairchild	Mackereth	Ross
Argall	Feese	Maher	Rubley
Armstrong	Fichter	Maitland	Sainato
Baker	Fleagle	Major	Sather
Baldwin	Flick	Markosek	Saylor
Bard	Forcier	Marsico	Scavello
Barrar	Gabig	McGeehan	Schroder
Bastian	Gannon	McGill	Semmel
Bebko-Jones	Geist	McIlhattan	Shaner
Benninghoff	Gergely	McIlhinney	Smith, B.
Birmelin	Gillespie	McNaughton	Smith, S. H.
Boyd	Godshall	Metcalfe	Solobay
Browne	Good	Micozzie	Stairs
Bunt	Grucela	Miller, R.	Steil
Butkovitz	Habay	Miller, S.	Stern
Buxton	Harhai	Mustio	Stevenson, R.
Cappelli	Harhart	Myers	Stevenson, T.
Casorio	Harper	Nailor	Tangretti
Causer	Harris	Nickol	Taylor, E. Z.
Cawley	Hasay	O'Brien	Taylor, J.
Civera	Hennessey	Oliver	Travaglio
Clymer	Herman	O'Neill	True
Coleman	Hershey	Pallone	Turzai
Costa	Hess	Payne	Vance
Crahalla	Hickernell	Petrarca	Waters
Creighton	Horsey	Petri	Watson
Cruz	Hutchinson	Petrone	Weber
Daley	James	Phillips	Wilt
Dally	Keller	Pickett	Wojnaroski
DeLuca	Kenney	Preston	Yewcic
Denlinger	Killion	Raymond	Youngblood
DiGirolo	Kotik	Readshaw	Yudichak
Diven	Leh	Reed	Zug
Donatucci	Lescovitz	Reichley	
Egolf	Lewis	Rieger	Perzel,
Evans, J.	Lynch	Rohrer	Speaker

## NAYS-53

Belardi	Fabrizio	Levdansky	Scrimenti
Belfanti	Frankel	Manderino	Staback
Biancucci	Freeman	Mann	Stetler
Bishop	George	McCall	Sturla
Blaum	Goodman	Melio	Surra
Caltagirone	Gruitza	Mundy	Thomas
Cohen	Haluska	Pistella	Tigue
Corrigan	Hanna	Roberts	Veon
Coy	Kirkland	Roebuck	Vitali
Curry	LaGrotta	Rooney	Walko
Dermody	Laughlin	Ruffing	Wansacz
DeWeese	Leach	Samuelson	Wheatley
Eachus	Lederer	Santoni	Williams
Evans, D.			

## NOT VOTING-0

## EXCUSED-6

Adolph	Gingrich	Washington	Wright
Dailey	Josephs		

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

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

## RULES SUSPENDED

The SPEAKER. The Chair recognizes the gentleman, Mr. Preston, for the purpose of amendment A0213.

Mr. PRESTON. Mr. Speaker, I move for an immediate suspension of the rules for the immediate adoption of the amendment.

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

The following roll call was recorded:

## YEAS-195

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

## NAYS-0

## NOT VOTING-0

## EXCUSED—6

Adolph                      Gingrich                      Washington                      Wright  
Dailey                      Josephs

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

On the question recurring,

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

Mr. **PRESTON** offered the following amendment No. **A0213**:

Amend Sec. 102, page 2, by inserting between lines 56 and 57 (A0198),

(3) It is further declared that this legislation is intended to operate concurrently and equally with the act of July 10, 1987 (P.L.246, No.47), known as the Municipalities Financial Recovery Act.

On the question,

Will the House agree to the amendment?

The **SPEAKER**. The Chair recognizes the gentleman, Mr. Preston, on the amendment.

Mr. **PRESTON**. Thank you, Mr. Speaker.

For the members, I would like to be able to read the language of the amendment itself: "It is further declared that this legislation is intended to operate concurrently and equally with the act of July 10, 1987 (P.L.246, No.47), known as the Municipalities Financial Recovery Act."

As promised, I would ask that the members vote for this. I think that with this inserted in the legislation and as we get it to the Senate, we will be able to get it to the Governor so that, again – and I have sat down, as members have heard, long term with an awful lot of the review committees; I have actually been part of them – and as we go about fiscal control, it is really time for the city of Pittsburgh to stop with different rubberbands and Band-Aids, and they have done the best they can do, but at the same time, I think we need an effective guideline – long-term financial respect and responsibility and accountability so that we can be able to put all of the information, so that we can digest some things, so that the legislature itself may be required to be able to give the different city legislation and certain permission that we maybe need to install.

I think that this amendment gives the Governor full flexibility, still gives the Governor the final say-so, and as I said, the big hammer, and I think this is an excellent compromise. I would ask for an affirmative vote. Thank you.

The **SPEAKER**. The Chair thanks the gentleman.

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

Mr. **FRANKEL**. Mr. Speaker, may I please interrogate the maker of the amendment?

The **SPEAKER**. The gentleman, Mr. Preston, indicates he will stand for interrogation.

Mr. **FRANKEL**. Mr. Speaker, the language "concurrently and equally," applying both to the Act 47 process and this

oversight committee, how will a disagreement in terms of approach— Say the coordinator for Act 47 proceeds with their investigation, comes up with some recommendations; the oversight board under this legislation goes and makes its investigation, comes up with recommendations that, say, are diametrically opposed. We now have language here that says they are basically to be treated concurrently and equally. How will we resolve those differences?

Mr. **PRESTON**. First, let me help make some corrections in your statement.

This is not an investigation. We are not investigating the city of Pittsburgh. The city of Pittsburgh, when you say the word "investigation," you may allude that the city of Pittsburgh has done something wrong. That is far from the truth. The city of Pittsburgh has been crawling very gingerly on an inoperative, out-of-date tax base for the last 20 years.

The Governor has a double hit here, a right hand and a left hand, because he gets an appointment, and at the same time, he also has the support staff to work under Act 47. I have every confidence that Governor Rendell will work hand in hand and share the respective information as they make a full fiscal report. It is also my understanding that under Act 47, the Governor's administrative and executive staff, not just in making recommendations, will have a stronger opportunity to be involved in certain approvals with the day to day.

We need a good fiscal accounting. We need to combine all of the reports to be able to see recommendations, and I really do not think that we will see that much of a disagreement about the history and where the city of Pittsburgh has to go in the future.

I also have every confidence in this legislative body, both in the House and in the Senate, that we can be accountable and responsible to the people of southwestern Pennsylvania, and should there be any slight potential disagreements, which we do not know, and if you really think about it, everything that we have heard is that the city's tax system is out of date. Every report that we have had, from the five or six that you are saying that there needs to be some structural changes, all of the different reports have made different long-term and certain short-term measurements and recommendations. I think it is time that the buck finally stops. I think it is time that once that report is going and it comes back to the legislature, we will be forced also to finally do some action.

As long as we deal with just only Act 47, we put the onus on the Governor. We put the onus on the Governor to be able to work with the local officials of the city of Pittsburgh, and as long as I have been dealing with distressed communities – and for the gentleman's information, one of the towns, the borough of Wilkinsburg, was the first municipality in the history of Pennsylvania to be listed as a distressed community; it is no longer distressed – but I have had a working – and I say this again – I have had a working response that there are certain limitations and uses of dealing with the Department of DCED (Department of Community and Economic Development) to be able to make recommendations and to be able to really back them up.

I think with having an effective fiscal control board, with all four houses and the Governor, gives us a clearer responsibility. It does put some of the onus on us and not just the Governor, and I think that we can be able to effectively work out our differences.

Mr. FRANKEL. Thank you.  
Mr. Speaker, that ends my interrogation. I would like to speak on the amendment.

The SPEAKER. The gentleman is in order and may proceed.  
Mr. FRANKEL. I understand what my colleague said in terms of, you know, not anticipating significant disagreements or there may be a process to work them out. Nevertheless, there is a distinct possibility that these two now parallel processes – oversight committee, Act 47 coordinator – may in fact come out with different recommendations, solutions, and it seems to me, ultimately, we could be asking for litigation, because this is ambiguous at best, the way this is worded, that will further delay the ability of the city to get a sustainable, long-term solution to its fiscal crisis.

I am going to support this amendment, nevertheless, because it does accomplish one thing that, as I identified under the last amendment, was missing. It does preserve the city’s ability to seek redress under Act 47, and from that aspect it does improve this bill as amended immeasurably.

So I will be supporting this amendment and ask that my colleagues do as well.

Thank you very much.

The SPEAKER. The Chair thanks the gentleman.

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

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

I would just like to ask the members to support this amendment. It does strengthen the bill.

Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS-188

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

Coy	Hess	Pickett	Vitali
Crahalla	Hickernell	Pistella	Walko
Creighton	Horsey	Preston	Wansacz
Cruz	Hutchinson	Raymond	Waters
Curry	James	Readshaw	Watson
Daley	Keller	Reed	Wheatley
Dally	Kenney	Reichley	Williams
DeLuca	Killion	Rieger	Wilt
Denlinger	Kirkland	Roberts	Wojnaroski
Dermody	Kotik	Roebuck	Yewcic
DeWeese	LaGrotta	Rohrer	Youngblood
DiGirolamo	Laughlin	Rooney	Yudichak
Diven	Leach	Ross	Zug
Donatucci	Lederer	Rubley	
Eachus	Leh	Ruffing	
Egolf	Lescovitz	Sainato	Perzel,
Evans, D.	Levdansky		Speaker

NAYS-7

Casorio	Maher	Metcalfe	Weber
Habay	McGill	Petrarca	

NOT VOTING-0

EXCUSED-6

Adolph	Gingrich	Washington	Wright
Daley	Josephs		

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

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

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.  
The question is, shall the bill pass finally?

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

Mr. WHEATLEY. Thank you, Mr. Speaker.

I rise today to again plead to the members. I can read the writing on the wall that this train is moving forward, but I also would encourage our members to take a step back and think about the rest of the citizens back home in Pittsburgh and Allegheny County that this is not just about, this is not just about numbers. This is about human lives. I know we have long passed the time where many of the members here care if the city survives or not, and I know we all think that oversight board will find all the costs in waste in city government that can save human lives back in the city of Pittsburgh and Allegheny County, but a great day of reckoning is coming.

If we do not find a way, if we do not find a way to work together that we all can share in the burden of a successful region, if we do not find a way for us all to come together and share equally in the growth of a region, then we will certainly perish together; we will certainly perish together.

So, again, I am just urging all the members, I am urging all the members to continue to try to find common ground where

we all can share in the burdens of the growth of our region and of our Commonwealth.

Again, thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

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

Mr. TURZAI. Thank you, Mr. Speaker.

We would ask the House today to please vote in favor of this measure, HB 2006.

It clearly creates a control board that is necessary with respect to activities in the city of Pittsburgh. There are significant expenditure changes that need to take place, and we believe that an independent control board will allow that to happen. The individuals on the board have to have financial and managerial experience. They are not to have any contracts with the city, so they are independent. They will be chosen by each of the caucuses in the General Assembly and the Governor, and in addition to making recommendations, they will be in place for 7 years in the existence of the control board.

It is modeled, in large part, on the city of Philadelphia's control board that took place in the early 1990s, and we have significant bipartisan support – Senator Orié, Senator Wagner, Senator Logan, and Senator Ferlo, and many of the House members here today. I would like to thank all of our colleagues who have worked on this, and we would urge a “yes” vote.

Thank you very, very much.

The SPEAKER. Is there anyone else, except the majority leader, that would like to speak?

The Chair recognizes the majority leader, the gentleman, Mr. Smith.

Mr. S. SMITH. Thank you, Mr. Speaker.

Mr. Speaker, I will not belabor this.

I would urge the members to support this legislation. I know many of the members from the Allegheny County area have worked very hard to try to find this level of legitimate compromise between what had passed this House originally, what some of the other various sides on the issue proposed and sought originally, and subsequent to the Governor's veto, which I would like to read you one paragraph from that, where the Governor indicated on his veto, “As of this date, the City of Pittsburgh is under the protections of Act 47. If, upon its return, the Legislature adopts legislation that creates a control board with a procedure that could lead to the quick adoption of revenue sources if the experts on the board deem them necessary, I would sign that legislation and we would consider taking the City out of Act 47.”

Now, I think what is important about this part of the Governor's veto message is, to the best of our ability and to the best of the ability of the members that worked on this legislation, it does meet the requirement or the recommendation from the Governor that a board be put in place. It was consistent with what many of the folks who looked at this issue from all sides sought out, and I am confident that this type of oversight board will enable the city of Pittsburgh to find the direction it needs to get out of its financial woes, and I would urge the members to support this legislation.

Thank you, Mr. Speaker.

On the question recurring,  
Shall the bill pass finally?

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

The following roll call was recorded:

YEAS—195

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

NAYS—0

NOT VOTING—0

EXCUSED—6

Adolph	Gingrich	Washington	Wright
Daley	Josephs		

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. There will be no further votes on the floor of the House.

Are there any announcements?

Does the majority leader have any further announcements?

Does the minority leader have any further announcements?

### **ANNOUNCEMENT BY DEMOCRATIC LEADER**

The SPEAKER. The Chair recognizes the gentleman from Greene, Mr. DeWeese.

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

Just an announcement for the Democrats. We have a meeting in my office of the Democratic leaders, the esteemed, hard-charging deputy whips. Just a short meeting commencing at the call of the adjournment, Mr. Speaker.

Thank you very much.

The SPEAKER. For what purpose does the gentleman, Mr. Markosek, rise?

Mr. MARKOSEK. Mr. Speaker, a question regarding next week's calendar or schedule.

### **RECESS**

The SPEAKER. The House will recess to the call of the Chair.

### **AFTER RECESS**

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

### **THE SPEAKER PRO TEMPORE (BRETT FEESE) PRESIDING**

### **BILLS AND RESOLUTIONS PASSED OVER**

The SPEAKER pro tempore. Without objection, any remaining bills and resolutions on today's calendar will be passed over. The Chair hears no objection.

### **ADJOURNMENT**

The SPEAKER pro tempore. The Chair recognizes the majority leader, Mr. Smith.

Mr. S. SMITH. Mr. Speaker, I move that this House do hereby adjourn until Monday, February 9, 2004, at 1 p.m., e.s.t., unless sooner recalled by the Speaker.

On the question,

Will the House agree to the motion?

Motion was agreed to, and at 4:28 p.m., e.s.t., the House adjourned.