

# COMMONWEALTH OF PENNSYLVANIA

## LEGISLATIVE JOURNAL

MONDAY, NOVEMBER 7, 2005

SESSION OF 2005

189TH OF THE GENERAL ASSEMBLY

No. 64

### HOUSE OF REPRESENTATIVES

The House convened at 1 p.m., e.s.t.

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

#### PRAYER

HON. MATTHEW E. BAKER, member of the House of Representatives, offered the following prayer:

Let us join our hearts together.

God of liberty, we acknowledge Your reign and sovereignty. For the freedom of our land, for the rights we possess, for the security of our laws, we praise You and thank You. Give guidance to our leaders, watch over those who serve their country and State, raise up the poor, and exalt the humble. Make our nation and our Commonwealth great and strong, renowned in wisdom, prosperous in virtue, and renewed in faith. Destroy all signs of division. Take away hatred and violence. Fill us with Your peace. Make us one people united in praising You. Through our Lord we pray. Amen.

#### PLEDGE OF ALLEGIANCE

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

#### JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, the approval of the Journal of Wednesday, November 2, 2005, will be postponed until printed.

#### HOUSE BILLS INTRODUCED AND REFERRED

**No. 1894** By Representatives KENNEY and PERZEL

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 distress in school districts of the first class.

Referred to Committee on EDUCATION, November 4, 2005.

**No. 2196** By Representatives BARRAR, ARMSTRONG, BALDWIN, BEBKO-JONES, BENNINGHOFF, BISHOP, BOYD, CALTAGIRONE, COHEN, CRAHALLA, CURRY, FEESE, GANNON, GEIST, GEORGE, GERGELY, GOOD, GOODMAN, HARHAI, HERMAN, HESS, KENNEY, KOTIK, LEACH, LEH, MARKOSEK, McILHATTAN, McNAUGHTON, MUSTIO, PETRONE, PHILLIPS, READSHAW, ROSS, SCAVELLO, STABACK, R. STEVENSON, STURLA, SURRA, THOMAS, TIGUE, WANSACZ, WATERS, WATSON, WRIGHT, YOUNGBLOOD and RAPP

An Act amending the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, providing for health benefit plans for autistic children.

Referred to Committee on INSURANCE, November 4, 2005.

**No. 2197** By Representatives FLEAGLE, S. H. SMITH, SEMMEL, SATHER, HENNESSEY, O'NEILL, ADOLPH, ARGALL, BAKER, BALDWIN, BOYD, BUNT, CAPPELLI, CAUSER, CLYMER, CORNELL, CRAHALLA, CREIGHTON, DALLY, DENLINGER, DiGIROLAMO, FAIRCHILD, FEESE, FLICK, FREEMAN, GEIST, GEORGE, GOOD, GOODMAN, GRUCELA, HANNA, HERSHEY, HESS, HICKERNELL, HUTCHINSON, KAUFFMAN, M. KELLER, KENNEY, KILLION, LaGROTTA, MAHER, MAITLAND, MARKOSEK, MARSICO, McCALL, McGILL, McILHATTAN, MICOZZIE, MUNDY, NAILOR, NICKOL, PALLONE, PAYNE, PETRARCA, PETRI, PHILLIPS, PICKETT, PYLE, RAPP, RAYMOND, REICHLEY, ROSS, RUBLEY, SAINATO, SAYLOR, SCAVELLO, SHAPIRO, B. SMITH, SOLOBAY, STAIRS, SURRA, E. Z. TAYLOR, TIGUE, TRUE, WALKO, WANSACZ, WILT, WOJNAROSKI, WRIGHT, YUDICHAK and ZUG

An Act making an appropriation to the Pennsylvania Emergency Management Agency for the purpose of funding grants under the act of July 31, 2003 (P.L.73, No.17), known as the Volunteer Fire Company and Volunteer Ambulance Service Grant Act.

Referred to Committee on APPROPRIATIONS, November 4, 2005.

**No. 2198** By Representatives BARRAR, BOYD, CALTAGIRONE, CRAHALLA, CREIGHTON, DeLUCA, DENLINGER, HENNESSEY, LEH, MUSTIO, REICHLEY, SCHRODER, E. Z. TAYLOR, THOMAS and WRIGHT

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 collective bargaining and employee contract reporting by school districts.

Referred to Committee on EDUCATION, November 4, 2005.

**No. 2199** By Representatives HERMAN, HENNESSEY, CALTAGIRONE, BEBKO-JONES, BUNT, COHEN, CREIGHTON, DeWEESE, FABRIZIO, GINGRICH, GRUCELA, HARRIS, KIRKLAND, MARKOSEK, SCAVELLO, B. SMITH, STABACK, E. Z. TAYLOR, TIGUE and YOUNGBLOOD

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, making an exception to certain fees relating to criminal records.

Referred to Committee on JUDICIARY, November 4, 2005.

**No. 2200** By Representatives NICKOL, BISHOP, BAKER, BEBKO-JONES, BLACKWELL, CALTAGIRONE, CAPPELLI, COHEN, CRAHALLA, CREIGHTON, DeWEESE, FEESE, FREEMAN, GINGRICH, GODSHALL, GRELL, HARHART, HENNESSEY, JAMES, JOSEPHS, M. KELLER, KENNEY, MACKERETH, MAHER, MANDERINO, MANN, MARKOSEK, McILHATTAN, R. MILLER, S. MILLER, MUNDY, O'NEILL, PYLE, READSHAW, RUBLEY, SAYLOR, SIPTROTH, B. SMITH, STABACK, SURRA, TANGRETTI, E. Z. TAYLOR, THOMAS, TIGUE, TRUE, WALKO, WATSON, WHEATLEY, WILT, YEWIC, YOUNGBLOOD, YUDICHAK and RAPP

An Act amending the act of May 1, 1933 (P.L.216, No.76), known as The Dental Law, further providing for the definitions of "dental hygienist" and "board"; providing for the definition of "independent dental hygiene practitioner"; further providing for the general powers of the State Board of Dentistry and for radiologic procedures, education and training; and providing for the independent practice of dental hygienists.

Referred to Committee on PROFESSIONAL LICENSURE, November 4, 2005.

**No. 2201** By Representatives CURRY, CALTAGIRONE, CAWLEY, CRAHALLA, CREIGHTON, DeLUCA, FABRIZIO, FRANKEL, FREEMAN, GEORGE, HARRIS, HENNESSEY, JOSEPHS, LEACH, MANN, MUSTIO, READSHAW, ROEBUCK, SATHER, SOLOBAY, STABACK, STURLA, SURRA, TANGRETTI, THOMAS, TIGUE, WRIGHT, YOUNGBLOOD and JAMES

An Act amending the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, further providing for abatement program, for reporting and for expiration.

Referred to Committee on HEALTH AND HUMAN SERVICES, November 4, 2005.

**No. 2202** By Representatives REICHLEY, ALLEN, BEBKO-JONES, BELFANTI, BEYER, BUNT, CALTAGIRONE, GINGRICH, HENNESSEY, MANDERINO, MANN, MARKOSEK, E. Z. TAYLOR and J. TAYLOR

An Act amending the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, providing for home infusion therapy to be available to all eligible recipients and adding a definition of "home infusion therapy."

Referred to Committee on HEALTH AND HUMAN SERVICES, November 4, 2005.

**No. 2203** By Representatives REICHLEY, BAKER, BALDWIN, BARRAR, BEYER, BOYD, BUNT, CALTAGIRONE, CAPPELLI, CLYMER, CRAHALLA, DALLY, D. EVANS, GERGELY, GILLESPIE, GINGRICH, GOODMAN, GRELL, GRUCELA, HARHART, HARRIS, HERMAN, HICKERNELL, KAUFFMAN, KILLION, LEH, MACKERETH, MANN, MARKOSEK, MARSICO, McILHATTAN, METCALFE, MUSTIO, O'NEILL, PAYNE, PICKETT, PYLE, READSHAW, REED, RUBLEY, SCAVELLO, SCHRODER, B. SMITH, SONNEY, STABACK, STEIL, R. STEVENSON, T. STEVENSON, THOMAS, TRUE, WATSON, WRIGHT, YOUNGBLOOD, J. TAYLOR, RAPP and E. Z. TAYLOR

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for grading of the offense of failure to comply with registration of sexual offenders requirements.

Referred to Committee on JUDICIARY, November 4, 2005.

**No. 2204** By Representatives REICHLEY, ADOLPH, ALLEN, ARMSTRONG, BAKER, BALDWIN, BARRAR, BASTIAN, BEBKO-JONES, BEYER, BOYD, BUNT, CALTAGIRONE, CAPPELLI, CAWLEY, CLYMER, CRAHALLA, CREIGHTON, DALEY, FAIRCHILD, FICHTER, FLICK, FORCIER, GEIST, GEORGE, GERGELY, GINGRICH, GODSHALL, GOOD, GOODMAN, GRUCELA, HARHAI, HARHART, HARRIS, HASAY, HERMAN, HERSHEY, HICKERNELL, KAUFFMAN, KILLION, LEDERER, LEH, MACKERETH, MARSICO, McILHATTAN, METCALFE, S. MILLER, MUSTIO, O'NEILL, PAYNE, PETRARCA, PHILLIPS, PICKETT, PISTELLA, PYLE, READSHAW, REED, ROSS, RUBLEY, SATHER, SCAVELLO, B. SMITH, SOLOBAY, SONNEY, STABACK, STERN, R. STEVENSON, T. STEVENSON, TRUE, WRIGHT, ZUG, E. Z. TAYLOR, J. TAYLOR and RAPP

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, further providing for the imposition of inheritance tax, for the rate of inheritance tax and for returns.

Referred to Committee on FINANCE, November 4, 2005.

### SENATE BILLS FOR CONCURRENCE

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

**SB 384, PN 1320**

Referred to Committee on EDUCATION, November 4, 2005.

**SB 862, PN 1319**

Referred to Committee on TOURISM AND RECREATIONAL DEVELOPMENT, November 4, 2005.

**SB 925, PN 1216**

Referred to Committee on HEALTH AND HUMAN SERVICES, November 4, 2005.

**SB 929, PN 1218**

Referred to Committee on TOURISM AND RECREATIONAL DEVELOPMENT, November 4, 2005.

**SB 940, PN 1303**

Referred to Committee on AGRICULTURE AND RURAL AFFAIRS, November 4, 2005.

**BILL REMOVED FROM TABLE**

The SPEAKER. The Chair recognizes the majority leader. Mr. S. SMITH. Mr. Speaker, I move that SB 932 be taken from the table.

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:

**SB 932, PN 1270.****BILL RECOMMITTED**

The SPEAKER. The Chair recognizes the majority leader. Mr. S. SMITH. Mr. Speaker, I move that SB 932 be recommitted to the Committee on Appropriations.

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

**SENATE MESSAGE**

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

The clerk of the Senate, being introduced, informed that the Senate has concurred in the amendments made by the House of Representatives to Senate amendments by further amending House amendments to **HB 1539, PN 3059**.

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

**GUESTS INTRODUCED**

The SPEAKER. The Chair would like to welcome to the hall of the House Mr. Donald Swingle. He is the guest and also the father-in-law of Representative Jerry Birmelin. He is seated to the left of the Speaker. Would he please rise and be recognized.

The Speaker is pleased to welcome to the hall of the House Julie Ennis, Representative Tina Pickett's sister. Julie resides in Orlando, Florida, and is visiting here with her family. Would that guest please rise and be recognized.

**RULES COMMITTEE MEETING**

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

**BILLS ON CONCURRENCE  
REPORTED FROM COMMITTEE****HB 127, PN 2996**

By Rep. S. SMITH

An Act providing for certain rights of resource parents; and further providing for duties of county agencies and private agencies.

RULES.

**HB 761, PN 2998**

By Rep. S. SMITH

An Act amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for the offense of invasion of privacy; and providing for actions involving products or services used to invade privacy.

RULES.

**HB 1579, PN 2997**

By Rep. S. SMITH

An Act providing for certain responsibilities of county and private agencies regarding resource families.

RULES.

**HB 1606, PN 2949**

By Rep. S. SMITH

An Act establishing a program for breast and cervical cancer screening services for certain eligible women; and providing for the powers and duties of the Department of Health.

RULES.

**HB 1743, PN 2944**

By Rep. S. SMITH

An Act amending the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, further providing for assessment limits on counties of the second class; and providing for effect of appeal, escrow and payment under protest.

**RULES.**

**FILMING PERMISSION**

The SPEAKER. The Chair wishes to advise the members that it has given permission to Gary Dwight Miller of the Patriot-News to take still photographs of the floor for the next 10 minutes.

**LEAVES OF ABSENCE**

The SPEAKER. The Chair recognizes the majority whip, who moves for a leave of absence for the gentledady from Bucks, Mrs. WATSON. Without objection, that leave will be granted.

The Chair recognizes the minority whip, who moves for a leave of absence for the day for the gentleman from Philadelphia, Mr. OLIVER; for the gentleman from Fayette, Mr. SHANER; for the gentleman from Philadelphia, Mr. RIEGER; and the gentleman from Philadelphia, Mr. CRUZ. Without objection, those leaves will be granted.

**LEAVE OF ABSENCE CANCELED**

The SPEAKER. The Chair notes the presence on the floor of the House of the gentledady from Bucks, Mrs. Watson. When we take the master roll, her name will be added to the master roll.

**MASTER ROLL CALL**

The SPEAKER. The Chair is about to take the master roll. The members will proceed to vote.

(Members proceeded to vote.)

**LEAVE OF ABSENCE**

The SPEAKER. The Chair returns to leaves of absence. The gentleman from York, Mr. SMITH, wishes to have a leave of absence for the day.

**MASTER ROLL CALL CONTINUED**

The following roll call was recorded:

**PRESENT—198**

Adolph	Fairchild	Levdansky	Ross
Allen	Feese	Mackereth	Rubley
Argall	Fichter	Maher	Ruffing
Armstrong	Fleagle	Maitland	Sainato
Baker	Flick	Major	Samuelson
Baldwin	Forcier	Manderino	Santoni
Barrar	Frankel	Mann	Sather

Bastian	Freeman	Markosek	Saylor
Bebko-Jones	Gabig	Marsico	Scavello
Belardi	Gannon	McCall	Schroder
Belfanti	Geist	McGeehan	Semmel
Benninghoff	George	McGill	Shapiro
Beyer	Gerber	McIlhattan	Siptroth
Biancucci	Gergely	McIlhinney	Smith, S. H.
Birmelin	Gillespie	McNaughton	Solobay
Bishop	Gingrich	Melio	Sonney
Blackwell	Godshall	Metcalfe	Staback
Blaum	Good	Micozzie	Stairs
Boyd	Goodman	Millard	Steil
Bunt	Grell	Miller, R.	Stern
Butkovitz	Grucela	Miller, S.	Stetler
Buxton	Gruitza	Mundy	Stevenson, R.
Caltagirone	Habay	Mustio	Stevenson, T.
Cappelli	Haluska	Myers	Sturla
Casorio	Hanna	Nailor	Surra
Causer	Harhai	Nickol	Tangretti
Cawley	Harhart	O'Brien	Taylor, E. Z.
Civera	Harper	O'Neill	Taylor, J.
Clymer	Harris	Pallone	Thomas
Cohen	Hasay	Parker	Tigue
Cornell	Hennessey	Payne	True
Corrigan	Herman	Petrarca	Turzai
Costa	Hershey	Petri	Veon
Crahalla	Hess	Petrone	Vitali
Creighton	Hickernell	Phillips	Walko
Curry	Hutchinson	Pickett	Wansacz
Daley	James	Pistella	Waters
Dally	Josephs	Preston	Watson
DeLuca	Kauffman	Pyle	Wheatley
Denlinger	Keller, M.	Quigley	Williams
Dermody	Keller, W.	Ramaley	Wilt
DeWeese	Kenney	Rapp	Wojnaroski
DiGirolamo	Killion	Raymond	Wright
Diven	Kirkland	Readshaw	Yewcic
Donatucci	Kotik	Reed	Youngblood
Eachus	LaGrotta	Reichley	Yudichak
Ellis	Leach	Roberts	Zug
Evans, D.	Lederer	Roebuck	
Evans, J.	Leh	Rohrer	Perzel,
Fabrizio	Lescovitz	Rooney	Speaker

ADDITIONS—0

NOT VOTING—0

EXCUSED—5

Cruz	Rieger	Shaner	Smith, B.
Oliver			

LEAVES ADDED—1

Steil

LEAVES CANCELED—1

Smith, B.

**REPUBLICAN CAUCUS**

The SPEAKER. The Republicans will caucus at 1:45.

**DEMOCRATIC CAUCUS**

The SPEAKER. Does the gentleman, Mr. Cohen, wish to be recognized? Mr. Cohen.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, there will be an immediate Democratic caucus upon the call of the recess. We have a total of six bills on concurrence from the Senate. Certainly these bills are of great concern to every member. I urge attendance at this caucus.

The SPEAKER. The Chair thanks the gentleman.

Again, the Republicans will caucus at 1:45, and we will return to the floor at 2:45.

**RECESS**

The SPEAKER. This House stands in recess.

**AFTER RECESS**

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

**LEAVE OF ABSENCE CANCELED**

The SPEAKER. The Chair notes the presence on the floor of the House of the gentleman from York, Mr. Smith. His name will be added to the master roll.

**SUPPLEMENTAL CALENDAR A**

**BILLS ON CONCURRENCE  
IN SENATE AMENDMENTS**

The House proceeded to consideration of concurrence in Senate amendments to **HB 127, PN 2996**, entitled:

An Act providing for certain rights of resource parents; and further providing for duties of county agencies and private agencies.

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

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

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

Mr. SATHER. Thank you, Mr. Speaker.

A long time coming, but we are finally at that day where we can have an opportunity to do some good work for the foster parenting association.

A former member, now deceased, Representative Zimmerman, had this piece of legislation some years ago.

The SPEAKER. One second, Mr. Sather.

The gentleman is entitled to be heard. Would the conferences please break up.

Mr. Sather.

Mr. SATHER. Thank you, Mr. Speaker.

Some time ago Representative Zimmerman, now deceased, had this legislation, and let me just give you a synopsis. It establishes a freestanding act, and now it is called, as changed

in the Senate, Resource Family and Adoption Process Act. What we are attempting to do is give a standing for those who are foster parenting, the opportunity to be considered, to be considered for the opportunity to adopt many of these young children that they have in their care. The amendment does place, as I think, a responsible answer to this situation.

And I want to share with you just briefly. I was not aware of this, but November is National Adoption Awareness Month with a special focus on the adoption of children in the foster-care system. I am hoping that you will concur with me in this bill and send the proper message back to those who are caring individuals in the foster-care system.

Thank you.

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.

(Members proceeded to vote.)

**LEAVE OF ABSENCE**

The SPEAKER. The Chair returns to leaves of absence. The gentleman from Bucks, Mr. STEIL, requests a leave of absence for the remainder of the day. Without objection, that leave will be granted.

**CONSIDERATION OF HB 127 CONTINUED**

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

The following roll call was recorded:

**YEAS—198**

Adolph	Fairchild	Levdansky	Ross
Allen	Feese	Mackereth	Rubley
Argall	Fichter	Maher	Ruffing
Armstrong	Fleagle	Maitland	Sainato
Baker	Flick	Major	Samuelson
Baldwin	Forcier	Manderino	Santoni
Barrar	Frankel	Mann	Sather
Bastian	Freeman	Markosek	Saylor
Bebko-Jones	Gabig	Marsico	Scavello
Belardi	Gannon	McCall	Schroder
Belfanti	Geist	McGeehan	Semmel
Benninghoff	George	McGill	Shapiro
Beyer	Gerber	McIlhattan	Siptroth
Biancucci	Gergely	McIlhinney	Smith, B.
Birmelin	Gillespie	McNaughton	Smith, S. H.
Bishop	Gingrich	Melio	Solobay
Blackwell	Godshall	Metcalfe	Sonney
Blaum	Good	Micozzie	Staback
Boyd	Goodman	Millard	Stairs
Bunt	Grell	Miller, R.	Stern
Butkovitz	Grucela	Miller, S.	Stetler
Buxton	Gruitza	Mundy	Stevenson, R.
Caltagirone	Habay	Mustio	Stevenson, T.
Cappelli	Haluska	Myers	Sturla
Casorio	Hanna	Nailor	Surra
Causer	Harhai	Nickol	Tangretti
Cawley	Harhart	O'Brien	Taylor, E. Z.
Civera	Harper	O'Neill	Taylor, J.
Clymer	Harris	Pallone	Thomas
Cohen	Hasay	Parker	Tigue

Cornell	Hennessey	Payne	True
Corrigan	Herman	Petrarca	Turzai
Costa	Hershey	Petri	Veon
Crahalla	Hess	Petrone	Vitali
Creighton	Hickernell	Phillips	Walko
Curry	Hutchinson	Pickett	Wansacz
Daley	James	Pistella	Waters
Dally	Josephs	Preston	Watson
DeLuca	Kauffman	Pyle	Wheatley
Denlinger	Keller, M.	Quigley	Williams
Dermody	Keller, W.	Ramaley	Wilt
DeWeese	Kenney	Rapp	Wojnaroski
DiGirolamo	Killion	Raymond	Wright
Diven	Kirkland	Readshaw	Yewcic
Donatucci	Kotik	Reed	Youngblood
Eachus	LaGrotta	Reichley	Yudichak
Ellis	Leach	Roberts	Zug
Evans, D.	Lederer	Roebuck	
Evans, J.	Leh	Rohrer	Perzel,
Fabrizio	Lescovitz	Rooney	Speaker

NAYS-0

NOT VOTING-0

EXCUSED-5

Cruz	Rieger	Shaner	Steil
Oliver			

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the amendments were concurred in.

Ordered, That the clerk inform the Senate accordingly.

\* \* \*

The House proceeded to consideration of concurrence in Senate amendments to **HB 1579, PN 2997**, entitled:

An Act providing for certain responsibilities of county and private agencies regarding resource families.

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

The SPEAKER. It is moved by the gentleman, Mr. Hickernell, that the House do concur in the amendments inserted by 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-198

Adolph	Fairchild	Levdansky	Ross
Allen	Feese	Mackereth	Rubley
Argall	Fichter	Maher	Ruffing
Armstrong	Fleagle	Maitland	Sainato
Baker	Flick	Major	Samuelson
Baldwin	Forcier	Manderino	Santoni
Barrar	Frankel	Mann	Sather
Bastian	Freeman	Markosek	Saylor
Bebko-Jones	Gabig	Marsico	Scavello

Belardi	Gannon	McCall	Schroder
Belfanti	Geist	McGeehan	Semmel
Benninghoff	George	McGill	Shapiro
Beyer	Gerber	McIlhattan	Siptroth
Biancucci	Gergely	McIlhinney	Smith, B.
Birmelin	Gillespie	McNaughton	Smith, S. H.
Bishop	Gingrich	Melio	Solobay
Blackwell	Godshall	Metcalfe	Sonney
Blaum	Good	Micozzie	Staback
Boyd	Goodman	Millard	Stairs
Bunt	Grell	Miller, R.	Stern
Butkovitz	Grucela	Miller, S.	Stetler
Buxton	Gruitza	Mundy	Stevenson, R.
Caltagirone	Habay	Mustio	Stevenson, T.
Cappelli	Haluska	Myers	Sturla
Casorio	Hanna	Nailor	Surra
Causler	Harhai	Nickol	Tangretti
Cawley	Harhart	O'Brien	Taylor, E. Z.
Civera	Harper	O'Neill	Taylor, J.
Clymer	Harris	Pallone	Thomas
Cohen	Hasay	Parker	Tigue
Cornell	Hennessey	Payne	True
Corrigan	Herman	Petrarca	Turzai
Costa	Hershey	Petri	Veon
Crahalla	Hess	Petrone	Vitali
Creighton	Hickernell	Phillips	Walko
Curry	Hutchinson	Pickett	Wansacz
Daley	James	Pistella	Waters
Dally	Josephs	Preston	Watson
DeLuca	Kauffman	Pyle	Wheatley
Denlinger	Keller, M.	Quigley	Williams
Dermody	Keller, W.	Ramaley	Wilt
DeWeese	Kenney	Rapp	Wojnaroski
DiGirolamo	Killion	Raymond	Wright
Diven	Kirkland	Readshaw	Yewcic
Donatucci	Kotik	Reed	Youngblood
Eachus	LaGrotta	Reichley	Yudichak
Ellis	Leach	Roberts	Zug
Evans, D.	Lederer	Roebuck	
Evans, J.	Leh	Rohrer	Perzel,
Fabrizio	Lescovitz	Rooney	Speaker

NAYS-0

NOT VOTING-0

EXCUSED-5

Cruz	Rieger	Shaner	Steil
Oliver			

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the amendments were concurred in.

Ordered, That the clerk inform the Senate accordingly.

\* \* \*

The House proceeded to consideration of concurrence in Senate amendments to **HB 1606, PN 2949**, entitled:

An Act establishing a program for breast and cervical cancer screening services for certain eligible women; and providing for the powers and duties of the Department of Health.

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

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

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

Mr. KENNEY. Thank you, Mr. Speaker.

Mr. Speaker, I do ask that the House concur in the Senate amendments. They were technical in nature. The legislation establishes the Pennsylvania Breast and Cervical Cancer Early Screening Program, which will make available breast cancer and cervical cancer screenings for underinsured and uninsured women between the ages of 40 and 49.

Mr. Speaker, this is a worthwhile program and extends our program in Pennsylvania to help keep Pennsylvania women healthy, and I ask for an affirmative vote.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

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—198

Adolph	Fairchild	Levdansky	Ross
Allen	Feese	Mackereth	Rubley
Argall	Fichter	Maher	Ruffing
Armstrong	Fleagle	Maitland	Sainato
Baker	Flick	Major	Samuelson
Baldwin	Forcier	Manderino	Santoni
Barrar	Frankel	Mann	Sather
Bastian	Freeman	Markosek	Saylor
Bebko-Jones	Gabig	Marsico	Scavello
Belardi	Gannon	McCall	Schroder
Belfanti	Geist	McGeehan	Semmel
Benninghoff	George	McGill	Shapiro
Beyer	Gerber	McIlhattan	Siptroth
Biancucci	Gergely	McIlhinney	Smith, B.
Birmelin	Gillespie	McNaughton	Smith, S. H.
Bishop	Gingrich	Melio	Solobay
Blackwell	Godshall	Metcalfe	Sonney
Blaum	Good	Micozzie	Staback
Boyd	Goodman	Millard	Stairs
Bunt	Grell	Miller, R.	Stern
Butkovitz	Grucela	Miller, S.	Stetler
Buxton	Gruitza	Mundy	Stevenson, R.
Caltagirone	Habay	Mustio	Stevenson, T.
Cappelli	Haluska	Myers	Sturla
Casorio	Hanna	Nailor	Surra
Causer	Harhai	Nickol	Tangretti
Cawley	Harhart	O'Brien	Taylor, E. Z.
Civera	Harper	O'Neill	Taylor, J.
Clymer	Harris	Pallone	Thomas
Cohen	Hasay	Parker	Tigue
Cornell	Hennessey	Payne	True
Corrigan	Herman	Petrarca	Turzai
Costa	Hershey	Petri	Veon
Crahalla	Hess	Petrone	Vitali
Creighton	Hickernell	Phillips	Walko
Curry	Hutchinson	Pickett	Wansacz
Daley	James	Pistella	Waters
Dally	Josephs	Preston	Watson
DeLuca	Kauffman	Pyle	Wheatley
Denlinger	Keller, M.	Quigley	Williams
Dermody	Keller, W.	Ramaley	Wilt
DeWeese	Kenney	Rapp	Wojnaroski
DiGirolamo	Killion	Raymond	Wright
Diven	Kirkland	Readshaw	Yewcic

Donatucci	Kotik	Reed	Youngblood
Eachus	LaGrotta	Reichley	Yudichak
Ellis	Leach	Roberts	Zug
Evans, D.	Lederer	Roebuck	
Evans, J.	Leh	Rohrer	Perzel,
Fabrizio	Lescovitz	Rooney	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—5

Cruz	Rieger	Shaner	Steil
Oliver			

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the amendments were concurred in.

Ordered, That the clerk inform the Senate accordingly.

\* \* \*

The House proceeded to consideration of concurrence in Senate amendments to **HB 1743, PN 2944**, entitled:

An Act amending the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, further providing for assessment limits on counties of the second class; and providing for effect of appeal, escrow and payment under protest.

On the question,

Will the House concur in Senate amendments?

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

On that question, Mr. Levdansky.

Mr. LEVDANSKY. Thank you, Mr. Speaker.

Mr. Speaker, would Representative Mustio stand for a brief interrogation on this bill?

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

Mr. LEVDANSKY. Thank you.

When this bill was considered in the House, I had identified two specific provisions of HB 1743 that I saw were problematic. Under existing law, there is an ironclad 5-percent cap on the additional revenue that a taxing body could receive in Allegheny County after a reassessment is complete. This legislation has two means to essentially bypass that hard 5-percent cap: One is through an appeal to the court of common pleas if a municipality thinks it has good cause that it should be exempt from the procedures laid out in the bill, and secondly, a taxing body can adjust its calculation more than 5 percent if the average of the last 5 years, exclusive of the year of the reassessment, you know, a taxing body can realize an increase in revenue of the average of the last 5 years. Have either of these two, I think, mechanisms that will enable municipalities to get 5 percent and beyond without an actual vote, have any of

these two circumstances, Mr. Speaker, been addressed in the Senate amendments?

Mr. MUSTIO. No, they have not, and I think your statement is incorrect. First of all, you said that there is currently a hard cap of 5 percent. That is just out-and-out wrong and incorrect, as is evidenced by Allegheny County chief executive Dan Onorato when he was county controller. The report that he did clearly showed the numerous school districts in particular that violated that 5 percent, and in working with County Executive Onorato and other members here and in the Senate, our goal is to make certain that that 5-percent violation no longer exists, and that is the purpose of rolling back the millage rate so there is a zero-percent increase and holding our elected officials accountable.

Under the current system, as you may know, there is not a separate vote that needs to be taken to raise taxes. Currently all that has to happen is they approve a millage rate based on the reassessments – all right? – and that can include a 5-percent windfall, and I do not think that that windfall is desired and, quite honestly, is a violation of that windfall. So we are rolling that back to zero, and our local officials now have to take a separate vote to raise taxes, and I think that that is a difficult thing for elected officials to do, so they will start looking for additional ways to lower expenses.

Now, to address your comments regarding the ways that they can add into the tax revenues, certainly if somebody appeals their assessment, their assessed value, and they are entitled to a refund, we are fiduciarily, I think, responsible and want to make sure that that money is there in our local governments for them to pay that. I think the worst thing that could happen is for us to have our constituents appeal their assessments, be entitled to a refund, and then our local governments do not have the money to pay them back. So I wanted to make sure that that was addressed in the legislation, and quite honestly, that was one of the things that the local governments and the State association wanted to see addressed as well.

Mr. LEVDANSKY. Mr. Speaker, it is not that issue that I am concerned with. I do not have any disagreement or problem with that. I want to make sure I understand existing law.

Right now after reassessment in Allegheny County, a taxing body can receive up to 4.999999 percent of additional revenue without taking a vote. They just take that— As long as they stay under 5 percent under existing law, they could receive that additional revenue without any vote. If they want to go above 5 percent, they have to have a separate vote to raise the millage. Am I correct?

Mr. MUSTIO. Under existing law, you could probably add another 9999 to that, but the problem is, we have had significant amount of violation of that, and it has been very difficult for our constituents on the local level to see whether or not something is actually being done. So to actually see a millage rate being decreased and then having a separate vote to increase it, I think, is a totally different way to measure and hold our local elected officials accountable. But to answer your question, in theory they are supposed to be holding to that 5 percent, but they are not.

Mr. LEVDANSKY. I understand. Not theory. According to following law, existing law establishes the 5-percent antiwindfall cap. That is what I mean by a hard cap in existing law. If it is violated or if it is unenforceable, that is a whole other issue relative to administration and enforcement, but under existing law, they cannot receive more than 5 percent.

If they want to exceed 5 percent additional revenues, they must have a separate vote of the local taxing body to raise the millage.

So you know, I understand what you are saying is, the existing 5 percent is not a hard cap because it is unenforceable or, you know, for whatever reason local taxing jurisdictions have exceeded that 5-percent antiwindfall provision and they have not been sanctioned or penalized since then. So that is a problem in the enforcement of existing law.

Mr. MUSTIO. And I think our attempt here is to try and shed some light on that whole process and make it easier for our constituents to hold their elected officials accountable.

Mr. LEVDANSKY. Okay.

No more interrogation.

Mr. MUSTIO. Thank you.

Mr. LEVDANSKY. Just on final passage, Mr. Speaker.

The SPEAKER. The gentleman is in order.

Mr. LEVDANSKY. Mr. Speaker, I do not want to give an impression to the taxpayers of Allegheny County that from now on there will never be an instance where after a reassessment a taxing body is going to take all the additional revenue that they receive from reassessment and apply every one of those dollars to millage reductions. Okay? I wish that were the case, but with subsections (d) and (e) that permit judicial bypass for a good cause – and there is no definition of “good cause” in here, and if I was a municipal official, I could probably figure up dozens of reasons for good cause why we need to be able to raise beyond what is in this bill – and the fact that the 5-year average of the last 5 years’ budgets, and if a taxing body has raised taxes in those years, they are going to be able to realize the average without having to make a separate vote.

For as bad as the existing antiwindfall law is and especially when it comes to the enforcement, I am really concerned about giving the impression to Allegheny County taxpayers that there will never be a reassessment where there is going to be a windfall realized by the local taxing bodies. I think the language in the bill will make that inevitable, and I would rather see it ironclad, locked in, with no exceptions, no judicial bypass, no 5-year averaging to permit taxing bodies to receive additional revenue without separate votes to do so.

Now, these are two major concerns, you know, for Allegheny County and for this whole reassessment debacle, and I am fearful that we really have not solved the problem, and passing legislation will enable us to go home and say we think that we have, but the reality is, the devil is in the details, and I do not think we have.

So for those reasons, Mr. Speaker, I am going to vote “no” on concurrence with the Senate amendments.

The SPEAKER. The Chair thanks the gentleman.

The gentleman, Mr. Mustio.

Mr. MUSTIO. Thank you, Mr. Speaker.

I just urge a positive “yes” vote on this and flatly disagree with that attempted argument. Thank you.

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—193

Adolph	Fichter	Maitland	Ruffing
Allen	Fleagle	Major	Sainato
Argall	Flick	Manderino	Samuelson
Armstrong	Forcier	Mann	Santoni
Baker	Frankel	Markosek	Sather
Baldwin	Gabig	Marsico	Saylor
Barrar	Gannon	McCall	Scavello
Bastian	Geist	McGeehan	Schroder
Bebko-Jones	George	McGill	Semmel
Belardi	Gerber	McIlhattan	Shapiro
Belfanti	Gergely	McIlhinney	Siptroth
Benninghoff	Gillespie	McNaughton	Smith, B.
Beyer	Gingrich	Melio	Smith, S. H.
Biancucci	Godshall	Metcalfe	Solobay
Birmelin	Good	Micozzie	Sonney
Bishop	Goodman	Millard	Staback
Blackwell	Grell	Miller, R.	Stairs
Blaum	Grucela	Miller, S.	Stern
Boyd	Gruitza	Mundy	Stetler
Bunt	Habay	Mustio	Stevenson, R.
Butkovitz	Haluska	Myers	Stevenson, T.
Caltagirone	Hanna	Nailor	Sturla
Cappelli	Harhai	Nickol	Surra
Casorio	Harhart	O'Brien	Tangretti
Causar	Harper	O'Neill	Taylor, E. Z.
Civera	Harris	Pallone	Taylor, J.
Clymer	Hasay	Parker	Thomas
Cohen	Hennessey	Payne	Tigue
Cornell	Herman	Petrarca	True
Corrigan	Hershey	Petri	Turzai
Costa	Hess	Petrone	Veon
Crahalla	Hickernell	Phillips	Vitali
Creighton	Hutchinson	Pickett	Walko
Daley	James	Pistella	Wansacz
Dally	Josephs	Preston	Waters
DeLuca	Kauffman	Pyle	Watson
Denlinger	Keller, M.	Quigley	Wheatley
Dermody	Keller, W.	Ramaley	Williams
DeWeese	Kenney	Rapp	Wilt
DiGirolo	Killion	Raymond	Wojnaroski
Diven	Kirkland	Readshaw	Wright
Donatucci	Kotik	Reed	Yewcic
Eachus	LaGrotta	Reichley	Youngblood
Ellis	Leach	Roberts	Yudichak
Evans, D.	Lederer	Roebuck	Zug
Evans, J.	Leh	Rohrer	
Fabrizio	Lescovitz	Rooney	
Fairchild	Mackereth	Ross	Perzel,
Feese	Maher	Rubley	Speaker

## NAYS—5

Buxton	Curry	Freeman	Levdansky
Cawley			

## NOT VOTING—0

## EXCUSED—5

Cruz	Rieger	Shaner	Steil
Oliver			

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the amendments were concurred in.

Ordered, That the clerk inform the Senate accordingly.

## SUPPLEMENTAL CALENDAR B

**BILL ON CONCURRENCE  
IN SENATE AMENDMENTS  
AS FURTHER AMENDED BY THE SENATE  
TO HOUSE AMENDMENTS**

The House proceeded to consideration of concurrence in Senate amendments as further amended by the Senate to House amendments to **HB 761, PN 2998**, entitled:

An Act amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for the offense of invasion of privacy; and providing for actions involving products or services used to invade privacy.

On the question,

Will the House concur in Senate amendments as further amended by the Senate to House amendments?

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

On the question recurring,

Will the House concur in Senate amendments as further amended by the Senate to House 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—198

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

Curry	Hutchinson	Pickett	Wansacz
Daley	James	Pistella	Waters
Dally	Josephs	Preston	Watson
DeLuca	Kauffman	Pyle	Wheatley
Denlinger	Keller, M.	Quigley	Williams
Dermody	Keller, W.	Ramaley	Wilt
DeWeese	Kenney	Rapp	Wojnaroski
DiGirolamo	Killion	Raymond	Wright
Diven	Kirkland	Readshaw	Yewcic
Donatucci	Kotik	Reed	Youngblood
Eachus	LaGrotta	Reichley	Yudichak
Ellis	Leach	Roberts	Zug
Evans, D.	Lederer	Roebuck	
Evans, J.	Leh	Rohrer	Perzel,
Fabrizio	Lescovitz	Rooney	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—5

Cruz	Rieger	Shaner	Steil
Oliver			

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the amendments as further amended by the Senate to House amendments were concurred in.

Ordered, That the clerk inform the Senate accordingly.

### 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 127, PN 2996

An Act providing for certain rights of resource parents; and further providing for duties of county agencies and private agencies.

#### HB 761, PN 2998

An Act amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for the offense of invasion of privacy; and providing for actions involving products or services used to invade privacy.

#### HB 1579, PN 2997

An Act providing for certain responsibilities of county and private agencies regarding resource families.

#### HB 1606, PN 2949

An Act establishing a program for breast and cervical cancer screening services for certain eligible women; and providing for the powers and duties of the Department of Health.

#### HB 1743, PN 2944

An Act amending the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, further providing for assessment limits on counties of the second class; and providing for effect of appeal, escrow and payment under protest.

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

The SPEAKER. The House will be at ease.

### RULES COMMITTEE MEETING

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

### BILL ON CONCURRENCE REPORTED FROM COMMITTEE

**HB 1539, PN 3059**

By Rep. S. SMITH

An Act amending the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, providing for public official compensation; further providing for reports to the Secretary of Revenue; establishing and providing for appropriation to the Emergency Energy Assistance Fund; and making a repeal related to public official compensation.

RULES.

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

**HB 1956, PN 3073 (Amended)**

By Rep. S. SMITH

An Act repealing the act of July 7, 2005 (P.L.201, No.44), entitled, "An act amending Titles 42 (Judiciary and Judicial Procedure), 46 (Legislature) and 71 (State Government) of the Pennsylvania Consolidated Statutes, providing for compensation; and making an inconsistent repeal."

RULES.

### SUPPLEMENTAL CALENDAR C

### BILL ON CONCURRENCE IN SENATE AMENDMENTS AS FURTHER AMENDED BY THE SENATE TO HOUSE AMENDMENTS

The House proceeded to consideration of concurrence in Senate amendments as further amended by the Senate to House amendments to **HB 1539, PN 3059**, entitled:

An Act amending the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, providing for public official compensation; further providing for reports to the Secretary of Revenue; establishing and providing for appropriation to the Emergency Energy Assistance Fund; and making a repeal related to public official compensation.

On the question,

Will the House concur in Senate amendments as further amended by the Senate to House amendments?

The SPEAKER. It is moved by the gentleman, Mr. Smith, that the House nonconcur in the amendments.

On the question,

Will the House nonconcur in Senate amendments as further amended by the Senate to House amendments?

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

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

Mr. Speaker, I would like to address the reasons for recommending a vote to nonconcur. Obviously, this is the bill which would repeal the pay raise for all three – the legislative, the administrative, and the judicial branches of government. The bill has now bounced back and forth between the House and the Senate an extra bounce, in my opinion, and the debate hinges mostly on its relevance to how this legislation would affect the judiciary.

There are some who want to vote to concur and just take what the Senate has sent us and say, okay, we are done with this. My concern, quite frankly, is the affirmative severability language that the Senate inserted in the bill along with the comments that were voiced in the Senate when this bill was considered. Specifically, one Senator who was afraid he may have a conflict of interest asked about the nature of the specific amendment that put the severability clause in, and when he asked about it, he said, since this amendment is about protecting the judges' pay raise.

So my concern is that the way this legislation that is before us is crafted, while it does say that the judges' pay raise will be repealed along with the administration and the legislative branch of government, while it does say that, there is a clear implication that the severability clause, along with the comments in the Senate, opens the door for the courts to come in and overturn that section of the bill.

Now, what I hear from people, among a lot of other things about us as legislators obviously, what I have heard was that we should repeal the pay raise legislation. How I would characterize that is taking us back to what the compensation levels were on July 6. In my opinion, the bill as it is before us, if we were to concur, it would not do that. It might do it on the surface, but in the long run, it will not do it.

We should nonconcur in order to give us the strongest hand in dealing and ironing out the differences between the Senate's view of this legislation and our view. If we were to amend it and send it back, my concern is that we just continue a certain Ping-Pong effect of this legislation. I do not think that is in the best interest of this legislature resolving this issue. I know there are concerns that, well, we should concur and we will just be done with it, and I understand that, but we would not be done with it. If we amend it and send it back, it is going to bounce around.

The best way for us to get this thing resolved and get it resolved in the strongest position we can to take us all back to July 6 is to nonconcur, put it in a conference committee with the Senate, and iron those details out. It would be my hope and my best estimate that if that is the will of the House, that we would be able to move forward on some type of a conference committee report within a very short time the first of next week; I mean, a very short time. Should that not be the case, should I be wrong, should I be a little bit naive and optimistic, there was another bill that we just reported out of Rules, if you were listening closely, that is a bill that is a fresh bill, it is a clean bill, that is a repeal of all three branches' pay raise. It will be in a position to vote on Monday by this full House should there be – or any day there subsequent to that if there is movement, but at some point, if there was not any movement on the conference committee report, what I have proposed here is a backup plan to remove all doubt as to whether or not it is the intention of the

House to move forward with the legislation before us, and the differences of opinion between the House and the Senate notwithstanding, that we will move forward with that.

So we are basically looking at a decision to concur or nonconcur. I would recommend we nonconcur; we put it into a conference committee, trying to iron out those differences as fast and as best as we can; that we stop the ball from bouncing and grab a hold of it. Should that be a problem, should there be any fault in that, then the other legislation that we reported out of Rules will be in a position to be considered in the first of the week, and that is, I guess, that is my plan B should there be a problem, and it is my commitment that the House's intentions are to move forward with this and that the vote to nonconcur is not some kind of subterfuge to avoid the issue or to dodge it in any way.

So with that, Mr. Speaker, I suppose there are members who have comments and questions. I will relinquish the floor.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman, Mr. Vitali.

Mr. VITALI. Thank you, Mr. Speaker.

Will the majority leader stand for brief interrogation?

The SPEAKER. The gentleman indicates he will.

Mr. VITALI. Thank you, Mr. Speaker.

Now, I understand the intent is to bring this back to the compensation levels for us all on July 6, and I agree with that goal.

Now, I am trying to get at what is the goal of sending it to conference committee. Is that goal to get language in there that says this legislation is nonseverable? Is that the goal?

Mr. S. SMITH. That is not the specific goal. Although when the legislation left this House, if you recall, you asked me similar questions and challenged the purpose for that nonseverable clause. Those motives that had kind of cast aspersions on the House, those that suggested that the nonseverable language was somehow some kind of poison pill—

Mr. VITALI. I never suggested that, to be clear.

Mr. S. SMITH. You are right, Mr. Speaker. You did not. Others in the building did. Those were clearly misspoken or misdirected allegations.

What we sent over before, we had nonseverable because we felt that was the strongest position we had at that point in time. At this juncture, I mean, I hate to sit here and tell somebody that I am going to negotiate with what my main plan is, but most of this is known. They can just put the pieces together. The way we treat severability is clearly a point of debate within a conference committee.

What other key item that we would be looking at is to insert language as to the intent of this legislation, and that language would speak something to the effect, to the constitutional Article V, section 16(a), language, and state that the purpose of this bill, that the intent of this bill is to deal generally with all salaried officials of the Commonwealth, somewhat paralleling the language in that constitutional section.

So those are the key elements at this juncture that would be part of the differences between a House version and a Senate version.

Mr. VITALI. Thank you.

That ends my interrogation. I would like to speak on the motion.

The SPEAKER. The gentleman is in order.

Mr. VITALI. Thank you, Mr. Speaker.

I agree with the goals of the majority leader. I want to see us go back to July 6, because I think the entire bill, the way it was passed and some of its contents were unconstitutional. I also think that there has been an improper involvement in the negotiating on the part of the judiciary. That is why I think we need to go back. I think we need to take this to square one so that we can determine what judicial salaries should be in a very deliberative way. If in fact we left the current judicial salaries stand, our judges would be the second highest, our Supreme Court and common pleas court would be the second highest judiciary in the nation. I think we have to go back and do this in a deliberate way.

However, I am concerned with taking it back to conference committee. I am concerned about the results that may come out of that committee. It seems to me that what we need to do is insist on the nonseverability clause remaining in there, and I think we need to insist on the nonseverability clause because we will put our Supreme Court in a position where, if they insist on taking this pay raise for themselves, they will take down the whole repeal and put themselves in political jeopardy. That is why I think it is important that we leave the entire nonseverability clause in there. If we nonconcur and send it to conference committee, that is not necessarily the result. I think the one way to do this procedurally is to revert to prior printer's No. 3058.

### MOTION TO SUSPEND RULES

Mr. VITALI. Therefore, I would move that the House suspend its rules to move to revert to prior printer's No. 3058, the provision which contained the nonseverability clause, and I so move.

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

The SPEAKER. The question is on the motion to suspend the rules, which is debatable by only the floor leaders.

The gentleman, Mr. Smith. Mr. Smith.

Mr. S. SMITH. Mr. Speaker, on the motion to suspend the rules, first of all, I appreciate that he supports the notion of the nonseverability clause, and you know, maybe I did not speak strongly enough that in the course of a conference committee, that is clearly an element. It is an element of debate, though, and it is not something I can stand here today and say it will be in the conference committee. I cannot make that prediction because it is a function of negotiations.

My concern with the motion to suspend the rules to then revert to a prior printer's number, to go back to that previous bill, is the Senate has already rejected that specific bill. They have already done that once, and I guess that is why I think just procedurally we are going to bounce this thing around for another couple weeks. That is not in our best interest; it is not in the best interest of getting this issue resolved certainly, and because of that, Mr. Speaker, while I support 100 percent that particular element of the motion in terms of trying to do that, I would have to ask the members to not support the motion to suspend the rules, to vote against the suspension, allow us to put this into conference, where we will make our best-case fight

towards that particular language that the gentleman is interested in.

The SPEAKER. Mr. DeWeese.

Mr. DeWEESE. Thank you, Mr. Speaker.

I would also respectfully request that the gentleman's motion to suspend the rules be opposed. For the crazy serendipity that exists in this room from time to time, I do agree with the honorable majority leader when he says that we probably agree with the gentleman from Delaware County and his objective at making certain that severability does not take place.

Notwithstanding my own enthusiastic endeavors to the contrary, the will of this chamber, the will of the sister chamber was to eliminate State legislative, executive, and judicial pay raises, notwithstanding the fact that some of our brothers and sisters in the judiciary feel confident that notwithstanding whatever we do, they in their final arbitrament will clean the slate and accede to the constitutional propriety of their own pay raise.

Now, we are going to have some additional debate tonight, but I can understand the votes of the House and I can understand what the majority leader is trying to do, and happily and coincidentally, the majority leader and the honorable gentleman from Delaware are trying to do the same thing approximately, but I would respectfully ask the House to not suspend the rules so that we can get on with the definitive vote that will be subsequent and we can make strong statements relative to this chamber's desire, this chamber's desire, on judicial pay raises.

So I would ask for a "no" vote on suspension of the rules.

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

The following roll call was recorded:

#### YEAS—25

Armstrong	Freeman	Manderino	Sainato
Baldwin	Habay	Metcalfe	Samuelson
Boyd	Hanna	Pistella	True
Butkovitz	Hickernell	Readshaw	Turzai
Creighton	Hutchinson	Reed	Vitali
Denlinger	Kauffman	Roberts	Yewcic
Ellis			

#### NAYS—173

Adolph	Feese	Mackereth	Rubley
Allen	Fichter	Maher	Ruffing
Argall	Fleagle	Maitland	Santoni
Baker	Flick	Major	Sather
Barrar	Forcier	Mann	Saylor
Bastian	Frankel	Markosek	Scavello
Bebko-Jones	Gabig	Marsico	Schroder
Belardi	Gannon	McCall	Semmel
Belfanti	Geist	McGeehan	Shapiro
Benninghoff	George	McGill	Siptroth
Beyer	Gerber	McIlhattan	Smith, B.
Biancucci	Gergely	McIlhinney	Smith, S. H.
Birmelin	Gillespie	McNaughton	Solobay
Bishop	Gingrich	Melio	Sonney
Blackwell	Godshall	Micozzie	Staback
Blaum	Good	Millard	Stairs
Bunt	Goodman	Miller, R.	Stern
Buxton	Grell	Miller, S.	Stetler
Caltagirone	Grucela	Mundy	Stevenson, R.
Cappelli	Gruitza	Mustio	Stevenson, T.
Casorio	Haluska	Myers	Sturla

Causer	Harhai	Nailor	Surra
Cawley	Harhart	Nickol	Tangretti
Civera	Harper	O'Brien	Taylor, E. Z.
Clymer	Harris	O'Neill	Taylor, J.
Cohen	Hasay	Pallone	Thomas
Cornell	Hennessey	Parker	Tigue
Corrigan	Herman	Payne	Veon
Costa	Hershey	Petrarca	Walko
Crahalla	Hess	Petri	Wansacz
Curry	James	Petrone	Waters
Daley	Josephs	Phillips	Watson
Dally	Keller, M.	Pickett	Wheatley
DeLuca	Keller, W.	Preston	Williams
Dermody	Kenney	Pyle	Wilt
DeWeese	Killion	Quigley	Wojnaroski
DiGirolamo	Kirkland	Ramaley	Wright
Diven	Kotik	Rapp	Youngblood
Donatucci	LaGrotta	Raymond	Yudichak
Eachus	Leach	Reichley	Zug
Evans, D.	Lederer	Roebuck	
Evans, J.	Leh	Rohrer	
Fabrizio	Lescovitz	Rooney	Perzel,
Fairchild	Levdansky	Ross	Speaker

NOT VOTING—0

EXCUSED—5

Cruz	Rieger	Shaner	Steil
Oliver			

Less than a majority of the members required by the rules having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,

Will the House nonconcur in Senate amendments as further amended by the Senate to House amendments?

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

Mr. TANGRETTI. Thank you, Mr. Speaker.

Mr. Speaker, I think that what we have to consider is the appearance of what is going to take place tonight, the appearance that has unfortunately for the last 5 months made this House a state of disrespect and lack of credibility, and I think that we are just going to compound that issue that was generated on July 7 by prolonging this process. And I think that if we insist on nonseverability and the judges file suit and declare that the pay raise is unconstitutional, we will be back here dealing with this issue again. And I guarantee you, I believe as sure as I am standing here, the judiciary – I do not care what language is agreed to in conference committee; I do not care what you say, how you word it – they will file suit and they will declare their pay raise valid or the repeal invalid, and if you have nonseverability in there, that means every one of you who have voted to repeal will now be in a position to have to repeal it again, and I do not have to tell you how difficult this is and how difficult, more difficult, it will be to do it in the future.

I implore you, please vote to concur and send this thing to the Governor, allow the Governor to sign it, and if the judges want to take it upon themselves to file suit, then allow them to do that. As a matter of fact, maybe we ought to even join in trying to defend that, defend our position in repealing their pay raise legally. We do it for everything else around here;

we pay our legal counsel. We ought to defend that and say, you are wrong, judges; we have the right to set your salary or take it away. But we are going to be in that position. If we do not send this to the Governor now, we will be back here again dealing with this issue.

I implore you to do this. Concur with the Senate; send it to the Governor; let him sign it; let the judges do what they want. Do not compound this problem. Do not make what we have considered, have done to this House, rather, and compound it. Thank you.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman—

Mr. TANGRETTI. I had not concluded. I apologize, Mr. Speaker. I was responding to a colleague.

The SPEAKER. I am sorry.

Mr. TANGRETTI. That is okay. Thank you, sir.

I just think that catcalls from other members of the House is a matter of disrespect to myself and other members, and I do not appreciate it, but I think that we all have had a trying time with this, we have a chance to end it, and I ask that we end it tonight.

Thank you very much.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Northumberland, Mr. Belfanti.

Mr. BELFANTI. Thank you, Mr. Speaker.

Mr. Speaker, last November I was one of the individuals in this chamber who expected that we would be voting on a modest pay raise without unvouchered expenses, without additional compensation for chairmen and subcommittee and vice chairs, without tying it to the U.S. Congress, without tying the judges to the Federal courts, without doing any of that, and as I recall, Senator Jubelirer, the Senate pro tem leader, stormed out of the Governor's Office, leaving the other three caucuses and the Governor, and I imagine some people from the courts, dumbfounded that he wanted a much more massive increase, and here we are today. The architect of the legislation that brought us here today, the architect of the legislation that brought the pig out back, the architect of the legislation that empowered the print media for the past 6 months, brought this all upon us, and I believe that we need to have that gentleman in a room with five of his other colleagues, because the court has already proven in years past, after the 1974 pension adjustment that this House and Senate passed, the Governor signed, and it reduced the pensions for newly elected judges and duly elected members of the General Assembly, within 2 years, because of some ambiguous language they found somewhere in the Constitution, they decided that that repeal did not apply to them; it only applied to us. So they immediately rebumped their pension back up to 4 percent, and I see no reason that they will not do that again because of the language that is before us in this constitutional amendment they keep citing, that they can only have their salaries reduced if all other officers of the Commonwealth do likewise.

Now, it is our contention and I believe the majority leader's contention and the minority leader's contention that that phrase "all other officers of the Commonwealth" means the legislature and means the Governor's Office. But I believe that if we do not get this bill into conference committee or we do not start with a freestanding bill, as the gentleman, Mr. Smith, said may come down the pike on Monday, we will not have the ability to insert language that says this pay raise is repealed for the Governor, the executive branch, the legislative branch, the judicial branch,

and all officers of the Commonwealth. Then they have no wiggle room, Mr. Speaker. They cannot rule in any way, shape, and form and they cannot find any hidden clause somewhere to restore their pay increase without immediately bringing down a pox on their house. And to remind everyone, there are 1,000-plus of them that are poised to get this pay increase.

Mr. Speaker, I still support the notion of a modest pay increase, as Pennsylvania employees have enjoyed on average, according to Labor and Industry, a 34-percent increase in pay over the past 10 years, and the State legislature, the executive branch, the judicial branch, a 19-percent. I believe that it is justifiable that we get a modest increase at some point; if it is not this session, some point in the near future. But if this nonseverability clause is removed, it is my opinion that the courts will now be the superbranch of government in this State. There will not be three coequal branches. The courts will have tied themselves to Federal cost-of-living adjustments forever. They will never have to be responsive to members of the General Assembly, the executive branch, their two coequal partners in this constitutional framework that we live under here in Pennsylvania.

So I am asking the members, do nonconcur. I hope this bill will end up in conference committee. I hope the language that the gentleman, Mr. Smith, alluded to about all other Commonwealth officers is inserted in that bill, and if we cannot work out a 4-2 deal in conference committee, we come back here on Monday and start with a freestanding bill and start the process over.

Thank you very much.

The SPEAKER. The Chair thanks the gentleman.

### PARLIAMENTARY INQUIRY

The SPEAKER. The Chair recognizes the gentleman from Northampton, Mr. Freeman.

Mr. FREEMAN. Thank you, Mr. Speaker.

Mr. Speaker, a point of parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. FREEMAN. Thank you.

There is some measure of confusion on the floor, and I am sure to people viewing this back home on television. This evening we have had four or five votes on concurrence, and those questions have always been posed in the affirmative, do we concur in the amendments by the Senate? For some reason the issue before us is posed as a nonconcurrence vote. In my 19 years as a member of the House, I do not recall a single incident where it was posed in such a way that you would have to vote as a double negative. I think this is posing some confusion, and my point of parliamentary inquiry is, why is this now posed as a vote of concurrence by the Chair in order to clarify the fact that to concur would send it to the Governor's desk, to nonconcur would send it to conference?

The SPEAKER. The gentleman, Mr. Smith, moved to nonconcur, and the Chair accepted that motion.

Mr. FREEMAN. A point of further parliamentary inquiry. Mr. Speaker?

The SPEAKER. Yes. The gentleman will state it.

Mr. FREEMAN. Thank you, Mr. Speaker.

Just to clarify again to the rank and file here on the floor and also to our viewing audience, if I understand the ruling of the Chair, then a "no" vote is a vote to send this bill to the

Governor's desk to repeal the entire pay raise; a "yes" vote is to send it into conference committee. Is that correct, Mr. Speaker?

The SPEAKER. A "yes" vote would be a vote to nonconcur; a "no" vote would be to concur.

Mr. FREEMAN. So again to clarify – I apologize, Mr. Speaker – a "no" vote sends it to the Governor's desk; a "yes" vote sends it to the conference committee.

The SPEAKER. The question has been answered. Thank you, Mr. Freeman.

Does the gentleman have any further questions?

Mr. FREEMAN. May I rephrase the question then?

The SPEAKER. No.

Mr. FREEMAN. I wish to challenge the ruling of the Chair that a member of this House cannot pose a question of parliamentary inquiry to the Chair. If you seek that, I will seek a challenge to the Chair on that question.

The SPEAKER. I answered your question, Mr. Freeman.

Mr. FREEMAN. I wanted to rephrase that question. You said you would not listen to that question, Mr. Speaker.

The SPEAKER. Why would you rephrase a question I just answered? This is not a courtroom. You already got your answer.

Mr. FREEMAN. Nor am I an attorney.

The SPEAKER. Neither am I.

Mr. FREEMAN. I am seeking a clarification so there is an understanding what the vote we will cast will do.

The SPEAKER. Those voting to nonconcur would be a "yes" vote; those voting to concur would be a "no" vote.

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

Mr. METCALFE. Thank you, Mr. Speaker.

Would the majority leader be willing to answer a question or two regarding this legislation?

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

Mr. METCALFE. Thank you, Mr. Speaker.

Mr. Speaker, as you had mentioned earlier, last week on Wednesday evening when the Senate took up this legislation with the amendments that we had put in, part of those amendments were to remove two salary increases that they still included in their pay raise repeal legislation that they had sent us. Is that correct?

Mr. S. SMITH. You are referring to the deputy whips?

Mr. METCALFE. Yes.

Mr. S. SMITH. And you are asking if they were removed—I am sorry; I did not quite follow you. I got distracted.

Mr. METCALFE. The legislation that was sent to us from the Senate last week originally, even though it was to repeal the pay raise supposedly for all three branches of government, it still included two salary increases for two of their members.

Mr. S. SMITH. Essentially that is correct; yes, sir.

Mr. METCALFE. And besides that, when we sent the legislation back to them, we removed those two salary increases to make sure it was a full repeal. We also put in the nonseverability clause to ensure that it applied to all three branches of government.

Mr. S. SMITH. That would be how I would interpret our actions; yes, Mr. Speaker.

Mr. METCALFE. Now, you had mentioned that one of the Senators was quoted as saying, since this is about protecting the

judicial pay raises – that was part of his quote; Senator Stack, I believe – and in that process asked, if he had a conflict of interest, if he would be allowed to vote on the amended version, which removed our nonseverability clause.

Mr. S. SMITH. That is how I recall the situation, Mr. Speaker. When we sent it back with the nonseverability clause, the Senate proceeded to amend that particular language out and put an explicit severability clause into the bill, and that is what precipitated, I believe, the question from Senator Stack relative to his conflict of interest.

Mr. METCALFE. And at that same time frame, which I think was close to midnight as I watched those proceedings also, I believe Senator Jubelirer also stood up and asked on behalf of himself and two other Senators whether or not they had conflicts of interest because they also had family members who are also judges. When they did that, if we were to concur with their version, would the courts, do you know, would the court in the future use those comments that they had made, saying that since this is about protecting the judicial pay raises, would they use that as intent of the legislature to justify striking that component of that act?

Mr. S. SMITH. Mr. Speaker, it is my understanding that the courts are allowed to review debate and items of legislative intent. They are not bound by those things we say; they are bound by the actual words in the bill, in the eventual law. But it is my understanding that they can review those types of comments of intent and purpose as a guideline for how they might interpret a vague area of the law. So I would say that is my understanding; yes, Mr. Speaker.

Mr. METCALFE. Thank you, Mr. Speaker.

That is all the questions that I have. If I may make comment.

The SPEAKER. The gentleman is in order.

Mr. METCALFE. Thank you, Mr. Speaker.

Mr. Speaker, I rise tonight to support the motion to nonconcur with the Senate amendments, because I, like so many in this body, believe that we should have a full repeal of the pay raise legislation that was passed on July 7. We should repeal the legislation as it applies to the executive, the legislative, and the judicial branches of our government. If we would concur with this, as I believe was very evident from the comments that were made by two Senators on the floor that night, their intent was to strip our language to protect the judicial pay raises for their family and friends. Our intent is to make sure that the people's voice is heard and that we repeal the pay raises that were initiated on July 7 for all three branches of our State government.

I will be supporting this motion to nonconcur so that we can repeal the full pay raise. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

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

Mr. MAHER. Thank you, Mr. Speaker.

The SPEAKER. Would the gentleman yield. The gentleman, Mr. DeWeese, the minority leader, stood.

Mr. DeWEESE. Notwithstanding the wonderful personal rapport I have always had with the previous speaker – I mean that, and he would vouchsafe the authenticity of my declaration – but in spite of the lack of political fraternity on votes historically, the innumerable concussions that he and I have had, I agree with every syllable that he just shared.

Now, I fought, I fought the good fight and I still believe that the General Assembly was worthy of a pay raise, but we lost

that fight, we lost that fight last week, the executive branch lost that fight last week, and ostensibly the judiciary lost that fight last week. But now we are hearing that through some sort of jurisprudential legerdemain, that they will get their pay raise, and I believe that when you have between 70 and 80 percent, between 70 and 80 percent of the dollars involved in the State legislative pay raise phenomenon, if you like, between 70 and 80 percent of those dollars sluice right to the judiciary. So although it might be seen as a Pyrrhic victory that ours has been cashiered into oblivion, the judiciary ostensibly is going to get theirs.

Well, the will of the people of the Commonwealth, notwithstanding the fact that I did not get on board until rather recently, Mr. Metcalfe's statement bears close attention. We either are going to be definitive and intractable and specific and our language will resonate around this Commonwealth, from the Lehigh Valley to the Ohio Valley, or it will not. Some sort of judicial mischief might be at hand, and I agree with Daryl Metcalfe.

The SPEAKER. The gentleman, Mr. Maher.

Mr. MAHER. It is a rare pleasure to be able to stand up and find myself in agreement with both Mr. Metcalfe and Mr. DeWeese, and those who have spoken earlier who indicated a desire to support concurrence for the sake of perception in spite of reality I would urge to reconsider. What we must deal with here today is reality, and I do not believe there are any members here who believe that what the Senate has delivered to us would meet any constitutional standard for a complete repeal of the pay raise, and if that is what this chamber is intending to accomplish, the only way to accomplish that is to send away this hacked-up piece of legislation with a nonconcurrence support and seek conference committee or seek an altogether new bill.

So let us go with reality. This bill does not accomplish what it pretends to do. Let us move to conference committee and support the vote for nonconcurrence. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

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

Mr. DeLUCA. Thank you, Mr. Speaker.

Mr. Speaker, I rise to support nonconcurrence, but I think there is one thing we should all do. We should send a message to the judiciary stating, every one of us should get up and state, that we are totally against all pay raises once and for all, and we should get up here, every one of us, get up here and say we are against it, so they know when they make that decision, if they rule it unconstitutional, the public will hold them responsible.

The SPEAKER. The Chair thanks the gentleman.

## PARLIAMENTARY INQUIRY

The SPEAKER. The Chair recognizes the gentleman from Chester, Mr. Schroder.

Mr. SCHRODER. Mr. Speaker, a point of parliamentary inquiry.

The SPEAKER. The gentleman will state his point.

Mr. SCHRODER. Mr. Speaker, the vote is to nonconcur. If the nonconcurrence vote should, just for sake of argument, if that should fail, does that then mean that the House has automatically concurred or will we have to have a separate vote on concurrence?

The SPEAKER. You would have to have a separate vote.

Mr. SCHRODER. So a vote on— Okay. So if the vote is “no” on nonconcurrency, that is not necessarily dispositive then of this bill then.

The SPEAKER. That is correct.

Mr. SCHRODER. Okay. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

Mr. SCHRODER. Could I be recognized for a comment or two?

The SPEAKER. The gentleman is in order.

Mr. SCHRODER. All right. Thank you.

Mr. Speaker, I understand what the majority leader, the Democrat leader, and others who have spoken are trying to accomplish here, and I agree with their goals, certainly. However, I think it is being a little oversimplified to suggest that if we just nonconcur here and we are successful in putting in a nonseverability clause, that that would mean that somehow the judges would be prohibited, you know, from taking their pay raise. Let us recall that we still have the section of the Constitution that says that the judges’ compensation shall not be diminished during their terms of office, “...unless by law applying generally to all salaried officers of the Commonwealth.” Mr. Speaker, to my knowledge, that term “all salaried officers of the Commonwealth” has never been distinctly and adequately defined, whether in case law or anyplace else. So it really leaves in my mind the whole issue wide open to judicial interpretation.

So all I am suggesting is, even with a nonseverability clause, the courts have a very easy way, you know, to eventually declare it unconstitutional and collect their own salary. So, Mr. Speaker – or their additional salary. So in my mind, we have two choices. We can send it to a conference committee, put in nonseverability, and probably have the exact same result with the courts eventually getting the raise because of this provision of the Constitution, or as Representative Tangretti suggested earlier tonight, we can vote “no” on nonconcurrency, make a motion to concur, send this to the Governor’s desk, and get the whole sordid thing done away with once and for all.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman, Mr. Belfanti, for the second time.

Mr. BELFANTI. Thank you, Mr. Speaker.

Mr. Speaker, would the majority leader stand for brief interrogation?

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

Mr. BELFANTI. Thank you.

In light of the immediately previous speaker’s comments about the bill not being made any better in conference committee, my previous remarks were in reaction to your comments that in conference committee we could insert the exact language from the Constitution that mirrors the only way we can be sure that the judges have no wiggle room, that in fact the repeal would take effect, it would be nonseverable, and there would be language that says it applies to all Commonwealth officers, since I could not find a definition for what that meant either by looking through the Constitution. So would that be your intent in conference committee?

Mr. S. SMITH. As I responded to an earlier question relative to that, those would be probably the two key components of what I would seek in the conference committee, the

nonseverability and language along the lines of paralleling the language in the Constitution. To be brutally honest, there is not a clear definition perhaps of “Commonwealth salaried employee” or however it is phrased, so we would seek to do our best effort to make it clear that we are talking about all of us. I mean, let us face it, the purpose for that clause in the Constitution is so that the legislature cannot come back after a court ruled probably against the legislature and single them out for retribution as a single class of, you know, salaried public employees. So I think the layman’s interpretation of all of this is that, you know, the pay raise covered a broad group of individuals within State government and that the repeal would cover a broad group of individuals; therefore, the judicial branch does not have that, you know, exception to play with. But that would be the key, what I think are the key elements of the differences between the House and Senate versions at this moment.

Mr. BELFANTI. I completely agree with your notion that the reason the language is in the Constitution is to make sure that we do not zero out their salaries if they do something we do not care for. However, there are only three branches of government in this State that do not get increases either through a contractual arrangement or by virtue of a noncontractual arrangement over several years, and it is only the executive, the legislative, and the judicial branches, unless a contract calls for a freeze as occurred with the State employees for the previous year. But all other employees enjoy in this Commonwealth annual increments, whether they are COLAs (cost-of-living adjustments) or whether they are raises or whether they are combinations of COLAs and raises. Is that not correct? So that would lead us all to believe that constitutional – or I am sorry, whatever the phrase is – officers would only imply the judicial, legislative, and executive branches. But I also agree with the majority leader that we need to make that crystal clear or we will see the judges do what they did post-1974 and give themselves back their old pension while the General Assembly’s pension was diminished by three times what their predecessors received.

So I agree with the majority leader, and I do not see what that phrase could mean otherwise, since everyone else seems to get annual increases unless otherwise froze through a contract.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentlelady from Chester, Mrs. Taylor.

Mrs. TAYLOR. Mr. Speaker, I do not think I should let this moment pass without saying that this may be the first, I do not know if it will be the last, but this is the first time that Daryl and I have been on the same page. You finally saw the light.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentlelady.

Does the gentleman, Mr. Vitali, wish to speak for a second time?

Mr. Tangretti?

The gentleman, Mr. DeWeese, asked to be recognized last. The gentleman, Mr. DeWeese.

Mr. DeWEESE. We have come a long way since last November when the President pro tem, with a wildly gesticulatory finger pointing 15 inches from the gubernatorial proboscis, declamations laced with bold epithets and sexual imagery of the most vivid manner, we have come a long way, but I accept, I accept the journey as being the will of the Commonwealth’s citizenry, our constituency, notwithstanding



the Alamo-esque effort of a couple of us last week. I accept the verdict of the Assembly. But why, why retrospectively did the Senate put that wonderfully complicated word “severability” into the bill? To put it in Greene County or Monroe County or Philadelphia-ese, they did it to grease the skids for their jurisprudential brothers and sisters. There is no doubt; there is no doubt. I mean, we are gifted with some common sense. Some people might think that there has been a lapse relative to this whole dynamic, and I was on the losing side in this dynamic, but as I look back, why, why, Mr. Speaker— Mr. Speaker, do you— I do not know why, Mr. Majority Leader and my worthy colleagues who were with me in this failed endeavor. Why did they put that magic, that complicated, that arcane, abstruse, recondite word “severability”?

With my passion for language, I do not quite understand it, and I have tried unremittingly to understand it, but I do understand one thing. The gentleman, Mr. Schroder, the honorable gentleman from Chester County, is right; he is right. The Supreme Court will eventually say it is okay; our pay raise is fine, notwithstanding the fact, notwithstanding the fact that the language in the bill gives us the ability as elected members of the legislature to craft the laws and craft the statutes and craft the pay for our brothers and sisters in the judiciary. We know that it is a fait accompli. I just wanted to use that one French phrase. It is an accomplished fact. They will declare their pay raises constitutional.

So, so the big effort that you all, many of you succeeded in and some of us did not succeed in, it will not take the effect that it was meant to take. Somewhere approaching 80 percent of the Commonwealth tax dollars go to judicial raises, somewhere approaching 80 percent. So an affirmative vote to nonconcur tonight can at least make it unequivocal, unambiguous. The intention of the Pennsylvania General Assembly’s House of Representatives is that a judicial pay raise is not acceptable and should be gainsaid with an affirmative vote on nonconcurrency.

I ask for a “yes” vote on nonconcurrency. Thank you.

The SPEAKER. Those voting to nonconcur will vote “aye”; those voting to concur will vote “no.”

On the question recurring,

Will the House nonconcur in Senate amendments as further amended by the Senate to House 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—155

Adolph	Fairchild	Major	Santoni
Allen	Feese	Marsico	Sather
Argall	Fichter	McCall	Saylor
Baker	Fleagle	McGeehan	Scavello
Barrar	Flick	McGill	Semmel
Bastian	Forcier	McIlhattan	Siptroth
Bebko-Jones	Frankel	McIlhinney	Smith, B.
Belardi	Gabig	McNaughton	Smith, S. H.
Belfanti	Gannon	Melio	Solobay
Biancucci	Geist	Metcalfe	Sonney
Birmelin	George	Micozzie	Staback
Bishop	Gergely	Millard	Stairs
Blackwell	Gingrich	Miller, R.	Stern
Blaum	Godshall	Miller, S.	Stetler
Bunt	Good	Mundy	Stevenson, R.
Buxton	Goodman	Mustio	Stevenson, T.

Caltagirone	Grell	Myers	Sturla
Cappelli	Gruitza	Nickol	Surra
Causer	Harhart	O’Brien	Taylor, E. Z.
Cawley	Harris	O’Neill	Taylor, J.
Civera	Hasay	Parker	Thomas
Clymer	Hershey	Payne	Tigue
Cohen	Hess	Petri	Turzai
Corrigan	James	Petrone	Veon
Costa	Josephs	Phillips	Vitali
Creighton	Kauffman	Pickett	Walko
Curry	Keller, M.	Preston	Wansacz
Daley	Keller, W.	Pyle	Waters
Dally	Kenney	Quigley	Watson
DeLuca	Killion	Rapp	Wheatley
Dermody	Kirkland	Raymond	Williams
DeWeese	Kotik	Reed	Wilt
DiGirolamo	LaGrotta	Reichley	Wright
Diven	Leach	Roberts	Youngblood
Donatucci	Lederer	Roebuck	Yudichak
Eachus	Leh	Rohrer	Zug
Ellis	Lescovitz	Rooney	
Evans, D.	Maher	Ross	Perzel,
Evans, J.	Maitland	Ruffing	Speaker
Fabrizio			

NAYS—43

Armstrong	Gerber	Hutchinson	Readshaw
Baldwin	Gillespie	Levdansky	Rubley
Benninghoff	Grucela	Mackereth	Sainato
Beyer	Habay	Manderino	Samuelson
Boyd	Haluska	Mann	Schroder
Butkovitz	Hanna	Markosek	Shapiro
Casorio	Harhai	Nailor	Tangretti
Cornell	Harper	Pallone	True
Crahalla	Hennessey	Petrarca	Wojnarowski
Denlinger	Herman	Pistella	Yewcic
Freeman	Hickernell	Ramaley	

NOT VOTING—0

EXCUSED—5

Cruz	Rieger	Shaner	Steil
Oliver			

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the amendments as further amended by the Senate to House amendments were nonconcurrent in.

Ordered, That the clerk inform the Senate accordingly.

REMARKS SUBMITTED FOR THE RECORD

Mr. HICKERNELL submitted the following remarks for the Legislative Journal:

I am voting to concur in the amendments to HB 1539, PN 3059, made by the Senate. I believe the bill before us will completely repeal the pay raises for the executive, legislative, and judicial personnel who received an increase from Act 40 of 2005.

The people of Pennsylvania have spoken, and they have told us time and time again that we must repeal the pay raise in its entirety. A vote to nonconcur in Senate amendments on this bill will be a vote to maintain the pay raises. I will not support such an effort. The people of the 98th Legislative District deserve to know that I will not take part in any effort to delay the pay raise repeal, or even worse, support efforts to keep it in place through legal maneuvering.

The pay raise issue has taken up valuable time from the important issues that the General Assembly should address, such as property tax reform. I will not contribute to political gamesmanship that is being done through this vote by supporting nonconcurrence in Senate amendments. This issue is not about the Senate of Pennsylvania, the House of Representatives, or any of this institution's leaders. It is about the people of Pennsylvania, and they deserve to be treated better than this.

For these reasons I am voting to concur in the Senate amendments to HB 1539 to send this bill to the Governor for his signature as quickly as possible.

The SPEAKER. There will be no further votes on the floor of the House this evening.

### **RECESS**

The SPEAKER. This House is in 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 (RONALD I. BUXTON) PRESIDING**

### **CALENDAR**

#### **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.

### **RECESS**

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. George, from Clearfield.

Mr. GEORGE. Mr. Speaker, I move that this House do now recess until Wednesday, November 9, 2005, at 11 a.m., e.s.t., unless sooner recalled by the Speaker.

On the question,

Will the House agree to the motion?

Motion was agreed to, and at 10:59 a.m., e.s.t., Wednesday, November 9, 2005, the House recessed.