

# COMMONWEALTH OF PENNSYLVANIA

## LEGISLATIVE JOURNAL

MONDAY, DECEMBER 10, 2007

SESSION OF 2007

191ST OF THE GENERAL ASSEMBLY

No. 112

### HOUSE OF REPRESENTATIVES

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

**THE SPEAKER (DENNIS M. O'BRIEN)  
PRESIDING**

#### PRAYER

REV. ROBERT A. GRAYBILL, Chaplain of the House of Representatives, offered the following prayer:

May we pause for a moment.

O Lord God, we pause as we begin this session to be aware of the presence of Thy spirit in our midst. Gathered as elected leaders within this great Commonwealth, so I ask of You, O Lord, that You be their guide as they handle the matters before them.

May You give to each of them a mind that can weigh the issues and make clear and concise decisions about the situations so that significant action and sound direction will be accomplished for the best of our people.

May You give to each of them a heart that is willing to listen to the fears and heartaches of the people, to their worries about the future for their families and their neighborhoods, for this body has an awesome task to work diligently for solutions that will steady the hearts of our people.

May You give to each of them a soul that is driven by a great desire and a sincere compassion to improve the quality of life among the people of Pennsylvania. So may these leaders sense that the decisions that are made are more than a legal process, but are really a part of Your will, O God, for this Commonwealth.

And, Lord, we ask of You as this day comes to a close for all of us gathered here, will You grant to us a sense of Your peace that comes from knowing that we have lived this day with integrity of heart, mind, and soul. With this in mind, O Lord, we ask. Amen.

#### PLEDGE OF ALLEGIANCE

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

#### JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, approval of the Journal of Friday, December 7, 2007, will be postponed until printed. The Chair hears no objection.

### LEAVES OF ABSENCE

The SPEAKER. The Chair turns to requests for leaves of absence. The Chair recognizes the majority whip, who requests that Representative DeLUCA from Allegheny County be placed on leave for the week. The Chair sees no objection. The leave will be granted.

The Chair recognizes the minority whip, who indicates there are no requests for leaves.

Members will report to the floor.

### MASTER ROLL CALL

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

The following roll call was recorded:

#### PRESENT—202

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

DePasquale	Kirkland	Phillips	Wagner
Dermody	Kortz	Pickett	Walko
DeWeese	Kotik	Preston	Wansacz
DiGirolamo	Kula	Pyle	Waters
Donatucci	Leach	Quigley	Watson
Eachus	Lentz	Quinn	Wheatley
Ellis	Levdansky	Ramaley	White
Evans, D.	Longietti	Rapp	Williams
Evans, J.	Mackereth	Raymond	Wojnarowski
Everett	Maher	Readshaw	Yewcic
Fabrizio	Mahoney	Reed	Youngblood
Fairchild	Major	Reichley	Yudichak
Fleck	Manderino	Roae	
Frankel	Mann	Rock	O'Brien, D.,
Freeman	Mantz	Roebuck	Speaker

ADDITIONS—0

NOT VOTING—0

EXCUSED—1

DeLuca

LEAVES ADDED—1

Grell

LEAVES CANCELED—1

Grell

The SPEAKER. A quorum being present, the House will proceed to conduct business.

The Chair turns to reports from committee and recognizes Chairman Evans from the Appropriations Committee for a report which the—

Mr. S. SMITH. Mr. Speaker?

The SPEAKER. For what purpose does the gentleman rise?

Mr. S. SMITH. Mr. Speaker, initially, when we were last all on the floor, I was going to object to this. Could I ask that we temporarily go over the reports of the committee until I might have a conversation with the majority leader? I was requesting, Mr. Speaker, to repeat that, I was requesting if we could temporarily go over this report of the committee until I had a chance to speak with you.

The SPEAKER. Would the gentlemen approach the rostrum, the majority and minority leaders, please.

This House will be at ease.

(Conference held at Speaker's podium.)

### BILL REREPORTED FROM COMMITTEE

**SB 1137, PN 1621**

By Rep. D. EVANS

An Act amending the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, further providing for medical professional liability insurance, for the Medical Care Availability and Reduction of Error Fund and for actuarial data; providing for the Medical Care Availability for Pennsylvanians (MCAP) Reserve Fund; further providing for abatement program, for the Health Care Provider Retention Account and for expiration; and providing for expiration of certain sections.

### APPROPRIATIONS.

The SPEAKER. The bill will be placed on the supplemental calendar.

### SENATE MESSAGE

#### HOUSE BILL CONCURRED IN BY SENATE

The clerk of the Senate, being introduced, returned **HB 1604, PN 2043**, with information that the Senate has passed the same without amendment.

### BILL SIGNED BY SPEAKER

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

#### **HB 1604, PN 2043**

An Act designating a portion of State Route 145 in Northampton County as the Battle of the Bulge Veterans Memorial Highway.

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

### SENATE MESSAGE

#### CONFERENCE COMMITTEE APPOINTED

The clerk of the Senate being introduced, informed that the Senate has appointed Senators GREENLEAF, McILHINNEY, and MELLOW, to a Committee of Conference; on the subject of the differences existing between the two houses in relation to said bill: **SB 246, PN 1326**.

#### CONFERENCE COMMITTEE APPOINTED

The SPEAKER. Pursuant to the authority granted by the House on October 23, 2007, when the House passed and insisted on its amendments to SB 246, the Chair appoints a committee of conference on the part of the House:

The gentleman from Montour, Columbia, and Northumberland Counties, Representative BELFANTI; the gentleman from Montgomery County, Representative GERBER; and the gentleman from York County, Representative MILLER.

Ordered, That the clerk inform the Senate accordingly.

For what purpose does the lady, Representative Youngblood, rise?

Ms. YOUNGBLOOD. Mr. Speaker, for a point of personal privilege.

The SPEAKER. Is the lady asking for unanimous consent?

Ms. YOUNGBLOOD. Excuse me; I cannot hear you. There is too much noise in the House.

The SPEAKER. Will the House come to order. Members and guests will take their seats. The Speaker cannot be heard on the floor. Conversations will cease.

Ms. YOUNGBLOOD. Mr. Speaker, I am standing up for unanimous consent.  
The SPEAKER. Will the lady approach the rostrum, please.  
Ms. YOUNGBLOOD. Sure.

(Conference held at Speaker's podium.)

**GUESTS INTRODUCED**

The SPEAKER. The Chair recognizes, as the guests of Representative Mark Keller, the 2007 Franklin County Fair Queen, Katy Mitchell, and her mother, Yvonne Butts-Mitchell. They are seated to the left of the Speaker. Would you please stand to be recognized.

Here today, to the left of the Speaker, the Chair welcomes Jessica Clemente and Steven Duff, who are the guests of Representative Jim Cox. They are seniors at Wilson Senior High School and are the winners of Representative Cox's "Representative for a Day" contest in which they were required to write an essay outlining what they would do if they were elected State Representatives. They are here with their government teacher, Mr. Frank Reese. Would you please stand and be recognized.

**REMARKS SUBMITTED FOR THE RECORD**

The SPEAKER. The Chair recognizes Representative Youngblood.

Ms. YOUNGBLOOD. Mr. Speaker, I would like to have the remarks that my staff and I prepared on the status of crime and gun violence in the Commonwealth of Pennsylvania.

We looked at all approaches from the Governor's report on gun violence and found that there were 67 recommendations, and out of the 67 recommendations made, 3 or 4 were actually implemented. We looked at Pennsylvania Commission for Families and Children. They were using the Colorado model, the blueprint. Colorado is no longer funding that particular blueprint and faith base, and with the recommendations – and every member of the House of Representatives has received a copy of the summary and the recommendations and looking into how we can resolve this epidemic in the Commonwealth of Pennsylvania.

Thank you.

The SPEAKER. The Chair thanks the lady. Her remarks will be submitted for the record.

Ms. YOUNGBLOOD submitted the following remarks for the Legislative Journal:

House of Representatives  
Commonwealth of Pennsylvania  
Harrisburg

December 7, 2007

RE: Crime and Gun Violence in Pennsylvania

Dear Members of the Pennsylvania House of Representatives:

We have had numerous studies and recommendations from various commissions and agencies from the local municipalities as well as the State level of government. However the implementation, funding sources, and follow-up appeared to be stymied. This process with other variables has partially impacted the violence epidemic addressing the Commonwealth of Pennsylvania's citizenry.

I have taken the liberty to have my district office staff prepare the attached summaries for your perusal. Their comments have the following captions:

Current State of Crime and Gun Violence

What went Wrong Systematically?

Youth Violence Prevention

Addressing the Problems

Statistical, Financial, Social and Medical Impact

It is noteworthy to mention that Representatives W. Curtis Thomas, Angel Cruz, and other members will provide commentary on other directly related issues that are imperative and providing the appropriate methodology, implementation, technical assistance, and funding sources.

Moreover, the Legislative Office for Research Liaison, Local Government Commission, Joint State Government and the House of Representatives chairmen of the committees listed in said mentioned summary can form a cohesive partnership to finalize a report and measures for implementation. Our goals are to guarantee that gun violence and crime prevention measures are positioned to ensure the quality of life for all Pennsylvanians regardless of socioeconomic background.

Sincerely,  
Rosita C. Youngblood  
State Representative  
198th Legislative District

Attachments:

\* \* \*

**Summary on Gun Violence and Crime Prevention in Pennsylvania**

As Written and Prepared by  
State Representative Rosita C. Youngblood and Legislative Staff  
198th Legislative District  
Submitted for House Review on  
**December 10, 2007**

\* \* \*

**Summary on Gun Violence and Crime Prevention in Pennsylvania**

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\* \* \*

December 7, 2007

Submitted by Courtney Lewis, Chief of Staff 198th District

Current State of Crime and Gun Violence in Pennsylvania

While legislators are up in arms over prioritizing the issue of gun control, the residents of this Commonwealth have declared a state of emergency. Whether it is Philadelphia, Allegheny, Erie, or Susquehanna, no county is immune to the crime, violence, and victimization that can occur at the hands of a gun. You cannot paint a color on the face of crime and say that this is a Black issue or Hispanic issue. Nor can you place the crime in a certain area of Pennsylvania and call it a rural or urban issue. Members of the Legislative Black Caucus could not sit back and allow this issue to be tabled for a more convenient time. Murder, death, crime, gun violence in our great Commonwealth is never convenient. Open records and hazardous materials are important issues that need to be addressed, but every day our district offices are confronted by constituents who demand help for this growing problem of keeping their children and families safe.

It is unfortunate that 12 members of the legislature had to walk out of session in order for the Commonwealth to recognize that this issue is important. Legislators can sit back and follow protocol or they can follow their hearts and do what is right. Some legislators could not find solidarity on this issue. As legislators, you cannot be driven by other forces of manipulation. You work for your constituents. They trust that you have their best interest in mind when you introduce legislation to better their quality of life.

Just weeks ago Philadelphians had to bury one of our heroes. Police Officer Chuck Cassidy was laid to rest after being shot by a handgun. This murder crushed the hearts of not only Philadelphians but Americans. Every day somebody's hero is being slain, and some of our counties are like war zones. This is in fact a state of emergency, and every victim in this vicious escapade of crime should get Purple Hearts. Every mother who walks her child to school safely, every young person who makes it home alive, every store owner who can open up their store another day, every worker who can make it from work to their homes safely, each and every one of us deserves medals of bravery because we make a choice to live a compassionate, empathetic life regardless of our fears. This choice that so many of us make has now become an act of heroism.

What Went Wrong Systemically?

So we ask whose problem is this, and whom do we hold accountable for this growing epidemic? Statistics show that we cannot fix the problem of gun violence and crime prevention without addressing the root causes. First we must address educational reform, unemployment, family structure (where are our children, and who is caring for them), and addressing health care along with the behavioral and mental health issues.

At both the Federal and State levels there have been a number of programs, models, and commissions that have been created and funded to address this problem. However, we cannot fund studies and reports to address violence and crime prevention, acknowledge what programs are necessary to combat these problems, then rely upon DHS (Department of Homeland Security) and other agencies to implement them by making them "Best Practices." How can we depend on underfunded agencies and social welfare organizations to implement new programs without giving them the funding to sustain these programs?

A holistic approach is necessary in reducing crime and gun violence. *The Blue Print for Violence Prevention* is just one of the models that can provide the training and technical assistance that these agencies and organizations need to begin implementing viable programs to address the issue. *Smart Cards* are another viable incentive-based program to encourage students to stay on track. There are many, many more programs that may be a solution to our problems, and no one is asking the legislature to reinvent the wheel.

Addressing the Problem

We are beyond the point of recommendations. We have already formed the commissions and read the reports. It is time to take action.

1. There needs to be a *collaboration* of these committee chairs so that we can find the funding that is necessary to sustain the agencies that we are telling to produce results.
2. We also need to *establish criteria* to find out which agency is the best one to deliver the services.
3. We need to set goals and find a means to *evaluate* these programs to see if they are effective and able to meet the needs of the community.
4. We also need *cooperation* from local government. We need to bring together mayors, police commissioners, police captains, district attorneys, and judges. Let us all work as a cohesive team, those entities that create the laws and those who enforce it.

It will take a joint effort to produce legislation that will prevent crime and violence. It is crucial that we address:

- ✓ Gun violence
- ✓ Enforce existing laws on straw purchases
- ✓ Acknowledge the systemic issues that affect the dynamics of education, family structure, access to behavioral health services, health care, and employment in Pennsylvania

Collectively legislators have the power to turn around this problem. We cannot always be reactive; we have to be proactive in introducing preventative measures to fight crime and gun violence in this Commonwealth.

\* \* \*

December 7, 2007

Submitted by Wally Beltran, Legislative Assistant 198th District and Courtney Lewis, Chief of Staff

Youth Violence

Youth crime is an ever-growing problem in Pennsylvania. We do not need a commission or a special report to tell us that youth crime is increasing at an alarming rate. We see it every day. There are many factors that can affect violent tendencies in youth. They include changes to a young person's environment; various forms of domestic violence that they may witness at home; physical, psychological, emotional, and sexual abuse inflicted upon them; bullying and harassment from their peers.

In order to reduce violence and aggression in children and youth, there is a need to focus on program and policy changes at all levels of the community. Today's urban youth lack meaningful alternatives to street crimes. Young people want adult leaders to take action and reduce youth violence in their schools, communities, and neighborhoods by enforcing stricter gun laws, providing afterschool programs, and making jobs accessible to young people to get them off of the streets.

### Breakdown of Crucial Institutions

There was a time when schools were viewed as a safe haven for young people. Students may not be the smartest pupil in class or get along with all of their peers, but it was a safe environment where young people knew that school administrators had their best interest at heart. Young people could expect at least two meals a day, warmth when it is cold, a high-quality education provided by qualified teachers and administrators, and access to special programs and afterschool activities that exposed them to new opportunities to expand their minds creatively, and culturally.

Now, we have to take into account the fact that there is a breakdown in the family structure along with a breakdown in the educational system. Babies are having babies, siblings are raising siblings, there is an increase in the number of single parents, many parents are strung out on drugs, and now Department of Human Services plays a major role in the family unit and how well it succeeds. Families are relying upon an institution to fulfill those needs that were not being met at home, an institution that is in dire need of reform. Many public schools are unsanitary, buildings are in desperate need of renovations, they employ uncertified teachers, and there is a lack of funding which has caused many schools to cut extracurricular activities, music and arts programs. Safety in school is also a concern for young people. How can we expect schools to educate young people when students are afraid to show up? According to the 2005-06 Pennsylvania Department of Education's Annual School Safety Report:

- School incidents involving law enforcement have *increased 12 percent*
- School fights have *increased 68 percent*
- School bullying incidents have *increased 32 percent*

Preventing youth violence will require action at all levels of government and community. We cannot let society give up on our youth. We cannot allow our children to raise each other in the streets amidst a life of crime and violence. We have to find ways to offset the effects of youth violence in the early stages of development. The Governor's Commission on Gun Violence recommends a comprehensive approach on combating the issue of youth violence:

- ✓ *Prevention*
- ✓ *Early intervention in the streets and at school*
- ✓ *Provide afterschool and community based programs*
- ✓ *Mobilize and engage the community*
- ✓ *Strengthen law enforcement*
- ✓ *Strengthen gun laws*

Our young people are the future of this Commonwealth, and we need to ensure that despite any challenges that they may face, they are still afforded viable opportunities to be successful.

\* \* \*

**December 7, 2007**

**Submitted by Wilson Park, Legislative Assistant 198th District**

### Statistical, Financial, Medical and Social Impact

It *seems* like we are doing a much better job concerning guns in the State of Pennsylvania. After all, when we look back over the decades, the statistics tell us we have less murder victims, by firearms, in the State of Pennsylvania today. For example, there were 449 reported firearms-related deaths in 2004 as opposed to 573 deaths reported more than a decade ago in 1993.

This *seems* like an impressive accomplishment. It seems that gun law advocates are making a fuss over nothing. However, if we look into the reasons behind the decline in homicide by firearms, we will be surprised.

I was able to speak with a law enforcement agent and asked him about this particular statistical anomaly. Considering the firepower today's guns pack, I thought this was curious. The law enforcement agent was not surprised by this fact, stating, "Off the top of my head this makes sense"; explaining to me that even though firearms packed less punch in the seventies, eighties, and nineties, even a .22 caliber bullet proved to be fatal due to lacking medical technology available in decades past.

The good news is our medical technology is advancing beyond the increase in firearms power. But here is the bad news: We are not making any headway regarding guns in our State.

Rather than looking at the homicide rate, the law enforcement agent asked me to look at the aggravated assault statistics; "this will give you a better indication of gun violence." I was also asked to look into the total number of shootings and not the deaths. As in 3 years, from 2003-2005 there was an 11-percent increase in aggravated assault with firearms.

In 1980 there were 38,858 reported violent crimes; in 2005 there were 50,319. Another problem I faced when looking at the data is the number of unreported crimes or underreported crime. I cannot even begin to estimate the numbers of unreported crimes. However, here we have a couple of examples of underreported crime: 1. In 2004 agency cites 26,428 cases of aggravated assault while a different agency cites 28,339. 2. In 2005 the same agency cites 27,508 for the entire State, while the other agency reports 29,205 aggravated assaults for 2005.

Philadelphia is currently the most afflicted county in the Commonwealth due to lax laws regarding gun legislation. Making guns less accessible will lower incidence of gun violence and injury not only in Philadelphia and Pennsylvania but for this country. In 2004 Philadelphia County alone had more deaths from guns than Canada, New Zealand, England, and Wales combined. Also in the same year Pennsylvania had more gun deaths than Canada, New Zealand, England, Wales, Australia, and Sweden combined; approximately 20 percent more. Simple fact is far too many guns are too easily accessible and used to commit violent crimes.

Within the years of 1996-2000 Philadelphia had 5 in the top 120 gun shops in the country for guns traced to crime; a distinction we should not be proud of. That is a total of 1487 crimes committed by guns traced to 5 of the 20 gun shops in Philadelphia County. This study does not show any single shop with less to 200 known crimes linked to the guns sold from their shops.

Licensee to carry permits, in 2005, accounted for 94.9 percent of the 107,078 total firearms permits in the State of Pennsylvania: 101,643 license to carry and only 5,435 sportsman's firearm permits were processed by the State. Philadelphia County had 99.7 percent of its permits as license to carry in 2005.

From 1990 to 2004 the State of Pennsylvania has had 6989 homicides by firearm and 4401 gun-related homicides took place in Philadelphia County. That is nearly 63 percent!!! In the last 5 years the city of Philadelphia has had over 8,500 injuries related to firearms.

As a result of this epidemic, in January of 2005 Philadelphia policymakers created Philadelphia's Gun Court to handle approximately 1200 gun-related cases a year.

Not only does this jeopardize the physical welfare of the Commonwealth, gun-related health care is draining its citizens, financially. Taxpayers are responsible for about 85 percent of all medical costs due to firearm injury care. The number of firearms injuries in Philadelphia from 2002-2006 was 8686. The cost of medical attention per injured individual is about \$20,000. That is a total of about \$180 million in Philadelphia alone. The economic impact is almost as startling as the injuries and death incurred by guns.

In a city health-care system already overrun with understaffed hospital and suspension of certain services, the Temple University Hospital, Albert Einstein Hospital, and the University of Pennsylvania Hospital sees nearly 40 percent of all gun-related injuries. Gun-related injuries are a serious problem for area hospitals.

Not only is there an astounding statistical, medical, and financial impact but there is an incalculable social impact being felt in Philadelphia. Over 60 percent of gun-related injuries are sustained by Black men between the ages of 20-29. This is decimating the social fabric of our community: Parents burying their young sons, children losing their fathers, wives losing their husbands; and siblings losing their beloved brothers.

Fear is also gripping the city of Philadelphia. When criminals have blatant disregard for police officers and shoot at them, what chance does the average citizen have? Our loved ones are being ripped from us. And our way of life is in jeopardy due to the psychological terrorism in our communities. When we no longer feel safe in the homes and communities we live in, we are losing the good fight.

We need to bring safety back into our communities. Countries with more stringent gun laws and less accessibility have much lower incidence of gun-related injury and death. The Commonwealth of Pennsylvania, as I noted earlier, had more gun-related deaths in 2004 than five whole countries combined. This should, in the least, tell us we have a growing gun problem in our Commonwealth.

\* \* \*

**Pennsylvania House of Representatives**

**Recommendations of House Committees**

**Chairmen of the assigned stated committees are recommended to establish and develop a prototype to eradicate gun violence, forge gun control and preventive methodology for the betterment of the citizenry that reside in the Commonwealth of Pennsylvania.**

**Appropriations**

**Children and Youth**

**Commerce**

**Education**

**Health and Human Services**

**Intergovernmental Affairs**

**Judiciary**

**Local Government**

**CALENDAR**

**RESOLUTION PURSUANT TO RULE 35**

Mr. MARSHALL called up **HR 529, PN 2956**, entitled:

A Resolution requesting citizens to honor the workers of this Commonwealth by buying American-made products.

On the question,  
Will the House adopt the resolution?

The following roll call was recorded:

**YEAS—202**

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

**NAYS—0**

**NOT VOTING—0**

EXCUSED—1

DeLuca

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

### FILMING PERMISSION

The SPEAKER. The Chair wishes to advise the members he has given permission to Stephen Pytak and Nick Meyer of the REPUBLICAN & Herald to videotape with audio.

### SUPPLEMENTAL CALENDAR A

#### RESOLUTIONS PURSUANT TO RULE 35

Mr. SEIP called up **HR 533, PN 2978**, entitled:

A Resolution recognizing the historic impact and tremendous accomplishments of the 1925 Pottsville Maroons football team, appreciating the significant advancements and innovations made by the team in the early years of the National Football League and strongly encouraging the National Football League to reexamine its awarding of the 1925 National Football League Championship.

On the question,  
Will the House adopt the resolution?

The SPEAKER. The Chair recognizes Representative Seip.  
Mr. SEIP. Thank you, Mr. Speaker.

I stand before all of you today because the Pottsville Maroons earned the 1925 NFL (National Football League) Championship, but that championship was wrongly taken away from them. I am encouraged by all of the support that we are getting to restore that title. David Fleming, who is seated to my left here in the Speaker's area, from ESPN, deserves a lot of credit. He has been able to bring into focus the achievements of the Maroons and their deservingness of having that title restored.

As many of you know, we have backing from around this Commonwealth including the Governor and the many, many colleagues that I have here in the House who have cosponsored the House resolution to restore the title. We also have backing from around the country. Also seated here to my left is Tony Wood from Maryland, who has been instrumental in working with Aaron Schimpf to develop a Web site dedicated to this cause – [www.breakerboys1925.com](http://www.breakerboys1925.com). The petition, online, has garnered over 10,000 signatures urging the NFL to reconsider the awarding of the NFL title.

The Maroons' drive to bring another NFL title to Pennsylvania is important because of the hardworking men who played for Pottsville, and their fans and their family members deserve this recognition.

Also, this drive helps our economy. Tourism is the number two industry in Pennsylvania. We have already witnessed an economic boom in the city of Pottsville. The Honorable John D.W. Reiley, the mayor of the city of Pottsville, is also seated to my left, and he can attest to what this effort has meant to his city and our Commonwealth.

Many, many people have attended the recent "Breaker Boys" book signings by David Fleming and the other Maroons events that have taken place. If we succeed in restoring the Maroons' rightful title, tourism related to the Maroons' legendary achievements will only increase.

In conclusion, I now call on all of you, my colleagues in the House of Representatives, to give an affirmative vote on HR 533 and help correct this terrible injustice so that the Pottsville Maroons can have their NFL title back.

Thank you, Mr. Speaker.

The SPEAKER. Representative Goodman.

Mr. GOODMAN. Thank you, Mr. Speaker.

I also rise to join my colleague in support of HR 533.

My good friend, Tim Seip, brought up many of the points on why this title should be restored, but one of the things that I found so interesting as I read the book and as I talked to many of the family members of the past players was how this team brought our area together. You have to put yourself back in the mindset of the early 1920s and 1930s to realize that what separated us, really, was our national heritage. Many of the communities that I represent were set up along national heritage lines. My own hometown of Mahanoy City is a perfect example; in the west end of town there were the Polish, the Slovaks, and Lithuanians; in the middle of the town were the Irish and the Germans; in the east end of town were the Italians; and many of them kept to their own ethnic groups from Monday to Saturday. But on Sunday, they gathered together and sat shoulder-to-shoulder with each other and rooted for their team, the Pottsville Maroons, in the first year of the NFL. And although they were the smallest community represented by the NFL, they ran the table and won the championship where it counted – on the field.

So this resolution that we sponsor today has two purposes. The first one is to send a message to the NFL that justice delayed is justice denied. And the second one is that it is never too late to make the right decision. Although 82 years have passed, my father used to always tell me, it is never too late to make the right decision, and as I was growing up he told me, keep your Irish in check, do not be stubborn. The things that matter the most are the things that you can correct along the way, and returning the title to the 1925 Pottsville Maroons would go a long way in making whole the people of my area.

I rise today in support of HR 533, and I ask for your affirmative vote.

Thank you, Mr. Speaker.

On the question recurring,  
Will the House adopt the resolution?

The following roll call was recorded:

#### YEAS—202

Adolph	Gabig	Markosek	Rohrer
Argall	Galloway	Marshall	Ross
Baker	Geist	Marsico	Rubley
Barrar	George	McCall	Sabatina
Bastian	Gerber	McGeehan	Sainato
Bear	Gergely	McI. Smith	Samuelson
Belfanti	Gibbons	McIlhattan	Santoni
Benninghoff	Gillespie	Melio	Saylor
Bennington	Gingrich	Mensch	Scavello
Beyer	Godshall	Metcalfe	Schroder
Biancucci	Goodman	Micozzie	Seip

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

NAYS—0

NOT VOTING—0

EXCUSED—1

DeLuca

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

\* \* \*

Mr. S. SMITH called up **HR 535, PN 2979**, entitled:

A Resolution congratulating its dear friend and colleague, Dr. Paula K. Hess, on her retirement from the House of Representatives.

On the question,  
Will the House adopt the resolution?

The SPEAKER. The Chair recognizes Representative Smith on the resolution.

Members will please take their seats.  
Representative Smith.

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

I appreciate just a little extra level of attention as we proceed to consider this resolution. For virtually everybody in this House that has been here for any period of time, but especially those of us who have been here for a few extra years, this resolution has to do with the retirement of Dr. Paula Hess.

Dr. Hess is someone who has been involved in educational issues as a policymaker, as a staff person, who has been one of those people behind the scenes – and then sometimes out on the frontlines – but on the behind-the-scenes level has really been a driving force in putting together education policy. And I think if you talk to anybody who has worked on education policy issues, they would all speak with great respect for Dr. Hess. Even when you are on the opposite side of the issue, you recognize her as someone who understands the issues and understands the pros and cons and pushes to make Pennsylvania's overall education system a better system than it was the day before, and I think that is important. So this resolution is to recognize her.

Just a couple of the items that Doc has been involved with as a truly creative force on major educational reforms just over the last 25 years – some of these are more recent; the Safe Schools Initiative, educational empowerment, disruptive students, the Read to Succeed program, and the accountability block grants are ones which, just in recent years, she has had great influence on that public policy.

Besides that input on public policy, though, what I believe makes Doc an extra special employee worthy of the time of this House to formally recognize is that she is also – as a human being, as an individual – she is also a very good example, maybe one of the best examples of the humble public servant; she is always available to serve, she pays attention to the needs of everyone involved, she does her best to do what needs to be done, does every task with equal commitment and devotion, and is constantly faithful to her calling while maintaining a low profile. And I think that that is one of the definitions, or a series of examples, of what defines a great and humble public servant.

And I just want to give her my own personal thank you and best wishes, as we have worked together for many, many years. She often gets me confused with one of her previous bosses, Sam Hayes. She only gets us confused because our first names are the same; other than that, there is not a whole lot of— We are quite different, but Sam is probably going to be calling me, then he will call you, Doc. I know Sam Hayes and you know Sam Hayes. Thank you; thank you.

Doc, you know we all love you and respect you. We thank you for your years of service to this House because you have been a truly guiding force and one who has always had the highest concern for children and our education system, at the forefront of your thoughts, and we appreciate that, and thank you. Godspeed.

The SPEAKER. The Chair suspects there will be need for more than one standing ovation today for Dr. Paula Hess.

The Chair recognizes the majority leader, Representative DeWeese.

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

It would be difficult to improve upon the words of my honorable colleague. He knows Dr. Hess better than I do, but I know Dr. Hess very well, and for almost three decades our acquaintanceship has flourished.

The preeminent facet of Dr. Hess's world that I succumb to, or is – since she is an educator, I better get my verb right – is the fact that she is happily bipartisan, and the adverb and the



adjective both conjoin at this season, and for today's debate, in a moment of simultaneity.

So I hope that we can be happily bipartisan as our day goes on. I am sure the gentleman, Mr. Reichley, and I who enjoyed some bipartisan libations in Gotham, we are, everybody, here to celebrate Paula's career. All of the arsenal of commentaries that were forwarded by Sam were worthwhile and on target, preeminently when he used the word "reform." Because in the world of education reform, Paula has worked with Jan Bissett and her professional lineal predecessors over the years in an exemplary fashion.

I will leave the microphone by just saying that as we celebrated the work of George Bedwick not too long ago in a happy, bipartisan spirit, we are doing the same thing with Dr. Paula Hess. She is a paragon in the political pantheon. She is worthy of our adulation, and what the Breaker Boys were to Pottsville, she has been to the education world. She has hit the line hard. She has been a hard-charger her entire career, and I figuratively doff my hat to Dr. Paula Hess, and I am glad your mom is here to hear some of my mild hyperbole.

Welcome, Mom, and Dr. Hess, Godspeed.

#### GUEST INTRODUCED

The SPEAKER. The Chair would formally like to welcome Dr. Hess's mom, Judy Hess, who is seated to the left of the Speaker. Would you please rise and be recognized.

#### DR. PAULA HESS PRESENTED

The SPEAKER. And on this very special occasion, the Chair is very honored to ask Dr. Paula Hess to come to the rostrum for some parting remarks. And the Chair would like to reflect back that as an advocate for children, her numerous occasions, too numerous to specifically identify, when Paula Hess has helped me with my advocacy and helped all of us in moving issues that are important to the welfare of our children forward.

Dr. Paula Hess.

Ms. HESS. Thank you, Sam, Bill, Mr. Speaker.

In trying to put 25 years together, I thought I would use an analogy I am really familiar with, and that is education.

In 1982 I enrolled here in House of Representatives High School, a school with 203 faculty and senior students, hundreds of underclassmen, presided over by a principal and two vice principals, who very rarely agree with each other on how the school should be operated.

School looks a lot different today than when I enrolled in February of 1982. There was no East Wing; it was a big parking lot. There were no computers on the floor. The members shared offices. There was no PCN (Pennsylvania Cable Network) on the floor so the speeches were a lot less frequent and shorter, and the beautiful Ryan Building, named after one of our most respected, looked more like Herman Munster's mansion, complete with bats.

My first teacher was Mr. Hayes, and I took classes with him for about 10 years. He was a tough teacher, but I learned a lot from him, especially about the legislative process and the history of this chamber. I have had other teachers during my years here. Mr. Perzel taught me a course in urban education that involved a lot of field trips. This was a prerequisite for a later course I took that was called school takeover 101 and

involved the School District of Philadelphia. I took a course with Mr. Smith in educational accountability. My term project for that class was to design a block grant. The project actually turned out to be my favorite one since I have been here.

I have taken a lot of other courses during my time. I took a really tough class in welfare reform with Mr. Hayes my first year; one entitled "How to Create a State System of Higher Ed." My course in recodifying the School Code was so bad that I never passed it and neither did anyone else. And I took school funding 101, a class I have had to repeat every single year for 25 years, since apparently I cannot get it right.

I have learned a whole new vocabulary – ESBE (equalized subsidy for basic education), WADM (weighted average daily membership), PSSA (Pennsylvania System of School Assessment), and EITC (earned income tax credit). They maybe should give you a dictionary when you come here to work.

One thing I have learned over the years is that the classes have gotten harder and the exams get more difficult to pass. Our school, like others in the State, is funded by taxpayers to whom we are accountable. So far it has not been determined if our school is making adequate yearly progress.

Every school has its class clowns. I remember so fondly Gerry Kosinski and his guar gum resolution that actually made it all the way to the Governor before it was figured out that it was a hoax, and Gaynor Cawley could always insert a great laugh when it was needed most.

One year I was asked to babysit an especially rowdy group of underclassmen over in the Annex. This was sort of like a class of Bart Simpsons combined with a class of Eric Cartmans, and it was complete with a dead body on the roof of the Annex, except the names of these kids were O'Connell and Gleason and Crocco and Hanson, and, oh, yes, Aliano. Actually, they have all turned out pretty well.

You make a lot of friends here at school – Joy Anderson; Lori Locketto, who has been my bud for 25 years; Joe Miller; Roger Nick, who actually graduated and then came back to be the school business manager. And I know many of you know that my best friend is Jan Bissett, a girl whom I met when I came here, and she was enrolled in Mr. Gallagher's class. Since then we have worked on a lot of projects together, and they usually turn out pretty well. However, every time we play intramurals in gym class, she somehow is always on the other team. I have tried to get her to join mine, but so far it just has not worked.

In our school we have assembly programs, held here in this beautiful auditorium. Sometimes we have as many as three a week. Some are short; some are never-ending. Every year the president of the school board comes here to address us in February to explain how he is going to spend money. It is usually boring and followed by a lot of extra homework.

The principal is responsible for maintaining discipline during our assembly programs. This is never easy but is especially hard right before Christmas break and before summer recess. Sometimes the vice principals disagree with the school board president, especially about spending money, and then we have to spend weekends here, and this last year we did so badly, we all had to go to summer school.

Now it is time for me to graduate. After almost 26 years, it is about time. I had actually managed to surpass Miskin's years spent at Temple University. I must have done okay in my classwork because I have been invited back to teach summer school and maybe substitute.

I have enjoyed my years in this school. There has never been a day I have not felt I learned something new. I am particularly proud to be graduating from this school because it is a red, white, and blue ribbon school, one of only 49 like it in the country. And even then ours is unique because it is built on top of an even older building, constructed in 1729 and pictured in the picture to my left, which is actually my favorite work of art in the Capitol Building.

While many believe this building was built by the Continental Congress, it was actually commissioned by the Pennsylvania Assembly and was known, very simply, as the Pennsylvania State House. Think about it. While the rest of the world reveres this building as Independence Hall, the cradle of liberty, we and only we can claim it as our State House. And if that does not give you a catch in the throat, think about the school bell that was struck to hang in the bell tower of this building. This historical symbol of democracy bears on it the famous inscription, "Proclaim Liberty throughout all the Land unto all the Inhabitants thereof." But there is another inscription on this bell that is less well-known but just as significant, "By Order of the Assembly of the Province of Pennsylvania for the State House in PhiladA." In fact, this bell was not even known as the Liberty Bell until 1837 when it was made the symbol of the antislavery movement. Prior to that time, this bell was very simply called the State House bell. The world's Liberty Bell is our bell.

As a result, no State legislature in this country can more directly link itself to the founding of this country and the principles on which it was based than this chamber, not one. It is a legacy for all who study here now and who will study here in the future.

I would like to thank the House Republican Caucus for the opportunity I have had to study in these halls these past 25 years and all of you for the honor today. I hope every now and then you will stop and take a look at this beautiful picture and remember the heritage it represents and do not let it down.

Thank you very much.

The SPEAKER. An educator right up to the last.

Representative Jess Stairs.

Mr. STAIRS. Thank you, Mr. Speaker.

I certainly want to add a few words of congratulations to Dr. Hess, or Paula, as I more affectionately know her.

When I first became chairman of the Education Committee, Paula was the director of our staff, our research staff, and we had some pretty exciting times, probably more exciting times than I was ready for, but we had Governor Ridge and the Senate Republican Caucus, and we tried to do a lot of good things. A couple good things we tried did not work, but she was a great inspiration to me.

I appreciate her analogy of comparing the House of Representatives to a school or a classroom. Certainly there are many, many examples of agreement of the two bodies, but I might say – and this is to all of our staff people who work for us – we do a lot of things here, but if it were not for dedicated staff such as Paula and, of course, her compatriot in the Education Committee, Jan Bissett, they really made things happen, and we all are thankful for our staff. Just as we applaud Paula today, at this moment, let us give all of our staff people, really, a round of applause, because they make this body work.

Thank you, Mr. Speaker.

The SPEAKER. Representative Roebuck.

Mr. ROEBUCK. Thank you, Mr. Speaker.

I, too, wanted to lend my congratulations to Paula as she moves from her work in the legislature. I have always appreciated her spirit of bipartisanship, her hard work, and her knowledge that she freely gave, that all of us who are in the legislature might look better. We all recognize how deeply we are indebted to staff, and Paula is an exemplary example of how staff should work and how they should indeed share their knowledge and experience that all of us might benefit.

So I congratulate her and wish her the best and know that she will continue to do well. We will always be deeply indebted to you for your wisdom and for your hard work.

Thank you.

On the question recurring,  
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—202

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

NAYS—0

NOT VOTING—0

EXCUSED—1

DeLuca

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

## CALENDAR CONTINUED

### BILL ON SECOND CONSIDERATION

The House proceeded to second consideration of **SB 1, PN 1583**, entitled:

An Act providing for access to public information, for a designated open-records officer in each Commonwealth agency, local agency, judicial agency and legislative agency, for procedure, for appeal of agency determination, for judicial review and for an Open Records Clearinghouse; imposing penalties; providing for reporting by State-related institutions; requiring the posting of certain State contract information on the Internet; and making related repeals.

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

Mr. **MAHONEY** reoffered the following amendment No. **A04720**:

Amend Table of Contents, page 2, line 11, by striking out "to public records"

Amend Table of Contents, page 2, by inserting between lines 23 and 24

Section 905. Administrative denial.

Section 906. Record discard.

Amend Table of Contents, page 3, line 8, by striking out "Clearinghouse" and inserting

Office of Open Records

Amend Table of Contents, page 3, by inserting between lines 18 and 19

Section 3101.1. Relation to other law or judicial actions.

Amend Sec. 102, page 4, line 20, by inserting after "The"

Office of

Amend Sec. 102, page 6, by inserting between lines 15 and 16

(1.1) Political party caucuses of the Senate.

Amend Sec. 102, page 6, by inserting between lines 16 and 17

(2.1) Political party caucuses of the House of

Representatives.

Amend Sec. 102, page 6, line 29, by striking out "Includes the following information" and inserting

Any of the following

Amend Sec. 102, page 6, line 30, by striking out "or standing committee"

Amend Sec. 102, page 7, line 9, by inserting after "AT"

a public hearing or a public committee meeting

Amend Sec. 102, page 8, by inserting between lines 7 and 8

(18) Proposed regulations, final-form regulations and final-omitted regulations submitted to a legislative agency.

Amend Sec. 102, page 9, line 12, by inserting after "notice" to a requester

Amend Sec. 102, page 9, line 23, by inserting after "includes" the Pennsylvania Gaming Control Board, the Pennsylvania Game Commission, the Pennsylvania Fish and Boat Commission,

Amend Sec. 102, page 9, line 24, by inserting after "Agency" and all nonprofit corporations established thereby

Amend Sec. 301, page 10, line 28, by inserting after "requester" unless otherwise provided by law

Amend Sec. 302, page 11, line 4, by inserting after "requester" unless otherwise provided by law

Amend Sec. 305, page 11, line 19, by inserting before "A"

(a) General rule.—

Amend Sec. 305, page 11, by inserting between lines 25 and 26

(b) Legislative records and financial records.—A legislative record in the possession of a legislative agency and a financial record in the possession of a judicial agency shall be presumed to be available to the public unless:

(1) the record is exempt under 708(c) or (d);

(2) the record is protected by a privilege; or

(3) the record is exempt from disclosure under any other

Federal or State law or regulation or judicial order or decree.

Amend Sec. 502, page 12, line 10, by inserting after "Representatives,"

or a political party caucus of the Senate or the House of Representatives

Amend Sec. 503, page 13, by inserting between lines 26 and 27

(iii) A political party caucus of the Senate or the House of Representatives.

Amend Sec. 503, page 14, line 4, by striking out "LAW ENFORCEMENT"

Amend Sec. 506, page 16, line 11, by striking out "for" and inserting

on behalf of

Amend Sec. 506, page 16, line 17, by striking out "public"

Amend Sec. 506, page 16, line 18, by inserting after "the"

public

Amend Sec. 506, page 16, line 21, by striking out "The" and inserting

Upon a determination to grant the request, the

Amend Sec. 506, page 16, line 23, by inserting after "and"

upon collection shall

Amend Sec. 701, page 17, line 2, by striking out "to public records"

Amend Sec. 701, page 17, line 6, by inserting after "record"

being provided to a requester

Amend Sec. 701, page 17, line 6, by striking out "to a requester"

Amend Sec. 701, page 17, line 7, by striking out "the public record" and inserting

it

Amend Sec. 701, page 17, line 13, by striking out "the computer" and inserting

any computer either

Amend Sec. 703, page 17, line 26, by striking out "in" and inserting

pursuant to

Amend Sec. 703, page 18, line 2, by inserting after "records"

unless otherwise provided by law

Amend Sec. 704, page 18, lines 13 and 14, by striking out "use the electronic access" and inserting

access the record electronically

Amend Sec. 704, page 18, lines 14 and 15, by striking out "submit a written request to the agency"

Amend Sec. 704, page 18, line 16, by inserting after "notification,"

submit a written request to the agency

Amend Sec. 706, page 18, line 30, by striking out "under section 305 or 708"

Amend Sec. 708, page 20, line 16, by striking out all of said line and inserting

(a) Burden of proof.—

(1) The burden of proving that a public

Amend Sec. 708, page 20, by inserting between lines 19 and 20

(2) The burden of proving that a legislative record is exempt from public access shall be on the legislative agency receiving a request, by a preponderance of the evidence.

(3) The burden of proving that a financial record of a judicial agency is exempt from public access shall be on the judicial agency receiving a request, by a preponderance of the evidence.

Amend Sec. 708, page 21, line 7, by striking out "life,"

Amend Sec. 708, page 22, lines 16 and 17, by striking out "an individual's" and inserting

a person's

Amend Sec. 708, page 22, line 17, by inserting after "number;"

date of birth;

Amend Sec. 708, page 22, line 19, by striking out "home, cellular or personal"

Amend Sec. 708, page 22, line 20, by striking out "number" where it appears the first time and inserting

numbers

Amend Sec. 708, page 22, line 20, by striking out "address" and inserting

addresses

Amend Sec. 708, page 22, line 20, by striking out "number;" and inserting

numbers; or

Amend Sec. 708, page 22, line 21, by striking out "number" and inserting

numbers

Amend Sec. 708, page 22, line 24, by striking out all of said line and inserting

(ii) Nothing in this paragraph shall:

(A) Prevent an agency from providing access to the date of birth of a deceased person for genealogical purposes.

(B) Preclude the

Amend Sec. 708, page 26, line 4, by inserting after "correspondence"

, videos

Amend Sec. 708, page 27, line 28, by striking out all of said line and inserting

(18) Records or parts of records pertaining to audio recordings, telephone or radio transmissions received by emergency dispatch personnel, including 911 recordings. However, a transcript of a recording may be released when the agency or a court determines that the public interest in disclosure outweighs the interest in nondisclosure.

Amend Sec. 708, page 28, line 2, by inserting after "of"

an autopsy report,

Amend Sec. 708, page 28, line 8, by inserting after "cause"

and manner

Amend Sec. 708, page 28, line 13, by striking out "Minutes" and inserting

Draft minutes of any meeting of an agency and minutes

Amend Sec. 708, page 29, line 25, by striking out "or"

Amend Sec. 708, page 30, line 9, by removing the period after "abuse" and inserting

; or

(iii) identifying a person that requests assistance or constituent services from a member of the General Assembly.

Amend Sec. 708, page 30, line 10, by striking out "The" and inserting

With respect to financial records, the

Amend Sec. 708, page 30, lines 11 and 12, by striking out all of line 11 and "financial records protected under" in line 12

Amend Sec. 708, page 30, lines 12 through 14, by striking out "or" in line 12, all of line 13, "information PROTECTED under subsection (b)(5)" in line 14 and inserting

, (4) or (5) shall apply

Amend Sec. 708, page 30, line 14, by striking out "may" and inserting

shall

Amend Sec. 708, page 30, line 21, by striking out "shall not" and inserting

(1), (2), (3), (4) or (5) shall

Amend Sec. 708, page 30, lines 22 through 23, by striking out ", except for data protected under subsection (b)(1), (2), (3) or (4)"

Amend Sec. 901, page 31, line 2, by inserting after "request."

The response shall include a notice of applicable fees.

Amend Bill, page 33, by inserting between lines 4 and 5

Section 905. Administrative denial.

The following shall apply:

(1) An agency may deny access to a public record, legislative record or financial record due to the failure of the requester to pay the applicable fee.

(2) An agency may deny access to a public record, legislative record or financial record due to the failure of the requester to pay any fee associated with a previous request made by the requester to the same agency.

Section 906. Record discard.

If an agency response to a requester provides that the requested records are available for delivery at the office of an agency and the requester fails to retrieve the records within 60 days of the agency's response, the agency shall send a written notice to the requester specifying that the requested copies will be held for an additional 30 days, within which time the requester may return to the agency to retrieve the records. Thereafter, the agency may dispose of any copies which have not been retrieved and retain any fees paid to date.

Amend Sec. 1101, page 33, line 11, by inserting after "appropriate"

legislative or judicial

Amend Sec. 1307, page 38, line 26, by striking out all of said line and inserting

(2) (i) The fees must be reasonable and based on prevailing

Amend Sec. 1307, page 38, by inserting between lines 28 and 29

(ii) Fees for copying data, collections of data and compiled data, including, but not limited to, geographic information systems and property lists, may be based on consideration of the reasonable market value of same or closely comparable data, collections of data or compiled data.

Amend Sec. 1307, page 39, lines 1 through 5, by striking out all of said lines

Amend Sec. 1310, page 41, line 1, by striking out "Clearinghouse" and inserting

Office of Open Records

Amend Sec. 1310, page 41, line 3, by striking out "Community and Economic Development an" and inserting

State the Office of

Amend Sec. 1310, page 41, lines 20 and 21, by striking out "provided by the clearinghouse"

Amend Sec. 1310, page 42, by inserting between lines 8 and 9

(10) To make available in electronic form to persons making requests for public records, examples of previous requests for public records by other persons and the documents to which the other persons were given access. In performing this duty, the office may not reveal any information relating to the identity of the persons who made the previous requests.

(11) Enter into an agreement with the Department of Community and Economic Development to provide the training required by paragraphs (3), (4) and (5)(i).

Amend Sec. 1701, page 45, line 4, by striking out "All parties to the contract" and inserting

The name and business address of all parties executing the contract

Amend Sec. 1701, page 45, line 7, by striking out "format" and inserting

file

Amend Sec. 1701, page 45, line 8, by striking out "format" where it appears the first time and inserting

file

Amend Sec. 1701, page 45, line 8, by striking out "format provided by" and inserting

file provided by Treasury Department

Amend Sec. 1701, page 45, line 16, by inserting after "Treasurer."

The contract provided to the Treasury Department pursuant to this chapter shall be redacted in accordance with applicable provisions of this act by the agency providing the contract to the Treasury Department.

(d) Contracts provided pursuant to The Fiscal Code.—The copy of a contract provided to the Treasury Department pursuant to section 1701 shall be in addition to any copy of the contract provided to the Treasury Department under the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code. Copies of contracts received by the Treasury Department, Office of Auditor General, or Department of Revenue from an agency pursuant to The Fiscal Code shall not be made available to a requester by the State Treasurer, Auditor General or the Department of Revenue.

Amend Sec. 1702, page 45, lines 18 through 23, by striking out "The Treasury Department shall make each" in line 18, all of lines 19 through 23 and inserting

Except as otherwise provided in this chapter, a request for a copy of a contract shall only be made to an agency who is a party to the contract.

Amend Sec. 1702, page 45, line 24, by inserting after "Posting.—" The Treasury Department shall make each contract filed pursuant to section 1701 available for public inspection either by posting a copy of the contract on the Treasury Department's publicly accessible Internet website or by posting a contract summary on the department's publicly accessible Internet website.

Amend Sec. 3101, page 46, lines 13 and 14, by striking out all of said lines and inserting

(1) This act shall apply to requests for information made on or after December 31, 2008.

(2) With respect to an agency as defined under section 103, this act shall apply prospectively.

(3) In addition to paragraph (2), with respect only to an agency which was an agency as defined under the former act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, this act shall apply retroactively.

Amend Sec. 3101, page 46, line 15, by striking out "(2)" and inserting

(4)

Amend Sec. 3101, page 46, line 17, by striking out "(3)" and inserting

(5)

Amend Sec. 3101, page 46, line 18, by striking out "the effective date of this section" and inserting

June 30, 2008

Amend Sec. 3101, page 46, line 19, by striking out "(4)" and inserting

(6)

Amend Sec. 3101, page 46, line 20, by striking out "the effective date of this section" and inserting

June 30, 2008

Amend Bill, page 46, by inserting between lines 20 and 21 Section 3101.1. Relation to other law or judicial actions.

If the provisions of this act regarding access to public records conflict with any Federal or State statute, the provisions of this act shall not apply.

Amend Sec. 3103, page 47, line 8, by striking out all "in 180 days." and inserting as follows:

(1) Sections 101, 102, 1310, 3101 and 3102(1)(i) and (ii)(B) and (2) shall take effect July 1, 2008.

(2) This section shall take effect immediately.

(3) The remainder of this act shall take effect January 1, 2009.

On the question recurring,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Mahoney on the amendment.

Mr. MAHONEY. Thank you, Mr. Speaker.

I rise again one more time for open records. Mr. Speaker, this is not a political amendment. Mr. Speaker, this is a taxpayer's amendment to SB 1. Mr. Speaker, this will be the easiest vote you cast today. This is for the taxpayers of Pennsylvania, this amendment.

I urge you to support amendment 04720. Thank you, Mr. Speaker.

The SPEAKER. Representative Beyer.

Mrs. BEYER. Thank you, Mr. Speaker.

Will the maker please stand for a brief moment of interrogation?

The SPEAKER. The gentleman indicates he will. The lady is in order and may proceed with her interrogation.

Mrs. BEYER. Will you please explain your amendment?

The SPEAKER. Was that a brief interrogation?

Mr. MAHONEY. What portion would you want me to explain?

Mr. Speaker, this amendment flips the presumption on public records. That is the most important thing this amendment does. It makes everyone equal from one agency to another agency to the legislature. This amendment follows the money, where the taxpayers know where their \$27 billion – \$27 billion – is being spent every year. This amendment will show the taxpayers that there will be no more corruption, there will be no more overpaying, there will be no more BS going on in this House.

So I urge you to vote for this amendment. Thank you.

The SPEAKER. The Chair recognizes Representative Beyer for the second time.

Mrs. BEYER. I am still interrogating, Mr. Speaker. I just sat down briefly to look at the amendment. I am still on my first time.

The SPEAKER. The gentlelady is in order.

Mrs. BEYER. Can you tell me, can the maker please tell me how this amendment is different than SB 1 or how it changes it?

Mr. MAHONEY. The most important thing, it covers the legislature. It makes us equal.

Mrs. BEYER. Sorry, Mr. Speaker. I was consulting with my colleagues.

Can you then explain to me what you mean by corruption and overpayment that you believe your amendment will reveal that no one else, or no other law, has revealed before?

Mr. MAHONEY. It will open all accounts, financial accounts. It will show all the taxpayers in Pennsylvania how the money is being spent here in Harrisburg.

Mrs. BEYER. Well, to that end I agree, Mr. Speaker. But you had made the statement there was corruption and overpayment, and I would just like you to clarify the corruption and overpayment you are referring to.

Mr. MAHONEY. Have you been reading the newspapers lately? Have you been following PHEAA (Pennsylvania Higher Education Assistance Agency)? Have you been following all these agencies?

Mrs. BEYER. I have been, and I appreciate your interrogating me even though it is not my amendment.

But having said that, I would just like you to know that the newspapers have revealed corruption and overpayment as part of the current law. I am just asking you what your amendment will do to reveal additional corruption and overpayment that we do not already know.

Mr. MAHONEY. I thought we were going to speak on my amendment. Mr. Speaker, can we stick to the amendment?

Mrs. BEYER. Mr. Speaker, I am simply asking for an answer to my direct question regarding corruption and overpayment, which the speaker had given in his previous comments; just clarification, Mr. Speaker.

Mr. MAHONEY. This amendment opens all the financial records. That is all the taxpayers of Pennsylvania want to know.

Mrs. BEYER. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes Representative Clymer.

Mr. CLYMER. Mr. Speaker, thank you very much.

The SPEAKER. May we have some order in the House, please. Members will take their seats.

Mr. CLYMER. Mr. Speaker, thank you very much.

May I interrogate the maker of the amendment?

The SPEAKER. The gentleman indicates he will stand for interrogation.

Mr. CLYMER. Mr. Speaker, I have been to caucus, I have listened to the differences in the bill itself and in this amendment, and I just want to make certain I have one portion clear, and that deals with the Pennsylvania Gaming Control Board. We certainly want to make sure that their records are available for public scrutiny. And as the gentleman had mentioned, the news media has brought out the fact that it is very difficult to get some of this information from the Pennsylvania Gaming Control Board. As a matter of fact, Mr. Speaker, when the Republican Policy Committee wanted to interview the members of the Pennsylvania Gaming Control Board on how they determined who would get the license – what were the criteria – they never showed up. They canceled a very important meeting.

So I just want to be absolutely certain that in this amendment the ability of the public to scrutinize the records of the Pennsylvania Gaming Control Board are available. That is my question.

Mr. MAHONEY. Mr. Speaker, the presumption of openness will apply to the Gaming Board.

Mr. CLYMER. Thank you, Mr. Speaker.

The SPEAKER. Representative Maher.

Mr. MAHER. Mr. Speaker, if I could interrogate the maker of the amendment?

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

Mr. MAHER. Thank you, Mr. Speaker.

This is an extensive amendment, and I want to ensure that I understand its full ramifications. Did I understand that this amendment intends to largely gut and replace the existing bill by inserting language drawn from HB 443?

Mr. MAHONEY. No, that is not correct.

Mr. MAHER. So your amendment does not serve that purpose?

Mr. MAHONEY. That is correct. That it does not.

Mr. MAHER. Fascinating.

Mr. MAHONEY. It is.

Mr. MAHER. Help me understand. Under your amendment, you say you flipped the presumption on what records would be available to the public, and as I understand it, except for some limited exceptions under your amendment, records in the possession of the executive branch would be presumed to be public records. Is that correct?

Mr. MAHONEY. That is in SB 1; yes.

Mr. MAHER. And under your amendment, would that presumption remain intact or do you override that presumption?

Mr. MAHONEY. Most definitely intact.

Mr. MAHER. So, for instance, if someone has a barber's license and in order to receive their barber's license they needed to submit their school transcripts. Those transcripts are records held by the Department of State. Would those school transcripts be available for anyone to look at, under your amendment?

Mr. MAHONEY. They would be presumed open unless they were subject to one of those exceptions.

Mr. MAHER. And do you believe that they are subject to any of the exceptions as contemplated by your amendment?

Mr. MAHONEY. The amendment does not change that. The substance is in the bill, SB 1.

Mr. MAHER. So given consideration to your amendment, if someone were a registered nurse and their neighbor was interested in what their college grades looked like, the neighbor would be able to call the Department of State and for 10 cents for a photocopy, and perhaps the cost of postage, be able to have a full display of the nurse's school records at their whim. Is that correct?

Mr. MAHONEY. I believe under the law personal information would be subject to redaction.

Mr. MAHER. Can you point to me the exception language you are contemplating, because I do not find it.

Mr. MAHONEY. It is in SB 1, and it is not in my amendment.

Mr. MAHER. So with your amendment, if we adopt your amendment, if an individual wanted to learn— If a parent wanted to find out what the college grades were for their child's elementary school teacher, they would be able to call the Department of State and, for 10 cents, get the teacher's transcript and decide whether they think that teacher really ought to be teaching their child. That would be allowed under this bill with your amendment?

Mr. MAHONEY. My amendment does not speak to that at all.

Mr. MAHER. Well, your amendment is fairly comprehensive. I am just trying to understand how the bill would be given effect to your amendment. I mean, we would have preferred— Well, maybe that would be digressing at a conversation, not a question. Let us do move to the Department of Labor and Industry. Are you familiar with UC-2 forms?

Mr. MAHONEY. Yes.

Mr. MAHER. And then you are aware that every quarter every employer in Pennsylvania files a form that lists every individual who is employed in Pennsylvania, what their position is, and what their pay is?

Mr. MAHONEY. I believe so.

Mr. MAHER. It seems to me that the actual amount of their pay may be protected in this bill after giving consideration to your amendment, but if one company wanted to learn the names and job titles of everyone employed at their competitor, under this bill with your amendment, for 10 cents, would that competitor be able to get a photocopy of the UC-2 form that would list everyone who is employed by their competitor and what their job positions are?

Mr. MAHONEY. Sir, my amendment does not speak to that.

Mr. MAHER. So your amendment, if this bill were to move forward with your amendment, is it correct that that information would be available to the public?

It is interesting, a vote is being recorded, Mr. Speaker.

Mr. Speaker, do you intend for a vote being registered on the board?

The SPEAKER. That is a technical error.

Mr. MAHER. All right. We will brace ourselves for what may lay ahead.

Thank you, Mr. Speaker.

Mr. MAHONEY. Sir, I believe that is the decision of the open records officer for the Labor and Industry Department.

Mr. MAHER. Well, in this bill with your amendment, is there an exception that— You know, again, every single employer, every single company in this State files these reports quarterly. So it has a fairly broad ramification; it is not some narrow question. Are you saying that the legislation is silent on this point or that it is a jump ball? I am not sure I understand what you believe the bill amended by your amendment would provide.

Mr. MAHONEY. Sir, my amendment does not speak to that, and— Mr. Speaker?

The SPEAKER. The House will come to order. Members will take their seats. Conversations in the side aisles, the center aisles, and the well of the House will break up immediately. Members will take their seats. The Sergeants at Arms will clear the aisles.

The gentleman is in order and may proceed.

Mr. MAHONEY. Mr. Speaker, can we just address the amendment that I have in front of you?

The SPEAKER. The only issue before the House is the Mahoney amendment.

Mr. MAHER. Thank you, Mr. Speaker.

And again, because it is an amendment which, as the maker of the amendment boldly announced, has a huge effect on this legislation, I am trying to gain an understanding of how he believes this legislation would stand if his amendment were adopted. I think I am very much on point.

Let us move to the Department of Transportation, Mr. Speaker. When individuals get their driver's licenses initially, they take a test, and certain individuals who are moving into our State take a test as an adult years. Others, for a variety of reasons, may need to take a test. Would the results of those tests be available for anybody who is just curious in how the folks living down their street might have done on a driver's test? Is that public record under this legislation, after giving consideration to your amendment?

Mr. MAHONEY. Again, Mr. Speaker, my amendment does not address that, but if it comes under a State or a Federal law, they would address that— prohibit that.

Mr. MAHER. So do you not have an opinion on what this legislation would hold after your amendment, on that point?

Mr. MAHONEY. Mr. Speaker, my amendment does not address that.

Mr. MAHER. All right. Well, I can see we are not elucidating much illumination through this, but let me ask you a follow-up on something that you proffered in introducing this amendment.

The gentelady preceding me asked, in reference to your advertisements, that with your amendment you would be revealing corruption and overpayments that have never been seen before. And I ask, what corruption and overpayments do you have in mind that are not revealed now that you have reason to believe would be revealed with your amendment? What is it that you are talking about when you say that you will be revealing corruption and overpayments that are not visible under today's law? What is that? Because I am sure that every member of this chamber would want that information, and if you have such information, Mr. Speaker, I think you need not wait for this bill to become a law to reveal it. What corruption and overpayments do you believe exist that are not visible under current law that you think will be provided for under this law? If you know any, sir, I think you owe it to this chamber to enunciate them.

Mr. MAHONEY. Mr. Speaker, all this amendment does is open financial records that have not been opened for the last 55 years that we need to address to be open. We are accountable for \$27 billion. We need to have transparency in this State. That is what this amendment addresses.

Mr. MAHER. Again I am asking, which records do you believe will be open to the public that are not currently open? What are the financial records—

Mr. MAHONEY. All financial records, Mr. Speaker.

Mr. MAHER. And, sir, you know, with all fairness, I know you are earnest in your undertaking. Are you familiar with the open records law of 2002?

Mr. MAHONEY. Mr. Speaker, somewhat.

Mr. MAHER. That is the law as it currently exists, Mr. Speaker. Can you tell me what financial records would be made available under your amendment that are not currently available to the public under the open records act of 2002?

Mr. MAHONEY. Mr. Speaker, I think we are trying to speak on the amendment before us. I think we would like to try to do that.

Mr. MAHER. That is my question, sir. You said, again, you keep asserting that you are making financial records available in your amendment—

The SPEAKER. The Chair will instruct the members not to interrupt each other. The process is that a question is asked and the responder answers the question.

Mr. MAHONEY. This amendment will open transparency in both the judiciary and the legislature—

Mr. MAHER. And so—

Mr. MAHONEY. —that had never been subject to openness before.

Mr. MAHER. So would it be fair to say that on the legislative side, your amendment would translate into statute the practice that already exists as part of the House rules adopted earlier this year?

Mr. MAHONEY. I believe so. The bill would, sir, Mr. Speaker.

Mr. MAHER. So in terms of making more records available than are available today about the House of Representatives, are there financial records that are available under our rules – excuse me; that our rules make available – does your amendment go beyond what our rules provide will be available to the public?

Mr. MAHONEY. I added the word "presumption." That would be added.

Mr. MAHER. So the rules say these records are public; your amendment will say you are presuming they are public. Is that correct? That is the great breakthrough we are talking about?

Mr. MAHONEY. Correct, sir.

Mr. MAHER. All right, Mr. Speaker. That concludes my interrogation on the amendment, and if you do not mind, Mr. Speaker, I am going to offer a few remarks.

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

Mr. MAHER. I certainly share the point of view, as I suspect most in this chamber do, that the progress in making financial records of the legislature easily available to the public, already accomplished with our rules, is a good thing, and to convert that into statute seems to be a good thing as well.

I do get concerned, though, when very, very serious allegations are launched. I am reminded of the McCarthy hearings, when someone stands up and announces that they know – that they know – of evil. Now, the maker of the amendment has indicted public officials far and wide, because he has said that he knows of corruption and overpayments that are not visible under current law. As you heard, he refuses to specify what it is that he knows, and I would suggest that if the gentleman has such knowledge, he needs to put it on the public record. The public has a right to know, sir, and for you to launch such allegations in connection with an open records bill and then conceal what you claim to know is an outrage.

Taking potshots at other public officials is not the way to advance the public good. If you know of corruption and overpayments, Mr. Speaker, reveal them. If not, stop claiming that you have something to reveal.

Mr. DeWEESE. Mr. Speaker? Mr. Speaker? Mr. Speaker?

The SPEAKER. The Chair recognizes the majority leader, Representative DeWeese.

Mr. DeWEESE. Just one polite and momentary intercession, that I would request that the speaker earnestly attempt to focus all of the remarks on the amendment itself. My dear friend from Upper St. Clair would never participate in anything ad hominem, and I mean that, but God bless America, let us just keep this on the amendment. Thank you.

Thank you, Mr. Speaker.

Mr. MAHER. Mr. Speaker, I do share that point of view, which is why I needed to raise my great concern that such allegations were tossed around with such cavalier rhetoric and to suggest to the gentleman that if he knows of such things, he needs to enunciate them; if he does not know of such things, he owes a whole lot of people an apology for alleging them.

I am very concerned as well that in a whole number of areas where the general public interacts with government, that it sounds to me as though protecting the privacy of Pennsylvanians has been disregarded in this amendment. It sounds to me as though protecting fundamental facts that most Pennsylvanians would consider private and that could make them susceptible to identity theft, if not just the discomfort of

their lives being the business of their neighbors, has not been attended to in this amendment. And it may be that before we are completed, there will be other amendments that will solve those troubles, but if not, I am afraid we are going to wind up with a bill that is still going to need some work, so I am going to be wide open with my ears. I had hoped that the advertisement for the Mahoney amendment being comprehensive was going to be bona fide, but when anybody's college transcript who has gotten a license from the State, anyone's trade school transcripts who has gotten a license from the State, when your own driver's test, when everybody's job title and employer in the State of Pennsylvania, and on and on and on, is suddenly converted from being someone's individual, private information to being available for 10 cents to their neighbors and their competitors, I do find that this is going to be a product that seems to need some more attention.

On the other hand, having been one of those who led the battle for the great advances in open records that happened in 2002, I am certainly encouraged by the momentum that seems to be with us today, that we will have more progress. So as disappointing and insufficient as this amendment appears to be, it does have some good in it, but I do not think it is as advertised.

Thank you.

The SPEAKER. Representative Gabig.

Mr. GABIG. Thank you, Mr. Speaker.

I wonder if the gentleman will stand for brief interrogation?

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

Mr. GABIG. Thank you, Mr. Speaker.

My colleague, Karen Beyer from Allentown, asked the gentleman a question about what is the difference between his amendment, I believe, and the SB 1. And the gentleman – in what seemed to be somewhat of an emotional, oratorical flair and did not seem to be something that he was reading, just sort of off the top of his head – made some statements, and I just wondered if the gentleman, having had some time to reflect upon those statements and consider those statements, would like to amend that statement regarding corruption in this institution or in the government of Pennsylvania, generally. Do you think maybe it was just a little hyperbole or oratorical excess? I think maybe that concerned some people, and I just wondered if the gentleman wanted to take an opportunity to, perhaps, withdraw those comments.

Mr. MAHONEY. Mr. Speaker, I am here just trying to do the right thing for the people in Pennsylvania. For 11 1/2 months I have been trying to push open records to the forefront, because I think everyone in Pennsylvania deserves it and I think everyone in this room deserves it.

I might have misquoted the corruption part of it, but I was thinking what the newspapers were all saying in their news articles for the last 5 to 6 years, what was going on up here. That is why we have 52 new members in this House, is because of that. I truly believe to my heart, and I mean to my heart, that we need a more open State government in the State of Pennsylvania.

Thank you, Mr. Speaker.

Mr. GABIG. Yes; I would thank the gentleman for those clarifications, and I think all of us understand, especially as a freshman, when you get up and you sort of get your emotions going, that you can sometimes—



Mr. MAHONEY. Mr. Speaker, you know I get nervous when I am up here.

Mr. GABIG. That is right, and I was just trying to give the gentleman an opportunity to make the statement that he did, which I think certainly was not intended to impede or impugn the integrity of this House or the members of this House or institution generally or the government in Pennsylvania, and so I thank the gentleman for his comments, just generally, on that. But I do have a couple of specific questions.

One of the things that I had noticed in reviewing the amendment was, in terms of the difference between your amendment and SB 1, is that you change the effective date of the legislation, and I wonder if you could just comment upon that and give us the reasons for changing the effective date.

If I could lay it out so that— I know the gentleman, again, there is a lot to this. If I can specifically— I saw that under the Senate bill it is 180 days – 6 months from the effective date – which is fairly typical around here in terms of legislation, and you changed some of it to be a year from January '09, a year from this coming January; some would take effect immediately. There is a bifurcation there, and I just wondered why there is the bifurcation? Just as a matter of policy, if you could explain that to the House, I would appreciate it, Mr. Speaker.

Mr. MAHONEY. Mr. Speaker, we push off the fiscal impact to the next fiscal year, and then we give 6 months for the Office of Open Records to get up and running.

Mr. GABIG. So the reason to push it off for a year is so that we can stand up this office of information, or whatever the term is going to be, Office of Open Records. But what I thought I saw is there were two effective dates. One was immediately and then one was in a year, approximately a year, say we pass this soon. Why the two different dates? What information, what part of the bill, is taking effect immediately and what is not? You know, this is not a— I am just trying to understand that part of it.

Mr. MAHONEY. Mr. Speaker, it gives agencies to be able to start developing their policies for every individual office.

Mr. GABIG. Okay. So some of the agencies that already have that; that might take place immediately. But say the local governments that do not have such a process, it gives them time? Is that the general idea?

Mr. MAHONEY. Yeah, and us, too, sir, Mr. Speaker.

Mr. GABIG. The legislature. All right.

Just to clarify again on the legislature, SB 1 included the legislature, but as I understood your amendment, you are trying to clarify that on the presumption, to make sure that the presumption is included with the legislature. Is that right?

Mr. MAHONEY. Yes.

Mr. GABIG. One other thing that I noticed was that there was a retroactivity clause in there, that some of the bill was going to be retroactive – that is, go back; somebody could request older records – and some of the bill said that it was not going to be retroactive; it was going to be prospective. And I was trying to get a handle on, Mr. Speaker, what part is going to be retroactive and what part is going to not be retroactive?

Mr. MAHONEY. Mr. Speaker, it starts fresh on some of us, because some of us have been under the immunity clause, and we need to start this day forward, Mr. Speaker.

Mr. GABIG. All right. So I understand that some of it is going to be retroactive – that is, people will go back and get older records – and some of it is not going to start until the bill is passed, and I am just trying to understand, what part are

people going to be able to go back to, and what part is going to start from when the bill is passed?

Mr. MAHONEY. Mr. Speaker, for organizations that were under the law for the first time, it will not go backwards.

Mr. GABIG. Okay. So that would include the legislature?

Mr. MAHONEY. Yes, and the judiciary.

Mr. GABIG. The judiciary, and I guess some local governments?

Mr. MAHONEY. Some local governments, maybe; community colleges, maybe.

Mr. GABIG. Okay. All right, e-mails. The last time, your bill, I think it was – what was it? 443 that we debated for a long time? – the Vitali amendment in committee excluded all e-mails. Remember, we had a big debate about that; there was a lot of talk about that after we left the House. How does your amendment affect this e-mail issue?

Mr. MAHONEY. Mr. Speaker, this amendment, or bill, has no e-mail exclusions.

Mr. GABIG. So if I understand it then, people could get e-mails. There is not a broad exclusion like there was in the Vitali amendment, but it would have to be the subject matter would not be exempted. If the subject matter is exempt, then that is an exemption whether it is in an e-mail format, a paper format, or whatever. It is going to be the subject, not the form of the communication. Is that correct?

Mr. MAHONEY. That is correct, Mr. Speaker.

Mr. GABIG. All right. That would conclude my— If I could have a minute, Mr. Speaker.

All right, Mr. Speaker. There is one more question that somebody brought up to me, if the gentleman would stand for that. I appreciate the patience of the gentleman, again. I hope my interrogation has been a little less aggressive than the others, but I am trying to get this information.

All right. On the e-mail issue again, the Senate bill, our 443 after the committee amendment had that Vitali exclusion of all our e-mails – right? – what did the Senate bill, did yours change that or not? Did they have an e-mail exclusion? Did yours change that or does yours not speak to that at all? This current amendment here.

Mr. MAHONEY. To the best of my knowledge, Mr. Speaker, the Senate bill never had an exclusion, and the amendment does not change that.

Mr. GABIG. Okay. So they did not have a Vitali-type exclusion for all e-mails from the Senate, and your amendment really does not address that issue because their bill was different than our bill that was on the floor here, with the Vitali amendment. Is that correct?

Mr. MAHONEY. Correct, Mr. Speaker.

Mr. GABIG. Okay. So some e-mails are going to be subjected to your amendment, or to SB 1 as amended by your amendment; some e-mails will be open to the public, depending on what their subject matter is; and some will not be, if it is exempted under the subject matter. Are we getting that straight?

Mr. MAHONEY. Correct, Mr. Speaker.

Mr. GABIG. All right. Thank you very much for your time—

Mr. MAHONEY. I thank you, Mr. Speaker.

Mr. GABIG. —and, Mr. Speaker, if I could just make some brief comments.

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

Mr. GABIG. I understand, Mr. Speaker, that this is the first in a series of amendments. I know the gentleman has worked

hard on the issue, and without making any ad hominem attacks, I think he might have gotten carried away a little bit with his initial excitement, perhaps, as he indicated to us. We are moving forward on a bipartisan basis with this, and I hope we can consider some of the other amendments which will open records to the public. It is very important for them to know what is going on up here, and there are some other good amendments that I hope we can consider. So thank you very much, Mr. Speaker.

The SPEAKER. Representative Reichley.

Mr. REICHLEY. Thank you, Mr. Speaker.

Would the gentleman, the prime sponsor of the amendment, stand for brief – hopefully brief – interrogation?

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

Mr. REICHLEY. Thank you, Mr. Speaker.

I just ask in an offhand way, because it did not appear in our summary of the amendment, but is there a fiscal note which has accompanied this amendment?

Mr. MAHONEY. Mr. Speaker, yes, but it does not change.

Mr. REICHLEY. I am sorry, Mr. Speaker. What do you mean "it does not change"?

Mr. MAHONEY. It does not change anything to SB 1, as far as our fiscal note.

Mr. REICHLEY. And the fiscal note that we have which accompanied our summary of all these, roughly about \$1.1 or \$1.2 million? Is that correct, Mr. Speaker?

Mr. MAHONEY. Mr. Speaker, I have the fiscal note in my possession here. It was dated December 5, and the amendment does not change SB 1 as amended.

Mr. REICHLEY. And I appreciate that, Mr. Speaker, and I do not have a copy of the fiscal note prepared on December 5. I have the one that was provided by the House Committee on Appropriations regarding SB 1, and it identifies the roughly \$1.2 million you have identified, Mr. Speaker, as the cost for establishing the Open Records Clearinghouse.

Just following up on the questions from the gentleman from Cumberland regarding e-mails, and I would like to get a little bit more into that, but has there been any calculation of the cost of storage of the materials, including electronic materials, that would now be required of State agencies, the legislature, and, beyond that, by local governmental agencies?

Do you want me to repeat the question, Mr. Speaker?

Mr. MAHONEY. Can you repeat it, Mr. Speaker?

Mr. REICHLEY. Sure, and if you want to ask the Speaker to gavel it so you can hear better, I have no problem with that, too.

The SPEAKER. The gentleman is correct. Members will please take their seats. Conversations will cease. If there are discussions that are necessary, they will adjourn to the anteroom. Members will take their seats.

The Chair thanks the gentleman. You may proceed.

Mr. REICHLEY. Thank you, Mr. Speaker.

For the gentleman's benefit, the previous question was, the fiscal note prepared by the Democratic Committee on Appropriations' staff from December 1, I believe it was, cited the \$1.2 million you have mentioned in terms of the cost of establishing the Open Records Clearinghouse in the Department of Community and Economic Development. My question is, has there been any calculation of the cost to State agencies, to the legislature, and more importantly, to local governmental agencies, for the storage of all the documentation which would

be covered by your amendment, which would include electronic documentation, based upon your answer about e-mails?

Mr. MAHONEY. Mr. Speaker, it is impossible for us to determine the fiscal impact of any local agency, because we have no data to determine that.

Mr. REICHLEY. Has there been any attempt to compare what was the experience in other States then that moved toward an expansion of the retention of electronic mail, in particular, because I think the capacity required for the continued storage of electronic mail that the legislature receives could be quite substantial.

Mr. MAHONEY. Mr. Speaker, at this time we have no direct knowledge of other States with the recordkeeping, as far as how they do it.

Mr. REICHLEY. Is it possible then, Mr. Speaker – and this, again, is not a reason to oppose your amendment, certainly – but is there the possibility that there would be an increased cost to State agencies and local agencies, therefore requiring a tax increase to pay for the storage costs associated with the retention of these records?

Mr. MAHONEY. Mr. Speaker, we are treading in new water here. This is a new open records law. We are treading into the unknown. I believe that the local agencies, they are keeping their records the way they keep them, and I do not think anything will change what they do, to impact any financial records.

Mr. REICHLEY. All right, Mr. Speaker, and I appreciate the gentleman from Philadelphia, the chairman of the Appropriations Committee, who expressed last week his conservative viewpoint toward State expenditures, of offering you that advice about the limitation of costs.

Just while we are on the subject of the e-mails, Mr. Speaker, I was a little confused in your responses to the gentleman from Cumberland. Can you explain to me, under your amendment, what kinds of e-mails to a legislator would be required to be retained for publication purposes and what would not.

Mr. MAHONEY. Mr. Speaker, at this time, there is no policy for records retention, but if it is on the list of legislative records and it is in e-mail form, it could be accessed.

Mr. REICHLEY. Well, I guess that prompts my question, Mr. Speaker, because again, in our summary of your particular amendment, it reads that the requirements for retention of records, or excuse me, the access to records – let me just page over to that; excuse me – it said this amendment applies provisions of SB 1 retroactively to agencies under the 1957 Right-to-Know Law, which is not the legislature and judiciary, and prospectively to the legislature. So I am curious, Mr. Speaker, as to how you are differentiating between records which must be retained prospectively by the legislature and why it is a prospective requirement.

Mr. MAHONEY. Mr. Speaker, as I said before, we are treading in new waters. In 1957, e-mails were just an imagination.

Mr. REICHLEY. Well, let me try to clarify it this way, Mr. Speaker: In your opening comments, which you exhorted us to pass this on a number of grounds including the ending of corruption, I guess I am curious that, under the same reference to the newspaper articles you mentioned, it would seem to me from your amendment that nothing that existed between communications between legislators and staffers or legislators and legislators would be available to the public, because it is all prospective. Is that correct, Mr. Speaker?

Mr. MAHONEY. Mr. Speaker, if the record is in legislative form as a legislative record and it is an e-mail, it is accessible.

Mr. REICHLEY. On a prospective basis? On a forward-looking basis?

Mr. MAHONEY. Yes.

Mr. REICHLEY. And I apologize for not knowing this, but just for the benefit of the general public, can you define for me what a "legislative record" is? Is it an e-mail between you and myself? Is that a legislative record?

Mr. MAHONEY. It is defined in SB 1, section 102.

Mr. REICHLEY. You know, that has not really helped me though, Mr. Speaker. Again, I am just trying to ask, if you sent me an e-mail asking for me to vote for the Mahoney amendment, is that a legislative record?

Mr. MAHONEY. No, Mr. Speaker.

Mr. REICHLEY. If you sent an e-mail to the staff for the Democratic Caucus asking them to distribute materials in support of the Mahoney amendment to the members on the floor, is that a legislative record?

Mr. MAHONEY. Mr. Speaker, you can look on pages 7 and 8 in SB 1 to find all of the exclusions. All the list, I am sorry.

Mr. REICHLEY. But your amendment does not affect that definition at all?

Mr. MAHONEY. Mr. Speaker, the only way my amendment affects e-mails is the presumption that everything is open.

Mr. REICHLEY. Yes, Mr. Speaker, but you just told me it is not open. You said that everything is open, and yet you have just told me that an e-mail, even to the Democratic staff asking them to distribute something to the members on the floor, that is not an open record. So how can, you know, how can a dog not be a dog? What is the real definition here?

Mr. MAHONEY. Mr. Speaker, legislative records as in the bill are open.

Mr. REICHLEY. This is not to beg the question, Mr. Speaker, and I apologize to you, but you are the main architect of this. You have been the architect of this for months now—

Mr. MAHONEY. 11 1/2 months, sir.

Mr. REICHLEY. —and can you not explain to the members, to the press, and to the general public what is a legislative record and why the e-mails between you and me, between you and the staff, between myself and my staff, why that would not be a legislative record?

Mr. MAHONEY. Mr. Speaker, as I said, it is defined in SB 1, what is a legislative record.

Mr. REICHLEY. So I guess you are not going to give me an answer?

I will withdraw that last question as being rhetorical.

Let me ask in another matter which the Representative from Bucks County, Mr. Clymer, mentioned. As the gentleman has probably seen, to some degree, there have been newspaper reports in the last couple of months about activities regarding the applications that were submitted by various gaming entities. Under your amendment, would information regarding background investigations be made available to the public for any gaming entity?

Mr. MAHONEY. Mr. Speaker, it would have to be determined by the open records officer for the Gaming Commission.

Mr. REICHLEY. If there is a dispute with the open records officer for the Gaming Commission, what is the provision for, for instance, the newspaper in Fayette County to appeal that?

Mr. MAHONEY. If they are denied, they will appeal it to the Open Records Clearinghouse.

Mr. REICHLEY. Under the Department of Community and Economic Development, under your amendment?

Mr. MAHONEY. Yes.

Mr. REICHLEY. And with regard to the financial suitability determination of an applicant, including the potential that that person has an exorbitant amount of personal debt related to gambling, would that be something which could be disclosed under your amendment?

Mr. MAHONEY. Again, Mr. Speaker, the open records officer will have to make that determination.

Mr. REICHLEY. Mr. Speaker, this sort of begs the question as to the knowledge the gentleman has, really, about the amendment. Consistently referring me to some decision which has not yet even been articulated by a future official really deprives us from the ability of knowing whether your amendment is as extensive as some of us would wish. All I am asking is a simple question: Is the background information regarding a gaming applicant going to be made available to the general public for inspection, under your amendment?

Mr. MAHONEY. Mr. Speaker, if it is shielded by a more specific law, that will be the governance, but the open records law officer has to make that determination to go any further.

Mr. REICHLEY. Well, Mr. Speaker, as the previous sponsor, both of the bill on this issue, previous amendments on this issue, and the current amendment on this issue, what is your intent? So that we are establishing a legislative record here for reference by any court in a future decision about this, what is your intention regarding the disclosure of background information by gaming applicants?

Mr. MAHONEY. Mr. Speaker, my intent all along was to open more records so that it is more fair for every agency in the State to be under openness and transparency.

Mr. REICHLEY. I appreciate that, Mr. Speaker, and that is a helpful answer but does not quite, again, get to the question. Is it your intention, as the prime sponsor, that applicant information for slot licenses be made available to the general public?

Mr. MAHONEY. Mr. Speaker, once again, it is my intention to make the Gaming Board more attentive to people that are requesting records. That is my intention, Mr. Speaker.

Mr. REICHLEY. So I take it by the language of your amendment, you are intending that financial background information of licensed applicants before the Gaming Board be made available?

Mr. MAHONEY. Mr. Speaker, I intend for that open records officer to act accordingly.

Mr. REICHLEY. And that would be a retroactive application as well, because that is an executive agency. Is that correct, Mr. Speaker?

Mr. MAHONEY. Yes, Mr. Speaker.

Mr. REICHLEY. So that the financial background information, Mr. Speaker, for any applicant of a license which is already granted, under your intention, would be made available by the open records officer for the Gaming Board?

Mr. MAHONEY. Again, Mr. Speaker, the open records officer has to make that determination.

Mr. REICHLEY. And that open records officer, Mr. Speaker, is going to look at the debate on the floor and attempt to glean what the intention was of the legislature for guidance in making that decision. That is why, I am not trying

to be difficult here, but I am being persistent because this is a matter of great import. If we are to have complete disclosure of agencies which have great impact upon the Commonwealth, particularly in the area of property tax rebates, as I think you have mentioned, it is your intention that the open records officer for the Gaming Board review financial background information and all background information of current licensees in the most open way possible. Is that correct?

Mr. MAHONEY. Again, Mr. Speaker, we are in unchartered waters here.

### PARLIAMENTARY INQUIRY

The SPEAKER. For what purpose does the gentleman, Representative Pallone, rise?

Mr. PALLONE. Thank you, Mr. Speaker.

I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. PALLONE. I believe the gentleman, on interrogation, had made reference to the purpose of interrogation was to establish a record for legislative intent. I need an issue of clarification, because I believe under the prior Speaker's administration, I tried to utilize interrogation for legislative intent and it was ruled out of order. I need a clarification as to that is what one of the purposes of interrogation actually is. I believe it was on advice from the Parliamentarian.

The SPEAKER. The Statutory Construction Act is the vehicle they use to determine the legislative intent. The Journal is also something that can be included in that process.

Mr. PALLONE. Sir, is it your parliamentary ruling then that interrogation can be used to establish legislative intent?

The SPEAKER. There is no prohibition to interrogation.

Mr. PALLONE. Thank you, Mr. Speaker, and I appreciate your clarification on that. Thank you.

The SPEAKER. The Chair thanks the gentleman.

The Chair returns to Representative Reichley.

Mr. REICHLEY. Thank you, Mr. Speaker, and if I could just resume for one final aspect, and then seeing the gentleman, Mr. Pallone, I want to ask a question about something of his. Just, telling me simply, what is your intention regarding the Gaming Board records and their approach to this issue?

Mr. MAHONEY. Mr. Speaker, as I said before, we are in unchartered waters. I want the records officer to be able to go to other States and find out how they are handling their casinos in other States and come back with the best possible solution that we can come up with on that issue.

Mr. REICHLEY. Fair enough, Mr. Speaker, but I gather then that you would feel that there is not an explicit direction within the amendment to the way the Gaming Board should review those records.

Mr. MAHONEY. That is correct.

Mr. REICHLEY. Okay. Now, having seen the gentleman from Westmoreland, Mr. Pallone, rise, it reminded me of another area I was going to ask you about. Do you believe that— I think one or two of his amendments would have a retroactive application for the disclosure of legislative records.

Mr. MAHONEY. Mr. Speaker, you will have to ask Representative Pallone when his amendment comes up.

Mr. REICHLEY. Well, I appreciate that, Mr. Speaker, but you have been cited as sort of the person who is our go-to on this individual, and I am just curious whether you can give us an appraisal as we vote on your amendment, whether the Pallone amendment would, in fact, be necessary.

Mr. MAHONEY. Mr. Speaker—

Mr. REICHLEY. I will try to find the number of the amendment for you.

Mr. MAHONEY. He is entitled to his own amendment, if he wants to offer it. But as far as I am concerned, Mr. Speaker, we need to consider this as— We need to go forward. It is a new day in Pennsylvania, and we need to let the light shine in.

Mr. REICHLEY. I guess it would be amendment 4680, Mr. Speaker, which has been described as clarifying the provisions that "...apply to records in existence prior...and...subsequent to the effective date...."

Mr. MAHONEY. Mr. Speaker, I cannot speak to Mr. Pallone's intention.

Mr. REICHLEY. But your amendment, as it is right now, does not provide a retroactive effect for legislative records.

The SPEAKER. For what purpose does the gentleman, Representative Pallone, rise?

Mr. PALLONE. Mr. Speaker, with all due respect, if my amendment should ever— If we ever get that far tonight, I would be glad to discuss my amendment when it comes up, but I believe we are to limit debate on amendment 04720, not other amendments that are not before the body.

The SPEAKER. The Chair will remind the members the issue before the House is the Mahoney amendment.

Mr. REICHLEY. Thank you, Mr. Speaker.

I appreciate the gentleman from Westmoreland's concern to have his amendment addressed on its own, and I will not pursue that any further.

Those are all the questions I have, Mr. Speaker. Thank you very much.

The SPEAKER. Representative Steil.

Mr. STEIL. Thank you, Mr. Speaker.

Brief interrogation.

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

Mr. STEIL. I believe that, in my opinion, probably the most important section of the bill is section 708, which relates to exceptions to public records. In your amendment, Mr. Speaker, you amend section 708 by removing the protection that is provided under "aggregated data," and I am trying to understand why you did that, because there is a definition for "aggregated data," and aggregated data is the kind of things that companies report to the State for various purposes — unemployment compensation, workers' comp coverage, and those sorts of things. That aggregated data is very, very important, and yet you remove that from the exceptions in section 708, and I am wondering why.

Mr. MAHONEY. Can you give us a page number and a line number?

Mr. STEIL. Yes. Well, the page is— It is page 31 of the bill, which refers to it, and it is your amendment to page 30, lines 22 through 30, amending section 708. That is from your amendment.

Mr. MAHONEY. Mr. Speaker, there is no change in the intent. It is a technical amendment. It was written in the negative, and we stated it in the positive.

Mr. STEIL. Thank you, Mr. Speaker. I have my answer.

The SPEAKER. Representative Kauffman.

Mr. KAUFFMAN. Mr. Speaker, would the gentleman rise for brief interrogation?

The SPEAKER. The gentleman indicates that he will, and the gentleman is in order and may proceed.

Mr. KAUFFMAN. Thank you, and this is intended to be very friendly. I just want to attempt to establish something.

As you probably have reviewed the list of amendments that we will be discussing after yours and— First of all, I want to compliment you. I believe your intent is truly genuine, and I appreciate what you have attempted to encompass in this amendment. As I have an amendment later today which is to address the disclosure of publicly funded legislative polling within our building here in the Capitol, I wanted to make sure that I understand your amendment and what it would encompass. And I want to make sure that— My understanding is that this changes the presumption for most agencies in the Commonwealth and the executive, the presumption being that it is open now; the records are open. I believe that is correct, and I just want to make sure that if an executive agency or a Commonwealth agency was doing some kind of polling, for whatever reason, in the Commonwealth, under your amendment, would the presumption be that that polling, the results of that polling, anything associated with that polling of that executive or Commonwealth agency, would be open to the public? Or would there be any wiggle room, anything that would allow the Commonwealth to wiggle out of disclosing that polling information?

Mr. MAHONEY. Mr. Speaker, the presumption of openness is there, unless they can point to an exemption that it is not for another law. The burden of proof is still flipped on the State to prove that it is not there.

Mr. KAUFFMAN. Would you, as the author of this amendment, was your intent to give that legislative agency or Commonwealth – not legislative but Commonwealth or executive agency – was your intent to give them wiggle room to get out of releasing polling information to the people of Pennsylvania?

Mr. MAHONEY. Mr. Speaker, positively no. It is up to the recordkeeping officer to make that decision.

Mr. KAUFFMAN. Okay. So you, as the author of this amendment, intended for the executive agencies to be subject to polling information being subject to the open records law. I appreciate that. That is what I am hearing from the gentleman, Mr. Mahoney. Is that correct?

Mr. MAHONEY. Can you repeat that, sir?

Mr. KAUFFMAN. I just want to make sure that I understand fully what you are saying, that you as the author— I think I understand what you are saying, that you as the author of this amendment intended for any polling information from an executive agency to be fully disclosable under this amendment. You did not intend to give them room to exclude themselves from availing this information to the public.

Mr. MAHONEY. Not specifically, but it is a legitimate inquiry.

Mr. KAUFFMAN. So do you have a section which you think they may try to wiggle out of this?

Mr. MAHONEY. My amendment does not address that, Mr. Speaker.

Mr. KAUFFMAN. Okay. I thank the speaker. That ends my interrogation.

On the amendment. Just brief comments, Mr. Speaker.

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

Mr. KAUFFMAN. I thank the maker of this amendment and his intention to fully include everything in disclosure from the executive branch, including polling and all of the associated information around polling by the executive branch, because we know they do quite a bit of it over there, and we surely do not want the people of Pennsylvania to be left out of public disclosure by this or any other future administration or agency.

Thank you, Mr. Speaker.

The SPEAKER. Will the House agree to the amendment? The Chair recognizes Representative Maher for the second time.

Mr. MAHER. Thank you, Mr. Speaker.

If the maker of the amendment could help me with a few more questions?

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

Mr. MAHER. Thank you, Mr. Speaker.

Looking at page 7 of the amendment, beginning on line 14, section 906, "record discard" provides if an agency provides requested records, are available for delivery, and whoever requests them fails to retrieve the records, it provides that any copies can be discarded. Is that correct? This talks about discarding records.

Mr. MAHONEY. Mr. Speaker, after a reasonable time that they have been available for pickup.

Mr. MAHER. But you agree this talks about discarding records?

Mr. MAHONEY. Yes, after they have been reviewed.

Mr. MAHER. So if some agency had a record that they did not desire for the sake of posterity, should continue to have availability, if someone were to request that record and then not collect that record, under the provision as written, that agency could discard the record?

Mr. MAHONEY. Mr. Speaker, just the copies, and that is only after 90 days, if they were not picked up.

Mr. MAHER. Well, then why does it talk about discarding records if you meant discarding copies of records? Why do you suppose you wrote about discarding records?

Mr. MAHONEY. Mr. Speaker, the intent is to dispose of records that are not picked up after 90 days.

Mr. MAHER. That is what I thought you were saying.

Thank you, sir.

On page 8, line 12, it says that this office of public record "...may not reveal any information relating to the identity of the persons who made the previous requests" for records. Why should these particular records be sealed? I am thinking, for instance, of the schoolteacher whose college transcripts will now become public information to the parents of her third grade class, but that teacher is not going to be allowed to know who it was who requested the records? Why is that secrecy being commanded here?

Mr. MAHONEY. Mr. Speaker, we are just trying to protect general personal information.

Mr. MAHER. Well, you acknowledged earlier that all sorts of very, very personal information were going to be available for a dime and the cost of a stamp. Why should the knowledge of who it was who was collecting all this very private, personal information – that I believe invades the privacy of so many million Pennsylvanians – why should that be sacrosanct?

Mr. MAHONEY. Mr. Speaker, this is a two-part answer. We want to make examples of good people that make good

requests. And number two, and it does not matter who makes the request. We just want to have good examples, Mr. Speaker.

Mr. MAHER. I do not think that answers my question. Let me ask you this question: Are requests for records themselves public records?

Mr. MAHONEY. Yes.

Mr. MAHER. Then why are you saying that, in this case, they will not be public records?

Mr. MAHONEY. Mr. Speaker, this is just a public service.

Mr. MAHER. Well, I would hope that everything our government does is actually a public service, sir, and we know that is not always accomplished but should always be the goal. But that does not respond to the question: Why are you shielding in secrecy this record when, otherwise, the records would be public records?

Mr. MAHONEY. Mr. Speaker, we just want to make examples of good requests, no matter who makes them.

Mr. MAHER. And so if somebody does something you consider good, you believe that that should not be revealed to the public? Is that the standard that is being applied here? What is the standard?

Mr. MAHONEY. Mr. Speaker, the standard here is trying to get the best open records law possible and trying to work with the public the best way we can.

Mr. MAHER. So by casting into the darkness this information, you do that in the name of openness. Is that your answer?

Mr. MAHONEY. No, sir.

Mr. MAHER. Well, let us move on. Later on that same page, you talk about that the Treasurer's Office now, instead of getting one copy of every document, every contract, will have to get two copies of every contract. Is that right?

Mr. MAHONEY. Yes, Mr. Speaker.

Mr. MAHER. And if I understood your fiscal note, you believe that every entity, every contract in the entire State, the process of redaction and duplication will have absolutely no cost. Is that correct?

Mr. MAHONEY. Mr. Speaker, I did not prepare the fiscal note.

Mr. MAHER. But I think you were saying you thought the fiscal note was accurate. Are you saying you believe the fiscal note is inaccurate?

Mr. MAHONEY. No, Mr. Speaker.

Mr. MAHER. Well, then, Mr. Speaker, do you believe that having every contract in the entire State of Pennsylvania needing to be scoured by attorneys to be redacted in accordance with this law entails no cost? Do you believe this is happening already?

Mr. MAHONEY. Mr. Speaker, I do not know how the Appropriations Committee came to their analysis, but I trust their analysis.

Mr. MAHER. Well, I am glad you trust their analysis; I am asking you a question. Do you believe this is the process which is already in place?

Mr. MAHONEY. Mr. Speaker, I gave you my answer.

Mr. MAHER. I am sorry; I do not think I understood what you just said.

Mr. MAHONEY. Let me clarify it, Mr. Speaker. Mr. Speaker, I gave you my answer.

Thank you.

Mr. MAHER. I still did not hear your answer, but I will move on.

On page 4, line 23, provides "The burden of proving..." judicial records are "...exempt from public access shall be on the judicial agency receiving a request, by a preponderance of the evidence." Can you help me understand how this is consistent with the constitutional explicit reservation of judicial administration to the courts? Do we have some legal authority you are relying on that we can command how the courts administer their processes, even their administrative ones?

Mr. MAHONEY. Mr. Speaker, I believe it is constitutional.

Mr. MAHER. And are you familiar with the judicial administration provisions of the Constitution?

Mr. MAHONEY. Mr. Speaker, you have my answer on the constitutionality.

Mr. MAHER. So you do not have any legal opinion out there?

Mr. MAHONEY. Mr. Speaker, I do not claim to be an attorney, nor do I want to be an attorney.

Mr. MAHER. And finally, Mr. Speaker, in terms of my questions, after amendment, is your bill— Are provisions severable so that if some are found to be unconstitutional, the bill will otherwise stand?

Mr. MAHONEY. Mr. Speaker, my amendment does not address that. The bill addresses that.

Mr. MAHER. And after giving effect to your amendment then, are these provisions severable or not severable?

Mr. MAHONEY. Mr. Speaker, there is no severability clause, but a court can render a decision on that.

Mr. MAHER. Thank you, Mr. Speaker. Mr. Speaker, that concludes my interrogation.

I do have some observations on the bill, and then I think I have got a few motions.

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

Mr. MAHER. Thank you, Mr. Speaker.

You know, I thought this was supposed to be about opening up records, not shutting down access to records. This amendment you just heard would allow agencies throughout this State to destroy any record simply by requesting it from themselves and not picking it up. After 30 days, they could then legally discard the record. How odd is that?

The maker of the amendment would also have us believe that elves will arrive and elves will do all the work that is necessary because he believes, apparently, there is no cost. And simply the notion of having to hire attorneys to review every single contract in this entire State to go through a redaction process, whether or not anybody ever asks to see the contract, is going to create a vast patronage pit for otherwise limited-skilled attorneys who can sit around and do redactions for their entire career. That is going to cost a lot of money – a lot of money that is not necessary in order to ensure the public has access to records. But you and I do not know how much that will cost because we have a fiscal note that pretends it costs nothing.

This amendment contains a provision which is a large land mine, the unconstitutional commandment of our Supreme Court as to how they handle their administrative proceedings. This legislature knows well from past experience that the court views its prerogatives under the Constitution as a very bright line. And I have no doubt that the court will find the provision contained in this amendment to be unconstitutional. And based upon what has been described to me by the maker of the amendment, that defect would serve to render the entire bill – could render the entire bill – into the trash heap. Then what has been accomplished, really, for the people of Pennsylvania,

to pass an amendment that contains a land mine that could ensure that the entire open records bill dies before it ever reaches its effective date? The effective date, as the gentleman from Cumberland County so ably educated us, under this amendment is also delayed and delayed and delayed. Instead of revealing to the public, the gentleman from Uniontown is aiming to ensure that the public will not have information for years.

## PARLIAMENTARY INQUIRY

### AMENDMENT DIVIDED

Mr. MAHER. And, Mr. Speaker, I have a few questions on this line, but I would like to draw your particular attention to the question: Can this amendment be divided between, on page 9, between lines 22 and 23?

The SPEAKER. Yes, it can be divided.

Mr. MAHER. This amendment can be divided on page 9, between lines 22 and 23. That is good. Hold that thought.

Can this amendment be amended on page 2, between lines 21 and 22, and concluding on page 3 between—

The SPEAKER. If the gentleman will cease for one moment. Did the gentleman ask if this amendment can be amended or further divided?

Mr. MAHER. Divided; further divided, sir.

The SPEAKER. The Chair understands. Thank you.

Mr. MAHER. The further division I am inquiring about would be beginning on page 2, between lines 21 and 22, and concluding on page 3, between lines 5 and 6.

The SPEAKER. The amendment is further divisible.

Mr. MAHER. Thank you, Mr. Speaker.

And one other inquiry: On page 6, is this amendment divisible commencing between lines 6 and 7 and concluding between lines 12 and 13?

The SPEAKER. Does the gentleman want to inform the Chair where he expects to end that division?

Mr. MAHER. I am sorry. On this very same page between lines 12 and 13. It commences between lines 6 and 7, concludes between lines 12 and 13.

The SPEAKER. Yes, it is further divisible.

Mr. MAHER. Thank you, Mr. Speaker.

I am not sure exactly what the procedure is for requesting multiple divisions and how we would label these things, and I am open to suggestions from the Chair. Do we approach each division with the divided part or do you want me to cause this to be cut into, I guess we are looking at one, two, three, four, five, six, seven parts? What is the Chair's pleasure?

The SPEAKER. If the gentleman will approach the rostrum, we will have further direction for the Representative.

Mr. MAHER. It would be my pleasure, Mr. Speaker.

(Conference held at Speaker's podium.)

## PARLIAMENTARY INQUIRY

The SPEAKER. For what purpose does Representative Tangretti rise?

Mr. TANGRETTI. Parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. TANGRETTI. If the gentleman from Allegheny County succeeds in his division requests, my suspicion is, and I am asking the Chair, then all the amendments that have been filed that are affected by those divisions, it seems to me, may or may not be in order. Is that correct? If you have an amendment that is filed to more than one section that he is dividing, it would be ruled out of order. Is that correct?

The SPEAKER. As is true with any other amendment, after the Mahoney amendment passes or fails, in whole or in part, the Chair will make the determination as to the relevant impact it will have on the other amendments.

Mr. TANGRETTI. As the amendments are called?

The SPEAKER. As the amendments are called.

Mr. TANGRETTI. Thank you, Mr. Speaker.

## STATEMENT BY MR. PETRONE

The SPEAKER. For what purpose does the gentleman, Representative Petrone, rise?

Mr. PETRONE. Thank you, Mr. Speaker.

Mr. Speaker, a point of personal privilege. I really am not concerned about the amendments and how they can be divided or subdivided. My concern is the gentleman's remark about the elves not coming, and I hope he is not getting on next to start talking about Santa Claus, because if he does, we all should walk out.

Thank you.

## GUESTS INTRODUCED

The SPEAKER. The Chair would like to recognize, as the guests of Representative Fred McIlhattan, two of our finest from the Tionesta Barracks, Trooper First Class Tom Shawley and Trooper First Class Vince White. They are seated to the left of the Speaker. Would you please rise and be recognized, and thank you for your honorable service.

The House will stand at ease.

## CONSIDERATION OF SB 1 CONTINUED

The SPEAKER. The Chair recognizes Representative Maher. Mr. MAHER. Thank you, Mr. Speaker.

Thanks to you, your Parliamentarians, and the wisdom offered to me by leaders on both sides of the aisle. And in consideration of all that wisdom, instead of dividing this bill into seven different questions – this amendment – Mr. Speaker, I am going to limit the division to a single division on page 9, between lines 22 and 23, concluding at the end of the original amendment. And I would ask if you would be able to announce – I would suggest that we call the tail on the dog, maybe deal with that issue.

The SPEAKER. If the gentleman will permit the Speaker: The amendment is divisible from pages 1 through 9 and on page 9 from 1 through lines 22. That will be referred to as amendment A. Amendment B will proceed from line 23 through page 10 till the end of the amendment.

Mr. MAHER. Thank you, Mr. Speaker.

And in terms of the procedure for—

The SPEAKER. The Chair will vote amendment A and then proceed to vote amendment B.

Mr. MAHER. Mr. Speaker? In terms of the debate on A and B now, essentially we have amendment A and amendment B, but how does the process now go forward? Remarks yet to come on amendment A and then we will vote A, and then we would take up B?

The SPEAKER. The amendment and the debate will be limited to part A as the Speaker delineated that. That would be pages 1 through 9 through lines 1 through 22 on page 9. We will dispose with that, and then we will move to part B, which will include the gentleman's request that the amendment be divided.

Mr. MAHER. Thank you. So when we get to—

The SPEAKER. Members will limit their debate to amendment A.

Mr. MAHER. So once we have disposed of A, then we will take up B as a freestanding question and vote on B as a freestanding amendment? Is that correct, sir?

The SPEAKER. The gentleman is correct.

Mr. MAHER. Thank you, Mr. Speaker.

On the question,

Will the House agree to part A of the amendment?

The SPEAKER. Will the House agree to amendment A04720-A?

Mr. D. EVANS. Mr. Speaker?

The SPEAKER. Representative Evans.

Mr. D. EVANS. Mr. Speaker?

The SPEAKER. Representative Evans.

Mr. D. EVANS. Yes, Mr. Speaker. Repeat specifically, Mr. Speaker, exactly what members are doing so they can understand what the implications of their votes are.

The SPEAKER. The Chair has ruled that the amendment A04720 is divisible. The amendment is divisible on page 9 between the lines of 22 and 23. The issue before the House is amendment A04720 from pages 1 through 9 and on page 9 from lines 1 through 22, inclusive. The remainder will be amendment A04720-B. So the only issue before the House is the section of the amendment, pages 1 through 9, and on 9, lines 1 through 22.

For what purpose does the gentleman, Representative Maher, rise?

Mr. MAHER. Mr. Speaker, in terms of all of our conversations, I am afraid I may have misidentified the point of division, where the final outcome, and I—

The SPEAKER. Will the gentleman clarify his point of division.

Mr. MAHER. And this is a question: Is the bill divisible on page 10, between lines 12 and 13?

The SPEAKER. The amendment is divisible. Is that the area that the gentleman wishes—

Mr. MAHER. I believe so, Mr. Speaker, but if you will bear with me just one moment so we do not have any further—Bear with me, please.

The SPEAKER. The Chair recognizes Representative Maher.

Mr. MAHER. Thank you, Mr. Speaker. And thank you for your indulgence while we confirmed that we would not further confuse things.

The point of division that I seek is on page 10, between lines 12 and 13.

The SPEAKER. The Chair thanks the gentleman.

Mr. MAHER. Thank you, sir.

The SPEAKER. The issue before the House is amendment A04720-A. That amendment reflects the language from pages 1

through 10, and on page 10 it is inclusive of lines 1 through 12, and is divided between the lines 12 and 13. The lines 13 through the end of the amendment on page 10 will be referred to as amendment A04720-B and will be voted subsequent to part A, which is before the House.

Will the House agree to the amendment?

Representative Reichley.

Mr. REICHLEY. Thank you, Mr. Speaker.

Would the maker of the motion be eligible for brief interrogation, Mr. Speaker?

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

Mr. REICHLEY. Thank you, Mr. Speaker.

Mr. MAHER. This should be fun.

Mr. REICHLEY. In all this division of lines, can you explain, Mr. Speaker, just what the impact of this will be? What will be in A04720-A, so the members have a clearer understanding of what provisions of the Mahoney amendment we are being requested to vote upon at this point?

Mr. MAHER. Thank you, Mr. Speaker.

The residue of the division is to focus the entire divide on the question of how quickly Pennsylvania will progress towards having greater public access to government documents, and the divide, divides out into B—

The SPEAKER. If the gentleman will suspend.

I believe there is an issue, a technical issue, with the way the gentleman requested the amendment be divided. If he will approach the rostrum.

(Conference held at Speaker's podium.)

The SPEAKER. The amendment before the House is as the Speaker previously described it. Representative Reichley may proceed with his interrogation, and the Chair reminds the gentleman he is being recognized for the second time.

The gentleman, Representative Reichley, may continue with his interrogation.

Mr. REICHLEY. Thank you, Mr. Speaker.

I believe my question for the gentleman from Allegheny, Mr. Maher, was to describe for the members so we could adequately try to understand the impact of the division as to what is within the language of A04720-A of the Mahoney amendment, per his motion.

Mr. MAHER. Thank you, Mr. Speaker.

The easiest way to probably answer that is to say what will now be in B. All that will be in the B question is the language concerning delaying the effective date. All other aspects of the Mahoney amendment, however troubling they may be, remain together in A. And in candor, we could probably slice A up in about 9 or 10 or 15 pieces until we just picked out the good parts and put the not-so-good parts aside, but I do not know that that would really be reflective of the will of the body. I do believe there are a lot of people here that are interested in actually accomplishing reform, sooner rather than later, and that is why dividing the amendment into an A or a B part allows people to deal with some of the substantive issues in A and deal with when it is effective in B.

Mr. REICHLEY. I take it then, Mr. Speaker, that your previous references to constitutionality and division of or separation of powers regarding the judicial branch, that is not addressed by the division of the amendment as you requested it. Is that correct?



Mr. MAHER. No, sir. In fact, that one aspect, in conference with the Speaker and the Parliamentarian, could not be divided because the part that dealt with that procedural provision was part of a section, and to carve out the part that deals with the courts – however unconstitutional it may be – we could not divide that question because it would not have the framing required of an amendment in order to stand on its own. It would not speak to insert on page XY.

Mr. REICHLEY. Okay. Is there any deletion created by your division?

Mr. MAHER. No, there is not. But you know, now as I answer your prior interrogatory, it does occur to me that there is a provision for division where you can, in fact, sort of throw the table scraps out. And you divide an amendment so that the other piece is just gone. Now, Mason's Manual provides for that sort of division, but I do not know if that has been practiced in this House in recent years, and I am sort of looking at our Parliamentarians for some sort of guidance as to whether or not that table-scrap approach might enable us to solve the constitutionality problem that would remain in A.

I am not sure what the right procedural thing is, but maybe there is a parliamentary inquiry you might want to place to the rostrum as to whether or not A could be further divided so that the section on page 4, lines 23 to 26, would simply be discarded, and that would solve the constitutional concern. But since I am standing in response to your interrogatories, I do not know that I have the floor, and I am unable to present that question directly to the rostrum.

### PARLIAMENTARY INQUIRY

Mr. REICHLEY. Well, I guess I will pose that question to the Chair, that subsequent to the vote on A04720-A, is that portion of the amendment, referred to as such, further divisible—

Mr. MAHER. It would be before.

Mr. REICHLEY. — to enable a deletion of certain parts? Would that have to be done before or after this vote, Mr. Speaker?

Mr. McCALL. Mr. Speaker?

The SPEAKER. For the information of the gentleman, Representative Reichley, that division would have to take place before amendment A04720 is adopted.

Mr. McCALL. Mr. Speaker?

Mr. REICHLEY. Mr. Speaker, could we approach the rostrum on that issue?

The SPEAKER. The gentlemen may approach the rostrum.

(Conference held at Speaker's podium.)

### PARLIAMENTARY INQUIRY

The SPEAKER. For what purpose does the gentleman, Representative McCall, rise?

Mr. McCALL. It is a point of parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. McCALL. Mr. Speaker, the previous gentlemen are talking about deletion of items from the Mahoney amendment. I think the only person that has the ability to make that decision

is the maker of the amendment, not the two gentlemen debating it on the floor of this House.

The SPEAKER. The gentleman is correct.

Has the gentleman, Representative Reichley, finished his interrogation?

Mr. REICHLEY. Thank you, Mr. Speaker.

I think the summary of the conversation at the desk was that a deletion cannot take place, that every portion of the amendment has to be voted on today. And I gather that the only real distinction created by this division is that the effective date of the amendment will be placed into the B portion of the amendment. Is that correct then, Mr. Speaker?

The SPEAKER. The Chair cannot stand for interrogation. That interrogation would be directed to Representative Maher.

Mr. REICHLEY. Well, I did not know if that was a point of parliamentary inquiry that the Parliamentarian would be able to refer to, but you would prefer it to go to Mr. Maher? Okay.

The SPEAKER. The answer is yes, but Representative Maher will give you that answer.

Mr. MAHER. Mr. Reichley, you are correct. And my original response that the aspect of 4720-A which I view as a constitutional problem is not divisible, unfortunately, it has been confirmed by the rostrum in our conversations, and it is unfortunate that we have this choice, but it is the only choice that is possible in terms of the way the division can be accomplished today.

Mr. REICHLEY. Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to part A of the amendment?

The following roll call was recorded:

### YEAS—202

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

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

NAYS—0

NOT VOTING—0

EXCUSED—1

DeLuca

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

On the question,

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

The SPEAKER. The question before the House is, will the House agree to amendment A04720-B?

On the question,

Will the House agree to part B of the amendment?

The SPEAKER. On the amendment, the Chair recognizes Representative Maher.

Mr. MAHER. Thank you, Mr. Speaker.

The SPEAKER. The Chair amends.

For what purpose does the gentleman, Representative Maher, rise? He has already been recognized twice on the amendment.

Mr. MAHER. Well, Mr. Speaker, before we actually accomplished the division, I did inquire as to whether or not taking up 4720-B would be as taking up a fresh amendment, and the response was yes. I consequently think this is my first time being recognized on 4720-B.

The SPEAKER. That question was never raised before the Speaker or—

Mr. MAHER. I asked that question. Yes; I did, sir. And if this is a genuine point of confusion, and I will accept that it is—

The SPEAKER. The Chair has no recollection. If that was said, the Chair said that in error. The Chair apologizes. The gentleman has already spoken twice on the issue, as the Chair reminded Representative Reichley that it was his second time to speak.

The Chair recognizes Representative Gabig for the second time.

Mr. GABIG. Thank you, Mr. Speaker.

I wonder if the gentleman from Allegheny County who made this division would stand for interrogation?

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

Mr. GABIG. Mr. Speaker, I was interested— I brought up during my interrogation with the maker of the bill the policy reason for having two different effective dates as I read them in the bill, and I think the way you divided this, Mr. Mahoney's amendment, was so now that we are specifically and exclusively on this issue, whether we should extend the effective date for some of the bill for an entire year versus the 180 days that the Senate had. Do I understand the purpose of your amendment and the effect of your amendment, and if not, could you please explain?

Mr. MAHER. Thank you, Mr. Speaker.

That is largely correct. The purpose of this division was to provide all of those who assert that they wish to advance open records now the opportunity to put their vote where their mouth is. The way— If this amendment passes, then instead, the bill without this amendment would be effective, fully effective, during this fiscal year. Without this amendment, the effective date will not be accomplished, once and for all, until 2009, not until the day before your successors will be sworn in, in this House of Representatives.

If you want to be able to approach your constituents next year and say you have voted to accomplish openness in government, effective in the term you are now in, you have got to vote against Mahoney amendment B. Mahoney amendment B postpones effective date until after you have completed this term. So if you are honest about advancing reform, oppose Mahoney amendment B because it postpones the full effectiveness of this until 2009. If you want things now, vote "no."

Thank you, Mr. Speaker.

Mr. D. EVANS. Mr. Speaker?

The SPEAKER. The Chair recognizes Representative Evans.

Mr. D. EVANS. I rise to support the Mahoney amendment, and the reason I rise to support the Mahoney amendment is, it is a fiscal issue. One of the things that we do when we negotiate the budget is we try to keep the budget balanced during the current year. If you should have immediate implication, the question is, where will the money come from? So the reason that the date is moved back is on the basis of showing that the dollars are available.

So I stand here, Mr. Speaker, asking you to support the Mahoney amendment and be fiscally responsible. I ask for a "yes" on this amendment. Thank you.

On the question recurring,

Will the House agree to part B of the amendment?

The following roll call was recorded:

YEAS—109

Adolph	Gerber	McCall	Shimkus
Belfanti	Gergely	McGeehan	Sipthoth
Bennington	Gibbons	McI. Smith	Smith, K.
Bianucci	Goodman	Melio	Smith, M.
Bishop	Grell	Micozzie	Smith, S.
Blackwell	Grucela	Milne	Solobay
Brennan	Haluska	Mundy	Staback

Buxton	Hanna	Myers	Sturla
Caltagirone	Harhai	O'Brien, M.	Surra
Carrroll	Harkins	Oliver	Tangretti
Casorio	Hornaman	Parker	Taylor, R.
Cohen	James	Pashinski	Thomas
Conklin	Josephs	Payton	Vitali
Costa	Keller, W.	Petrarca	Wagner
Cruz	Kessler	Petrone	Walko
Curry	King	Preston	Wansacz
Daley	Kirkland	Ramaley	Waters
DePasquale	Kortz	Readshaw	Wheatley
Dermody	Kotik	Roebuck	White
DeWeese	Kula	Ross	Williams
Donatucci	Leach	Rublely	Wojnarowski
Eachus	Lentz	Sabatina	Yewcic
Evans, D.	Levdansky	Sainato	Youngblood
Fabrizio	Longietti	Samuelson	Yudichak
Frankel	Mahoney	Santoni	
Freeman	Manderino	Schroder	O'Brien, D., Speaker
Galloway	Mann	Seip	
George	Markosek	Shapiro	

NAYS—93

Argall	Fleck	Marshall	Quigley
Baker	Gabig	Marsico	Quinn
Barrar	Geist	McIlhattan	Rapp
Bastian	Gillespie	Mensch	Raymond
Bear	Gingrich	Metcalfe	Reed
Benninghoff	Godshall	Millard	Reichley
Beyer	Harhart	Miller	Roeae
Boback	Harper	Moul	Rock
Boyd	Harris	Moyer	Rohrer
Brooks	Helm	Murt	Saylor
Cappelli	Hennessey	Mustio	Scavello
Causer	Hershey	Nailor	Sonney
Civera	Hess	Nickol	Stairs
Clymer	Hickernell	O'Neill	Steil
Cox	Hutchinson	Pallone	Stern
Creighton	Kauffman	Payne	Stevenson
Cutler	Keller, M.	Peifer	Swanger
Dally	Kenney	Perry	Taylor, J.
Denlinger	Killion	Perzel	True
DiGirolamo	Mackereth	Petri	Turzai
Ellis	Maher	Phillips	Vereb
Evans, J.	Major	Pickett	Vulakovich
Everett	Mantz	Pyle	Watson
Fairchild			

NOT VOTING—0

EXCUSED—1

DeLuca

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

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

Mr. **PALLONE** offered the following amendment No. **A04680**:

Amend Sec. 3101, page 46, by inserting between lines 12 and 13  
(1) This act shall apply to records in existence prior to as well as subsequent to the effective date of this act.

Amend Sec. 3101, page 46, line 13, by striking out "(1)" and inserting

(2)

Amend Sec. 3101, page 46, line 15, by striking out "(2)" and inserting

(3)

Amend Sec. 3101, page 46, line 17, by striking out "(3)" and inserting

(4)

Amend Sec. 3101, page 46, line 19, by striking out "(4)" and inserting

(5)

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

AMENDMENT WITHDRAWN

The **SPEAKER**. The Chair recognizes Representative Pallone on the amendment.

Mr. **PALLONE**. Thank you, Mr. Speaker.

In conference with counsel, apparently there are provisions contained within the act as it is being presented, both through the Mahoney amendment as well as the bill in chief under SB 1, that generally address the issues of the Freedom of Information and open records acts that will address the issues that I am raising in this particular amendment. And therefore, I would respectfully withdraw the amendment as presented.

The **SPEAKER**. The Chairs thanks the gentleman.

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

Mr. **REICHLEY** offered the following amendment No. **A04694**:

Amend Sec. 701, page 17, by inserting between lines 11 and 12  
(a.1) Gaming Control Board policies.—All information related to the development of Gaming Control Board policies, regulations, procedures or any other recommendations regarding implementation of 4 Pa.C.S. § 1212 (relating to diversity goals of board) or 1325 (relating to license or permit issuance), including, but not limited to, any documents or other materials prepared for the use of the board, its employees or independent contractors, shall be considered a public record and subject to disclosure.

Amend Sec. 3102, page 47, by inserting between lines 6 and 7  
(3) (i) The General Assembly declares that the repeal under subparagraph (ii) is necessary to effectuate the provisions of section 701(a.1).  
(ii) The provisions of 4 Pa.C.S. § 1206(f) are repealed.

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

The **SPEAKER**. The Chair recognizes Representative Reichley on the amendment.

Mr. **REICHLEY**. Mr. Speaker, thank you.

Is this amendment still in order based upon the passage of the Mahoney amendment? There were other amendments that we had drafted to the bill—

The SPEAKER. The amendment is in order. But if the gentleman had it redrafted in another fashion, the Chair understands. He can offer it either now or later.

Mr. REICHLEY. Did you say an hour later or—

The SPEAKER. Now or later.

Mr. REICHLEY. Now or later. Sorry about that.

Is it possible just to go over this amendment briefly, just for me to check back on the other amendments I had?

AMENDMENT PASSED OVER TEMPORARILY

The SPEAKER. Do you want me to go over this temporarily?

Mr. REICHLEY. If you would, please, Mr. Speaker.

The SPEAKER. Would you like me to go over your other amendment, A04695, until you reconcile that? I will come back to both amendments?

Mr. REICHLEY. Yes, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

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

Mr. KORTZ offered the following amendment No. **A04697**:

Amend Sec. 1307, page 40, line 19, by inserting after "\$100."

The agency may require a certified check, money order or other form of verified payment of funds when requiring open records request fees to be prepaid.

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Kortz on the amendment.

Mr. KORTZ. Thank you, Mr. Speaker.

Amendment A4697 basically states that if it will cost over \$100, the agency may require a certified check, money order, or other form of verified payment of funds when requiring open records request fees to be prepaid. The reason for this, Mr. Speaker, is to protect agencies against financial loss due to large records requests and subsequent nonpayments, for whatever the reasons. Mr. Speaker, amendment 4697 was formerly amendment 3759; it was considered with HB 443 and passed on October 30. And I would ask all my colleagues for an affirmative vote.

Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—202

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

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

NAYS—0

NOT VOTING—0

EXCUSED—1

DeLuca

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 second consideration as amended?

Mr. PERRY offered the following amendment No. **A04705**:

Amend Sec. 102, page 4, by inserting between lines 6 and 7 "Account." Includes any record evidencing the receipt or disbursement of funds by an agency, including a receipt, invoice and other billing information related to the receipt or disbursement of such funds.

Amend Sec. 102, page 9, line 30, by striking out "and" and inserting a comma

Amend Sec. 102, page 10, line 1, by inserting after "Authority" and the Commonwealth Financing Agency

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

AMENDMENT PASSED OVER TEMPORARILY

The SPEAKER. The Chair recognizes Representative Perry.

Mr. PERRY. Mr. Speaker, can I ask you to go over this temporarily until I figure out where it is in all the five that I have got available?

The SPEAKER. This amendment will go over temporarily.

Would you like to go over all the amendments and come back to the gentleman?

On the question recurring,

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

Mr. SAINATO offered the following amendment No. **A04714**:

Amend Bill, page 30, by inserting between lines 23 and 24 Section 709. Internet access.

The Department of Community and Economic Development shall post on its Internet website a list of community revitalization grants by legislative and senatorial districts.

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

The SPEAKER. The Chair recognizes Representative Sainato on the amendment.

Mr. SAINATO. Thank you, Mr. Speaker.

This amendment is a very brief amendment. It pretty much directs DCED (Department of Community and Economic Development) to list the appropriation and grants by legislative and senatorial districts. It just sheds a little light on where the money has been going around the State. So I consider this just a technical amendment. Thank you.

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

The following roll call was recorded:

YEAS—202

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

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

NAYS—0

NOT VOTING—0

EXCUSED—1

DeLuca

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 second consideration as amended?

The SPEAKER. The Chair recognizes the gentleman from Lehigh County, Representative Reichley. Would the gentleman inform the Chair what the amendment number is he wishes to offer?

Mr. REICHLEY. Thank you, Mr. Speaker.  
I would like to proceed with amendment A04804.

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

Mr. REICHLEY offered the following amendment No. **A04804**:

Amend Sec. 701, page 3, by inserting between lines 27 and 28 (A04720)

Amend Sec. 701, page 17, by inserting between lines 11 and 12

(a.1) Gaming Control Board policies.—All information related to the development of Gaming Control Board policies, regulations, procedures or any other recommendations regarding implementation of 4 Pa.C.S. § 1212 (relating to diversity goals of board) or 1325 (relating to license or permit issuance), including, but not limited to, any documents or other materials prepared for the use of the board, its employees or independent contractors, shall be considered a public record and subject to disclosure.

Amend Sec. 3102, page 10, by inserting between lines 12 and 13 (A04720)

Amend Sec. 3102, page 47, by inserting between lines 6 and 7

(3) (i) The General Assembly declares that the repeal under subparagraph (ii) is necessary to effectuate the provisions of section 701(a.1).

(ii) The provisions of 4 Pa.C.S. § 1206(f) are repealed.

On the question,

Will the House agree to the amendment?

### PARLIAMENTARY INQUIRY

#### AMENDMENT DIVIDED

The SPEAKER. The Chair recognizes the gentleman, Representative Reichley, on the amendment.

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

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. REICHLEY. Mr. Speaker, is this amendment divisible between lines 12 and 13?

The SPEAKER. Yes, it is.

Mr. REICHLEY. All right. Mr. Speaker, I would so request, or so move, to divide the amendment between lines 12 and 13.

The SPEAKER. Does the gentleman wish to proceed on both sections of the amendment or just on one?

Mr. REICHLEY. I would like to proceed on A04804-A, or the top portion of that amendment, from lines 1 through 12.

The SPEAKER. The Chair thanks the gentleman.

The issue before the House is, will the House agree to amendment— The amendment is divided. The issue before the House is amendment A04804-A.

On the question,

Will the House agree to part A of the amendment?

The SPEAKER. The gentleman is recognized on that amendment.

Mr. REICHLEY. Thank you, Mr. Speaker.

Mr. Speaker, the purpose of this amendment, there have been a number of conversations regarding the degree of disclosure by Commonwealth agencies. Most recently it came up that the Gaming Board had had private sessions in which they had discussed various parameters on hiring practices to be emphasized with licensee applicants, and actually all vendors, under the Gaming Act, and yet, this had not been within the public session or recorded in the minutes.

So the purpose of this amendment is to ensure that the Gaming Board policies, regulations, procedures, along with any recommendations regarding implementation of the Gaming Act,

be made available – excuse me – be considered a public record and subject to disclosure.

Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the majority leader, Representative DeWeese.

Mr. DeWEESE. Thank you very much.

Just a quick interrogation of the honorable gentleman.

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

Mr. DeWEESE. Question number one: Would this deal with records from the day that it becomes law forward, or would this deal with records retroactively in the Gaming Commission?

Mr. REICHLEY. Mr. Speaker, in picking up with some of the answers provided by the gentleman, Mr. Mahoney, it would reflect to all records that are produced by the Gaming Board. It does not have a distinction as to whether it is a retroactive or prospective effect. We believe that the executive branch and quasi-executive branch agencies, such as the Gaming Board, should be under the same regulations as all the other strict Cabinet departments. So I do not think the amendment speaks specifically to which records it would be. Frankly, based upon the answers provided by Mr. Mahoney, that would be something to be decided by the open records officer of the Gaming Board.

Mr. DeWEESE. So the honorable gentleman is attempting to take the Gaming Board into a latitude that PENNDOT would not be under, or that Corrections or Health or Agriculture would not be under. Is that correct?

Mr. REICHLEY. Well, Mr. Speaker, I would ask for further clarification from the gentleman. I do not believe that somehow any of the regulations or policies regarding the implementation of the legislative authority created for PENNDOT or for the Agriculture Department or for any other agency would be different than what this amendment would impact upon the Gaming Board. We would only hold the Gaming Board in exactly the same position as any other executive branch agency. It has come to light that they have been engaging in a discussion of policies and procedures, separate and apart from their public meetings, and wish to emphasize that the Gaming Board is not to be held at any different status than any other executive agency.

Mr. DeWEESE. Last question. The diversity dynamics in the Gaming Board have been discussed with the executive branch and in our legislative debates, and our records are quite clear. Could the gentleman indicate what his language would do relative to diversity and the inclusion of a diverse segment of Pennsylvanians in the Gaming Board setting?

Mr. REICHLEY. Thank you, Mr. Speaker.

The effect of the amendment would not have any impact at all upon the diversity qualifications, hiring practices, or what the parameters under employment would be. I think the need of the amendment was underscored by the fact that, separate and apart from any other executive branch agency, the Gaming Board, as reported recently, had consultations about what the scope of diversity would mean for the Gaming Board – which is all well and good, and I applaud the Gaming Board for having what may be, perhaps, an expansive view of what diversity might be – but I think, at the very least, those policies and procedures need to be an open record so that there can be no question and it would not have to be some sort of latter-day disclosure which comes about. But the impact of the amendment is merely to enhance public disclosure – what the

Gaming Board has articulated as its definition of "diversity employment practices –" not meant to actually impact what those practices are.

Mr. DeWEESE. No further questions, Mr. Speaker.

The SPEAKER. Representative Vereb.

Mr. VEREB. Thank you, Mr. Speaker.

If the maker of the amendment would rise for brief interrogation?

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

Mr. VEREB. Thank you, Mr. Speaker.

Mr. Speaker, the first question: Is this amendment intended to cover all types of communications that occur, even whether they are legally advertised – or in some cases maybe not legally advertised – executive sessions that might take place by the board?

Mr. REICHLEY. Mr. Speaker, it is to ensure that the items which are truly to be made available for public disclosure are, in fact – that that is done so. There are obviously some issues that, under the gaming law, may be appropriately considered in executive session. The concern has been that, based upon recent disclosures and a review of the minutes from the Gaming Board, that has not always been the practice. And it is my intent to ensure that the Gaming Board fully understands that the requirements for public notification as to subjects that may be discussed in executive session, a summary of what was discussed without getting into the details, and then an availability to the general public to have access to documentation regarding nonconfidential matters, is complied with by the Gaming Board.

Mr. VEREB. Thank you, Mr. Speaker.

Is there any current law, whether it is directly affecting the casino law or any other law, that would supersede your amendment in terms of protecting documentation from the intent of your amendment? So is there anything in the Gaming Act that would prohibit what this amendment is trying to accomplish?

Mr. REICHLEY. No, Mr. Speaker. And I appreciate the question that this would not require the divulgence or disclosure of information which is protected under the Criminal History Record Information Act, for instance. It would not require the disclosure of information which is a trade secret. It would not require the disclosure of information which is confidential proprietary information on behalf of a gaming applicant, or any applicant, for a license under the Gaming Board. It would though, I think – and the gentleman from Greene County raised diversity training, this amendment goes beyond merely that, because there has been some question raised as to whether the Gaming Board has been in full compliance with the provisions of the Gaming Act, which require a public statement when the board is going to be going into executive session, that they are actually in public session before they go into executive session, and that there is a disclosure of the potential items that were either discussed subsequently or that will be discussed going into executive session.

So we are merely trying to ensure that the Gaming Board is acting under the same provisions as every other State agency which has the benefit of consultations in executive session.

Mr. VEREB. Thank you, Mr. Speaker.

If I may comment on the amendment, please.

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

Mr. VEREB. Mr. Speaker, I thank you for the opportunity.

I certainly rise in support of this amendment and certainly, contrasted to earlier comments of PENNDOT and other departments, obviously, this is a unique situation. The Gaming Board has control of a lot of revenue that comes into our casinos. We certainly hope that full disclosure by the board makes for better trust in our Commonwealth.

Thank you, Mr. Speaker.

The SPEAKER. Representative Mundy, on the amendment.

Ms. MUNDY. Thank you, Mr. Speaker.

May I interrogate the gentleman?

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

Ms. MUNDY. I have tried to follow the debate and the questioning so far, but I need to be clear: Can you tell me, yes or no, whether documentation filed, applications filed for a gaming license, would those applications be subject to the open records law as a result of your amendment? Yes or no?

Mr. REICHLEY. Mr. Speaker, with all due respect to the gentlelady, I believe the focus of her question, the impact of her question, would be targeted at A04804-B, not subsection (a). I am looking at the first 12 lines of the amendment which are directed at the Gaming Board, ensuring that their procedures and policies are disclosed to the general public. This is not getting into the applicant licensing information. This more goes to the board itself, under this amendment from lines 1 through 12.

Ms. MUNDY. However, Mr. Speaker, I am looking at language that says, "...including, but not limited to, any documents or other materials prepared for the use of the board, its employees or independent contractors,..."

Now, again, I need to be clear: Are we making retroactive applications filed under existing law with the Gaming Board to be considered for licensure?

Mr. REICHLEY. Again, Mr. Speaker, I believe the lady's comments may be more pertinent to the lower portion of the amendment. As you will read, the last two lines of the amendment would potentially contemplate a repealer of Title 4, section 1206(f), which provides extensive confidentiality to applicant information. We are not dealing with that portion, and because we are not dealing with that portion, the confidentiality provisions of the gaming law remain intact. So some of the information you are referring to within your question, Mr. Speaker, would still retain that aura of confidentiality.

The first 12 lines of the amendment that I am requesting consideration of the House are focused to the board itself, and understanding the line she has referred to, that is overcome, or superseded, by the current provisions of the Gaming Act, which still provide the confidentiality regarding that information under current law.

Ms. MUNDY. Mr. Speaker, I have concluded my interrogation. May I comment on the amendment?

The SPEAKER. The lady is in order on the amendment and may proceed.

Ms. MUNDY. Thank you, Mr. Speaker.

I can only read what is in the language of the amendment and what is before me, and I believe that if what the gentleman is saying is his interpretation, that is certainly an ambiguity in the language that he has put before us.

I cannot support an amendment that perhaps puts in jeopardy proprietary information that was filed in good faith with the

Gaming Board under current law and now risks that proprietary information and that business information being made public. If you want to make all of these documents public prospectively, I can certainly support that, but these documents were filed under the gaming law as it existed then, and it should not be subject to disclosure at this point in time.

So, Mr. Speaker, I would ask that we defeat this section of the Reichley amendment.

The SPEAKER. Is there anyone seeking recognition before the Chair recognizes the prime sponsor of the amendment for the second time?

Representative Reichley.

Mr. REICHLEY. Thank you, Mr. Speaker.

With all due respect to the gentledady who just spoke, I would refer her and the staff to section 1206, subsection (f), of the Gaming Act, which states, "All information...submitted by an applicant pursuant to section 1310(a) (relating to slot machine...application character requirements)...or obtained by the board...as part of a background investigation from any source shall be considered confidential." It goes exactly to the point she was just raising, and amendment A04804-A does not impact this one bit. It does not repeal 1206(f). They are two separate and apart matters. The lady's comments would be more accurately on point if we were considering the second half of this amendment from lines 13 to 20, but we are not. We are getting to the actions of the Gaming Board.

Most recently we heard information from the Gaming Board which revolved around private conversations over matters which should have been a matter of public disclosure. These go towards the diversity hiring requirements the Gaming Board was emphasizing, which go, naturally, to the issues of race, gender, also sexual orientation, health status, marital status, and that is all well and good. The amendment does not affect what the Gaming Board is identifying as diversity characteristics. It is just saying, just tell us what they are and make sure it is a matter of public record. They are fully empowered to determine what those diversity characteristics are. Again, just tell us what they are.

There is nothing within this portion of the amendment – and I do not intend to go towards the second part of the amendment – but there is nothing in this part of the amendment which will impact the nature of the information submitted by the gaming license applicants. So I would ask the members of the Assembly, please, do not get caught up in the emotion. I understand that there are times when we all get into the, as the gentleman from Greene says, the "hurly-burly," and we regard ourselves as somewhat like the British parliamentary system, but if you take a look at the plain language of the first 12 lines of this amendment, it does not even get close to what the gentledady just implied it does.

I would ask the members to act with due discretion and make sure the Gaming Board is treated under this open records act like every other State agency. Please vote "yes" on this amendment A04804-A.

Thank you.

On the question recurring,

Will the House agree to part A of the amendment?

The following roll call was recorded:

YEAS—186

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

NAYS—16

Curry	Levdansky	Santoni	Staback
Eachus	Mundy	Shimkus	Wansacz
George	Pashinski	Smith, K.	White
Leach	Sainato	Solobay	Yudichak

NOT VOTING—0

EXCUSED—1

DeLuca

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

On the question recurring,

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



PART B OF AMENDMENT WITHDRAWN

The SPEAKER. Does the gentleman, Representative Reichley, wish to offer any other amendments?

Mr. REICHLEY. I would like to withdraw 4804-B, the second half of what the previous amendment had been, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

Does the gentleman have any other amendments he wishes to offer?

Mr. REICHLEY. No, Mr. Speaker. Thank you.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

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

Mr. TURZAI offered the following amendment No. **A04717**:

Amend Bill, page 46, by inserting between lines 8 and 9

CHAPTER 19

PUBLIC OFFICIALS

Section 1901. Disclosure of affiliation.

(a) Scope.—This section applies to:

(1) an individual who is elected or appointed to an office of the Commonwealth; and

(2) the spouse of an individual under paragraph (1).

(b) Requirement.—Annually, each individual subject to subsection (a) shall submit to the clearinghouse for Internet website publication under section 1310(a)(7) disclosure as to a business relationship between a Commonwealth agency and:

(1) the individual;

(2) a partnership in which the individual is a partner;

(3) an association in which the individual is an officer or a director;

(4) a corporation in which the individual is an officer or a director; or

(5) a corporation in which the individual has an equity interest of at least 5%.

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Turzai on the amendment.

Mr. TURZAI. Thank you, Mr. Speaker.

I do apologize. I have a bit of a scratchy voice today.

Amendment 4717 requires notice with respect to contractual relationships between elected or appointed officials and their spouses and the State.

As for the record, 4718 will be withdrawn, which would have provided a prohibition to that effect, and we will only be running 4717, which requires notice.

Thank you very much.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—202

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

NAYS—0

NOT VOTING—0

EXCUSED—1

DeLuca

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 second consideration as amended?

Mr. **MAHER** offered the following amendment No. **A04724**:

Amend Sec. 1302, page 36, line 17, by inserting after "located" or may bring an action in the local magisterial district

Amend Sec. 1302, page 36, line 18, by striking out "the court" and inserting  
a court of common pleas

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

The **SPEAKER**. The Chair recognizes Representative Maher on the amendment.

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

This amendment replicates one that was embraced with an overwhelming majority in our prior open records bill to allow individuals the ease of access for appeals to their local magisterial courts.

The **SPEAKER**. For what purpose does the gentleman, Representative Maher, rise?

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

In terms of the order of consideration, I understood that we would be considering amendment 4730 prior to this one.

The **SPEAKER**. The Chair is taking the amendments in the order that they are listed unless it is requested otherwise.

#### AMENDMENT PASSED OVER TEMPORARILY

Mr. **MAHER**. May I ask that this amendment be temporarily over so that we can consider A4730, and hopefully then just have one amendment rather than two?

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

Mr. **MAHER** offered the following amendment No. **A04730**:

Amend Sec. 1101, page 33, line 9, by striking out "If" and inserting

Except as provided under subsection (a.1), if

Amend Sec. 1101, page 33, line 19, by inserting after "agency" where it appears the second time

under subsection (a.1)

Amend Sec. 1101, page 33, by inserting between lines 20 and 21

(a.1) Appeal.—If a written request for access to a public record of a local agency is denied or deemed denied, the requester may file an appeal with the clearinghouse, as provided under subsection (a), or file a petition for review or other document as required by rule of court with the court of common pleas for the county where the local agency is located or bring an action in the local magisterial district.

Amend Sec. 1303, page 36, line 27, by inserting after "1302"

, or actions commenced in the court of common pleas in accordance with section 1101(a.1),

Amend Sec. 1303, page 37, lines 1 through 3, by striking out "the appeal filed" in line 1, and all of lines 2 and 3 and inserting  
and, if an appeal was filed under section 1101(a),  
the appeal, the hearing transcript, if any, and the final written determination of the appeals officer.

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

The **SPEAKER**. The Chair recognizes Representative Maher on the amendment.

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

This amendment is slightly divergent from the other in that it allows individuals who are not happy with the local government response to a request for open records to choose which path of appeal is most convenient and affordable to them, whether it be through this clearinghouse, through their local magistrate, or through the local common pleas court. So this empowers individuals and is very much in accord with what was adopted by this House just weeks ago.

The **SPEAKER**. The Chair recognizes Representative Vitali on the amendment. The gentleman waives off.

Representative Shapiro, on the amendment.

Mr. **SHAPIRO**. Thank you, Mr. Speaker.

I rise to oppose this amendment.

This amendment is not an empowering amendment, as the previous speaker said. This House voted in a very close vote. There were many members to oppose this amendment when we considered HB 443. And in sum, I cited during my comments on the floor when a similar amendment was considered on the last bill at least two State Supreme Court cases – and there were other cases as well – that made it clear that the Supreme Court did not want open records disputes being settled by these magisterial district judges.

So I would ask the members to vote against this amendment. I do not think it accomplishes the goal of empowering individuals, and it is clearly a step in the direction away from where the Pennsylvania Supreme Court would like us to go as it relates to the Right-to-Know Law.

Thank you, Mr. Speaker.

The **SPEAKER**. Representative Kula.

Mrs. **KULA**. Mr. Speaker, as a former district judge, I would ask for a vote against this amendment.

I believe the district judges had the authority at one time to do that, to handle open record issues, and then it was looked at and decided, because of the complexity at times, that it was not that the district judges could not handle those situations, but there just needed to be more training and more documentation needed for them to be able to do opinions and orders. And this is something that was decided, and I think that is in the best interest, to not have district judges hear these types of cases.

Thank you, Mr. Speaker.

The **SPEAKER**. Will the House agree to the amendment?

Is there any member seeking recognition before the Chair recognizes the maker of the amendment for the second time?

Representative Maher.

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

And I thank the gentleman from Montgomery for refreshing our collective memory that the Supreme Court did, in fact, object to our existing laws provision that magisterial judges could decide cases and would require a written reasoned opinion. The court observed that only the court can establish procedures, and because we were commanding a written opinion, that we had overstepped our authority as a legislature, much as was just done in the Mahoney amendment with respect to how the courts will administer appeals dealing with the courts. What the court did not do is the court did not object to the magistrates hearing these cases per se.

Now, we have often heard and read, over the last 6 months or so, a reference to a study that purported to show that Pennsylvania's open records law was 48th in the nation. Now, I have a copy of that study in my hand and every one of you can call it up on the Internet, and the reason I am referring to it now is because one of the key factors for that evaluation, and it provides you a scoring matrix – and by the way, I will back up and mention that the 48 score for Pennsylvania came before our current law came into effect. Using these same criteria with our current law, we would be in the top 10 in the nation. But the key questions – yes, I do not know why that has not really hit Mr. Mahoney's talking points until now – but some of the key issues are response time, multiple avenues of appeal, expedited processes, and the attorney's fees and costs associated with accomplishing a request or an appeal.

Now, the current law provides common pleas court and administrative appeals. This amendment restores the ability for an individual to seek those avenues. If you are for allowing folks to deal with local questions locally and are using the people's court, and I have to believe – I have got great faith in our magistrate judges – I believe magistrates are smart enough to sort out if something is a public record or not, and I believe that that is a very, very straightforward, zero-cost, except for a filing fee, avenue for individuals to follow.

Now, on the other hand, you might decide you want to put everybody in the pipeline of this new bureaucracy to be created here in Harrisburg, and I suggest to you that the average person will find the notion that they have got to stand in line and put their requests in one end of a funnel to fill out all the appropriate forms and sooner or later appear for a hearing – it is not being very friendly to our constituents.

The SPEAKER. Will the House agree to the amendment?

Mr. MAHER. Excuse me, Mr. Speaker. I was just recovering my voice.

So again, I would say vote in favor of your constituents. Let them have the easy, inexpensive avenues to justice, and support the amendment.

Thank you, Mr. Speaker.

The SPEAKER. Representative Longietti.

Mr. LONGIETTI. Thank you, Mr. Speaker.

Mr. Speaker, I rise and urge a "no" vote on the amendment.

As an attorney who has litigated a number of open records cases, this would be, I think, the only case where a local agency decision could be appealed to a district justice, as opposed to the court of common pleas. District justice offices are good places to appeal certain things like a traffic ticket or a small claim, but I think in the case of open records, the issue has become very complex. They require a great deal of evidence, at times, and testimony, and we are liable to get a hodgepodge of decisions, as opposed to uniformity, by offering this additional forum for people to appeal. So I think this would be the only case where a local agency decision would go to a district justice, and I think it is a bad idea, and I would ask my colleagues to vote "no" on this amendment.

Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

## YEAS—100

Adolph	Fleck	Marsico	Rapp
Argall	Gabig	McIlhattan	Raymond
Baker	Geist	Mensch	Readshaw
Barrar	Gillespie	Metcalfe	Reed
Bastian	Gingrich	Micozzie	Reichley
Bear	Godshall	Millard	Roae
Benninghoff	Harhart	Miller	Rock
Beyer	Harper	Milne	Rohrer
Boback	Harris	Moul	Ross
Boyd	Helm	Moyer	Rublely
Brooks	Hennessey	Murt	Saylor
Cappelli	Hershey	Mustio	Scavello
Carroll	Hess	Nailor	Schroder
Causar	Hickernell	Nickol	Smith, S.
Civera	Hutchinson	O'Neill	Sonney
Cox	Kauffman	Payne	Stairs
Creighton	Keller, M.	Peifer	Stern
Cutler	Kenney	Perry	Stevenson
Dally	Killion	Petzel	Swanger
Denlinger	Kotik	Petri	Tangretti
DiGirolamo	Mackereth	Petrone	Taylor, J.
Ellis	Maher	Phillips	True
Evans, J.	Major	Pickett	Turzai
Everett	Mantz	Pyle	Vereb
Fairchild	Marshall	Quigley	Vulakovich

## NAYS—102

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

## NOT VOTING—0

## EXCUSED—1

DeLuca

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

On the question recurring,

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

The SPEAKER. Does the gentleman wish to offer any other amendments? Does the gentleman, Representative Maher, wish to offer any other amendments?

Mr. MAHER. Thank you, Mr. Speaker.

There are a couple other amendments, and I suppose we could start with amendment 4727.

On the question recurring,

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

Mr. MAHER offered the following amendment No. A04727:

Amend Sec. 102, page 9, line 3, by inserting after "a" legal

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Maher on the amendment.

Mr. MAHER. I am not actually seeking recognition, Mr. Speaker, but if you would like me to offer a brief explanation, I would be happy to do so.

The SPEAKER. The Chair would ask the gentleman to offer that brief explanation.

Mr. MAHER. Thank you, Mr. Speaker.

The bill as it currently stands says a requester could be any resident of the United States. This simply provides that a requester, who will be seeking any remedies, would need to be a legal resident of the United States.

Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment?

(Members proceeded to vote.)

The SPEAKER. For what purpose does the gentleman, Representative Wheatley, rise?

Mr. WHEATLEY. I want to go "yea" on this one.

The SPEAKER. The gentleman's remark will be spread upon the record.

The gentleman's switch is operable.

The following roll call was recorded:

YEAS—202

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

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

NAYS—0

NOT VOTING—0

EXCUSED—1

DeLuca

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 second consideration as amended?

The SPEAKER. Does Representative Maher wish to offer an additional amendment?

Mr. MAHER. Yes, Mr. Speaker.

I would like to offer amendment A4725; excuse me, A4726; I am sorry.

On the question recurring,

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

Mr. MAHER offered the following amendment No. A04726:

Amend Sec. 102, page 9, line 9, by inserting after "a" legal

Amend Sec. 102, page 9, line 10, by inserting after "States" or a legal entity

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

The SPEAKER. The Chair recognizes Representative Maher on the amendment.

Mr. MAHER. Thank you, Mr. Speaker.

This is virtually a technical amendment that recognizes that many requests for records are not on behalf of an individual, but on behalf of an entity such as a newspaper, a television station, television news, et cetera, et cetera, et cetera, and permits requests from legal entities.

The SPEAKER. Representative Samuelson.

Mr. SAMUELSON. Thank you, Mr. Speaker.

I am looking at the amendment on the computer screen, and it does not seem to match up with the bill. Can you direct us to which section of the bill you are amending? Page 9, line 9, is about a different subject.

The SPEAKER. Would the gentleman, Representative Maher, clarify. The Chair understood he was offering amendment A04726. He started to say 725, but the Chair understood he wanted to offer 726. Is that correct?

AMENDMENT PASSED OVER TEMPORARILY

Mr. MAHER. That is correct, Mr. Speaker, and I am afraid I misunderstood the question.

This essentially would amend by— Perhaps it would be simpler if I went over 726 and we went with 725; maybe that would be easier to understand. Could we do that, Mr. Speaker? Could we go over 726—

On the question recurring,

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

Mr. MAHER offered the following amendment No. **A04725**:

Amend Sec. 102, page 9, line 10, by inserting after "States" or a legal entity

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

The SPEAKER. The Chair recognizes Representative Maher for a brief explanation.

Mr. MAHER. Thank you, Mr. Speaker.

This amends the definition of who can request a record to provide that legal entities, such as newspapers, television news stations, et cetera, et cetera, can make a request. It does not need to be an individual. It does not need to be a resident per se. It can be a legal entity.

The SPEAKER. Does Representative Samuelson seek recognition?

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

The following roll call was recorded:

YEAS—202

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

NAYS—0

NOT VOTING—0

EXCUSED—1

DeLuca

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 second consideration as amended?

The SPEAKER. Does the gentleman, Mr. Maher, have another amendment he wishes to offer?

Mr. MAHER. Yes, Mr. Speaker. Amendment A4728.

On the question recurring,

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

Mr. MAHER offered the following amendment No. **A04728:**

Amend Sec. 506, page 15, lines 7 through 14, by striking out all of lines 7 through 13, "(b)" in line 14 and inserting

(a)

Amend Sec. 506, page 15, line 26, by striking out "(c)" and inserting

(b)

Amend Sec. 506, page 16, line 8, by striking out "(d)" and inserting

(c)

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Maher for an explanation on the amendment.

Mr. MAHER. Thank you, Mr. Speaker.

For an explanation of the bill, this simply eliminates the provision of the bill which would allow an agency to deny a request based upon the requester making repeated requests and the notion of it being an unreasonable burden on the agency. So it would eliminate that provision.

The SPEAKER. Representative Vitali.

Mr. VITALI. Thank you, Mr. Speaker.

Will the maker of the amendment stand for brief interrogation?

The SPEAKER. The gentleman indicates that he will. The gentleman is in order and may proceed with his interrogation.

Mr. MAHER. I thought you would never ask.

Mr. VITALI. I am just wondering if any of the associations – the county, anyone – has weighed in on this; the county council, supervisors, any groups who might be affected by this, have expressed an opinion one way or the other?

Mr. MAHER. Mr. Speaker, I am working from recollection of the earlier evolutions of this legislation. I do not know of any group that has expressed an opinion on this amendment per se, but similar amendments, in earlier versions, have been supported, as I understand it, by Common Cause, by the Newspaper Association, but as to whether or not this one, specifically, has been addressed by anyone, I do not know.

Mr. VITALI. You see, I am concerned not so much about Common Cause but more the groups who would actually have to be providing, who would have to deal with these so-called unreasonable or burdensome requests, the county commissioners or groups like that. Do you know if they have weighed in on this particular amendment or any other similar language along the way?

Mr. MAHER. I do not know if such groups have; I do know that, in my mind, paying 10 cents or 25 cents a page for most folks in my legislative district, if they wanted to place an undue burden on a government asking for 100,000 pages or something or another, that it gets to be a pretty expensive proposition, even

at those modest costs. So my mind is that the checks and balances here are that the reasonable costs of providing the records serves very much as a balance against completely absurd requests, and that we need not allow for arbitrary decisions about what is a burden.

Mr. VITALI. Could you, again, I am just— A lot of amendments here, and your amendment really deletes language, so it is not obvious from when you just read it what specific language is being deleted. Could you just spell out the exact words that are being deleted here?

Mr. MAHER. I would require a couple minutes to go obtain a copy of the bill from my desk and find the appropriate page number and so forth, but, you know, certainly you could do it in the same time as I can do it. The gist of it, though, without giving the exact words, is the words that are being deleted are the words which provide that an agency can deny a requester access to a record if the requester has made repeated requests and the requests have created an unreasonable burden on the agency.

Mr. VITALI. Okay.

Mr. MAHER. And it strikes me that it is just too easy that if somebody says, gee, I would like to look at January's expenses and then they come and they say I want to look at February's expenses and then they come in and they go, I want to look at March's expenses, it would be too easy, the way this is written, for someone to say, you know what? You asked for these sorts of things repeatedly, and it is an unreasonable burden; go away. I do not want to provide that limitation on access. I think most people who would make it a hobby to just be a pest would discover that over time that, if they want to spend their hard-earned money on photocopies at local governments, that that is a hobby that can get relatively expensive relatively quickly, and that that provides a sufficient safeguard to the public good.

Mr. VITALI. Thank you.

That concludes my interrogation, Mr. Speaker.

The SPEAKER. The Chair recognizes Representative McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, I would ask that the members oppose the amendment.

And in reading the language that the gentleman is trying to strike – the gentleman, Mr. Vitali, asked for the language, and I will read it into the record – and this is under "disruptive requests": "An agency may deny a requester access to a record if the requester has made repeated...." and I will repeat that, "...repeated requests for that same record" – repeated requests for that same record – "which requests have placed an unreasonable burden on the agency.

"A denial under this subsection shall not restrict the ability to request a different record."

Mr. Speaker, I think the language in the bill is reasonable language. It is a useful tool in the open records act, and I think we should be protecting local governments as well as other State agencies and government agencies, for repeated requests for the same record.

This language certainly adds balance in the law. It can be very costly for the same record to be requested over and over and over again. And finally, we allow for arbitration; if the person feels aggrieved after he has repeatedly requested the same record, he can go to an arbitrator and let the arbitrator decide it.

I think this is a very poor amendment, and I would ask that we defeat it.

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

The following roll call was recorded:

## YEAS—97

Adolph	Fleck	Marshall	Rapp
Argall	Gabig	Marsico	Raymond
Baker	Geist	McIlhattan	Reed
Barrar	Gillespie	Mensch	Reichley
Bastian	Gingrich	Metcalfe	Roae
Bear	Godshall	Micozzie	Rock
Benninghoff	Grell	Millard	Rohrer
Beyer	Harhart	Miller	Ross
Boback	Harper	Milne	Rubley
Boyd	Harris	Moul	Saylor
Brooks	Helm	Moyer	Scavello
Cappelli	Hennessey	Murt	Schroder
Causar	Hershey	Mustio	Smith, S.
Civera	Hess	Nailor	Sonney
Clymer	Hickernell	Nickol	Stairs
Cox	Hutchinson	Payne	Stern
Creighton	Kauffman	Peifer	Stevenson
Cutler	Keller, M.	Perry	Swanger
Dally	Kenney	Perzel	Taylor, J.
Denlinger	Killion	Petri	True
DiGirolamo	Mackereth	Phillips	Turzai
Ellis	Maher	Pickett	Verb
Evans, J.	Major	Pyle	Vulakovich
Everett	Mantz	Quigley	Watson
Fairchild			

## NAYS—105

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

## NOT VOTING—0

## EXCUSED—1

DeLuca

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

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

The SPEAKER. Does Representative Maher have any other amendments?

Mr. MAHER. Mr. Speaker, I would like to ask that we be temporarily over A4729 in anticipation of the gentelady, Ms. Pickett's amendment A04742. I am not suggesting you skip ahead in the order, but I would like to be over my amendment, assuming that hers will be embraced.

## AMENDMENT A04724 WITHDRAWN

The SPEAKER. Is the gentleman withdrawing A04724? I believe that is the only other outstanding amendment the gentleman has?

Mr. MAHER. That is correct, sir.

The SPEAKER. You are withdrawing that?

Mr. MAHER. Yes.

The SPEAKER. The Chair thanks the gentleman.

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

Mr. ROAE offered the following amendment No. A04731:

Amend Sec. 708, page 29, line 7, by striking out all of said line and inserting

(26) (i) A proposal pertaining to agency procurement or

Amend Sec. 708, page 29, by inserting between lines 15 and 16

(ii) (A) This paragraph does not apply to records or other information created or provided by a consultant or other person under contract with an agency and received or retained by the agency or any other person.

(B) If a requester submits a request for a public record, legislative record or financial record relating to information created or provided by a consultant or other person under contract with an agency, and no public record, legislative record or financial record of the information exists, the agency shall create a record by obtaining testimony under oath from the consultant or other person and creating a transcript therefrom.

(C) The testimony shall include information regarding the nature of the work performed under the contract, the specific tasks required by the agency under the contract, the specific tasks performed by the consultant or other person under the contract, any research or findings conducted or issued by the consultant or other person and any recommendations made by the consultant or other person to the agency.

(D) The length or time for the consultant's or other person's testimony shall be based on the value of the contract, at a ratio of 25 minutes of oral testimony for each \$25,000 increment of the contract value.

(E) The transcript shall be considered a public record, legislative record or financial record of the agency and shall be provided to the requester, in accordance with this act, and retained by the agency, in accordance with applicable record retention schedules.

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

#### AMENDMENT WITHDRAWN

The SPEAKER. The Chair recognizes Representative Roae on the amendment.

Mr. ROAE. Thank you, Mr. Speaker.

I stand to offer amendment A4731. My amendment would ensure that consulting work is public record. However, I have a better amendment, which is number 4732. With your permission, Mr. Speaker, I would like to withdraw 4731 and run 4732.

The SPEAKER. The Chair thanks the gentleman.

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

Mr. ROAE offered the following amendment No. **A04732**:

Amend Sec. 708, page 29, line 7, by striking out all of said line and inserting

(26) (i) A proposal pertaining to agency procurement or

Amend Sec. 708, page 29, by inserting between lines 15 and 16

(ii) (A) This paragraph does not apply to records or other information created or provided by a consultant or other person under contract with an agency and received or retained by the agency or any other person.

(B) If a requester submits a request for a public record, legislative record or financial record relating to information created or provided by a consultant or other person under contract with an agency, and no public record, legislative record or financial record of the information exists, the agency shall create a record by obtaining testimony under oath from the consultant or other person and creating a transcript therefrom.

(C) The testimony shall include information in ample detail, which is proportional to the total cost of the contract, regarding the nature of the work performed under the contract, the specific tasks required by the agency under the contract, the specific tasks performed by the consultant or other person under the contract, any research or findings conducted or issued by the consultant or other person and any recommendations made by the consultant or other person to the agency.

(D) The transcript shall be considered a public record, legislative record or financial record of the agency and shall be provided to the requester, in accordance with this act, and retained by the agency, in accordance with applicable record retention schedules.

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

The SPEAKER. The Chair recognizes the gentleman for a brief explanation on the amendment.

Mr. ROAE. Thank you, Mr. Speaker.

My amendment is rather simple. My amendment just ensures that when public tax money is used to pay for consulting work that the government is engaged in, that the public has the right to know what is in the consulting work. If taxpayers are paying for it, we should be able to see it. Sometimes what happens is a consultant report is done orally. There is nothing in writing, nothing in e-mail, no type of document. My amendment would require that if there is consulting work done and there is no written documentation, that the consultant would have to give a statement under oath to satisfy a public record request so that the taxpayer can know how the tax money is being spent.

#### AMENDMENT PASSED OVER TEMPORARILY

The SPEAKER. This amendment will go over temporarily.

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

Mr. MANTZ offered the following amendment No. **A04735**:

Amend Sec. 708, page 30, by inserting between lines 9 and 10  
(29) Draft minutes of any meeting of an agency.

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

#### AMENDMENT WITHDRAWN

The SPEAKER. The Chair recognizes Representative Mantz on the amendment.

Mr. MANTZ. Thank you, Mr. Speaker.

Mr. Speaker, inasmuch as my colleague, Representative Mahoney, has incorporated my amendment into his bill, I withdraw that particular amendment.

The SPEAKER. The Chair thanks the gentleman.

Amendment A04735 is withdrawn.

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

The SPEAKER. Does the gentleman wish to offer amendment A04736?

Mr. MANTZ. I was speaking, Mr. Speaker, with respect to 4735. Amendment 4736, I believe, is Representative Benninghoff's amendment.

The SPEAKER. I have it listed under your name.

Does the gentleman have another amendment?

Mr. MANTZ. Yes, Mr. Speaker. That was put accidentally in my name, Mr. Speaker.

The SPEAKER. Does the gentleman have another amendment he wishes to offer?



Mr. MANTZ. Yes. I had 4735, which I likewise withdraw inasmuch as Representative Mahoney has incorporated that in his amendment as well.

The SPEAKER. How about 4734?

Mr. MANTZ. I spoke to that originally, Mr. Speaker. I withdraw that amendment also because it has been incorporated in the Mahoney amendment.

The SPEAKER. The Chair thanks the gentleman.

Does Representative Benninghoff wish to offer amendment A04736? The gentleman withdraws that.

Does the gentleman wish to offer amendment A04737? The gentleman withdraws that.

On the question recurring,

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

Ms. **HARPER** offered the following amendment No. **A04738**:

Amend Sec. 502, page 13, lines 4 through 8, by striking out all of said lines

On the question,

Will the House agree to the amendment?

#### AMENDMENT WITHDRAWN

The SPEAKER. The Chair recognizes the lady, Representative Harper, on the amendment.

Ms. HARPER. Thank you, Mr. Speaker.

If you could just give me a second to take a look at 4738, I believe I am going to withdraw that one because I think—

The SPEAKER. The Chair would be most happy to take a moment.

Ms. HARPER. I think it was handled in the Mahoney amendment; just a second.

All right. Thank you, Mr. Speaker. I can withdraw 4738. It is no longer necessary.

On the question recurring,

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

The SPEAKER. Does the lady wish to offer amendment A04739?

Ms. HARPER. I do, Mr. Speaker.

On the question recurring,

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

Ms. **HARPER** offered the following amendment No. **A04739**:

Amend Sec. 708, page 25, line 3, by inserting after "body"  
at a meeting subject to 65 Pa.C.S. Ch. 7 (relating to open meetings)

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Harper on the amendment.

Ms. HARPER. Thank you very much, Mr. Speaker.

Amendment 4739 is in the nature of a technical amendment to bring the records requests in line with the sunshine law. It has been requested by the county commissioners, the township supervisors, and the School Boards Association to make it easier to administer the law at the local level.

I would ask my colleagues to please support the amendment.

Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

#### YEAS—202

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

NAYS—0

NOT VOTING-0

EXCUSED-1

DeLuca

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 second consideration as amended?

Ms. PICKETT offered the following amendment No. A04742:

Amend Sec. 1307, page 38, line 23, by striking out "and local agencies"

Amend Sec. 1307, page 38, line 24, by striking out "and"

Amend Sec. 1307, page 38, line 25, by removing the period after "agency" and inserting ; and

(iv) by each local agency.

Amend Sec. 1307, page 38, line 30, by removing the period after "differences" and inserting

and shall be subject to review by the clearinghouse as provided in section 1310(a)(8).

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Pickett on the amendment.

Ms. PICKETT. Thank you, Mr. Speaker.

Amendment 4742 would allow the local agencies to retain their authority, the authority that they now have under the current Right-to-Know Law, to determine the fees they charge for duplication, printing, mailing, and certifying public records.

Under SB 1 as it is currently written, the clearinghouse in Harrisburg would set all of the fees for all local agencies, those agencies from Philadelphia to Forest County to Sullivan County.

Local agencies have set their own public record fees, historically, with virtually no dispute over the rates they charge or the reasonableness of the fee structure.

Under my amendment, fees would continue to be set locally, but they would remain subject to the limitations of the statute and would be periodically reviewed by the clearinghouse for conformity with the statute. I believe that this arrangement would encourage local entities to be diligent in the development of their fee structures, while providing some checks and balances when they are not.

This amendment is supported by the County Commissioners Association, the Pennsylvania State Association of Township Supervisors, and the Pennsylvania School Boards Association.

I urge a "yes" vote on this amendment. Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS-202

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

NAYS-0

NOT VOTING-0

EXCUSED-1

DeLuca

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 second consideration as amended?

Mr. **GABIG** offered the following amendment No. **A04743**:

Amend Sec. 708, page 24, line 7, by removing the period after "AWARD" and inserting  
or any written, recorded or other memorialized offers or proposed terms of contract settlements during the period of formal negotiation prior to the expiration of an existing contract to which a public school district is a party and which are in the possession of the public school district for more than 14 calendar days.

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

#### AMENDMENT WITHDRAWN

The **SPEAKER**. The Chair recognizes Representative Gabig on the amendment.

Mr. **GABIG**. Mr. Speaker, I have another amendment, and so I would like to withdraw this one, and I do not know if I have to wait or if I can go to 4934, 4934.

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

Mr. **GABIG** offered the following amendment No. **A04934**:

Amend Sec. 708, page 24, by inserting between lines 7 and 8  
(iii) This paragraph does not apply to any written, recorded or other memorialized offers or proposed terms of contract settlements during the period of formal negotiation prior to the expiration of an existing contract to which a public school district is a party and which are in the possession of the public school district for more than 14 calendar days, unless the board of school directors of the school district, by a majority vote of the members at an open meeting under 65 Pa.C.S. Ch. 7 (relating to open meetings), adopts a resolution to prohibit public access to the records described in this subparagraph. Nothing in this subparagraph shall be construed to require collective bargaining between a public school district and its employees to be conducted at an open meeting under 65 Pa.C.S. Ch. 7.

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

The **SPEAKER**. The Chair recognizes Representative Gabig on the amendment.

Mr. **GABIG**. Thank you, Mr. Speaker.

I would ask my colleagues to support me in this amendment.

The prior amendment was one I had on HB 443. It was more controversial and was opposed by some people. I have responded to their concerns, and what is left here is a local option. So I have watered it down to all that is left here is a local option, and that was the main concern. So it gives you open records but with a local option. So I would ask my colleagues to support this. It is not opposed by the maker of the bill; my prior amendment was, and I withdrew it to be nice. I hope everybody can support this.

Thanks.

The **SPEAKER**. Was the gentleman's amendment A04934 or 4734?

Mr. **GABIG**. My prior amendment that I withdrew was 4743—

The **SPEAKER**. No; the amendment that the gentleman wishes to offer.

Mr. **GABIG**. The number I have is 4934, which is, I think, what is up on the board. That is what I have.

Mr. **DeWEESE**. Mr. Speaker?

The **SPEAKER**. For what purpose does the gentleman, Representative DeWeese, rise?

Mr. **DeWEESE**. To make a comment on the proposal.

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

Mr. **DeWEESE**. By virtue of the fact that staff informs me that this amendment would interfere with collective bargaining and collective-bargaining agreements, I would ask for a negative vote on the Gabig amendment.

The **SPEAKER**. Representative Vitali.

Mr. **VITALI**. Thank you, Mr. Speaker.

Will the maker of the amendment stand for brief interrogation?

The **SPEAKER**. The gentleman indicates that he will. The gentleman is in order and may proceed with his interrogation.

Mr. **VITALI**. I did not quite get a handle on the amendment based on what you said so far. Could you kind of lay it out and talk about the option, who has the option. Just basically lay out what this does from the outset.

Mr. **GABIG**. Yes, as the gentleman might recall, Mr. Speaker, my prior amendment, which he interrogated me on, opened up certain records at school boards, and the complaint from many people – that went down – was this is a local school board, and I think that is what the gentleman, Mr. DeWeese, just said, local issue. So I redrafted it. I do not agree with that. I think open records should be open records, but, you know, I am only 1 of 203 here. And so in deference to the majority will, I redrafted this, which is now 4934, so that the school board would make the decision. So it is a local decision now. It is up to the school board. They can release these records or not, depending on their decision, the local school board.

Mr. **VITALI**. So in the course of negotiating a contract with teachers unions, the school board would have the option to release offers it has made to teachers unions? Is that it?

Mr. **GABIG**. That is not quite accurate. It is during a limited period of time, what is called the formal negotiation period. During the informal negotiation period, the early-bird period, there can be as many discussions or not, as many offers or not, as many public records or not, and those are still exempted under the law, and then after formal negotiation, there is what is called fact-finding, and fact-finding would still be exempted under the law. So this only applies to that period of time which is called formal negotiation, and any of those documents, those public documents which are in the possession of the local school board, it would be up to their option whether or not they wanted to release this to their public in their school district, and they would make that decision under the current version. I do not know if that responds to the gentleman's question, Mr. Speaker.

Mr. **VITALI**. Someone just came up to me in the course of your speaking— They would, in other words, they would have to, as I think I understood, vote not to release it, this information, or it otherwise, by inaction, would be released? Is that how your amendment would make it work?

Mr. **GABIG**. It is the school board, each local school board would make that decision. It would be up to each school board.

So some school boards would make that decision and others would not, depending on local control. So this combines local control of the local school boards with what is the intent of the overall SB 1 and the Mahoney amendment and the other amendments, which is to have the public have access to these documents—

Mr. VITALI. No, no, no; I just want to keep you on track here. I just want to focus in on how the option is exercised, and if you would keep your answer just to that point. Am I correct in saying that the school board's offer during this time period you described would become a matter of public record unless they, by the appropriate votes, said it would not? Just deal with that issue, if you could.

Mr. GABIG. That is correct.

Mr. VITALI. Okay. Has the School Boards Association or any groups representing school boards taken a position on this?

Mr. GABIG. Well, as I honestly and openly said before, since my amendment was defeated – they opposed my prior amendment – and the reason that they did it, and you can check your e-mail, is because they think this should be in the control of the local school board. That was their main objection. This is a local issue, and so that is what this amendment does. I personally do not agree with it; I think it should be open. That is why I had my prior amendment, but—

Mr. VITALI. Again, in all due respect, I am asking really about this amendment, whether they have taken a position on this amendment.

The SPEAKER. The Chair will ask the gentlemen to remember to ask a question and wait for the responder to answer the question and not speak over each other.

Mr. GABIG. Not that I am aware of, and in fact, I think I have responded directly to their concern, and I would also say that I have spoken to the maker of our amendment, Mr. Mahoney, who has no opposition to this very, quite frankly, watered-down version of my original one. This will give access, open records, to people if their school board votes on it. So I would hope the gentleman, who I know has always been for open records—

### POINT OF ORDER

Mr. VITALI. Point of order. Point of order. I do not know what to do here, Mr. Speaker. Point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. VITALI. I think I am asking a very narrow question and then it goes in directions not asked, but I am just wondering how I deal with that situation.

The SPEAKER. Well, the gentleman stands for interrogation, and that is voluntary. The gentleman can answer the question whatever way he chooses.

Mr. VITALI. Okay. That concludes my interrogation.

Mr. GABIG. Well, just to respond, I do not mean to be unresponsive, which is, I think, what the gentleman thinks.

Mr. VITALI. I have concluded my interrogation.

Mr. GABIG. Thanks.

The SPEAKER. Does the gentleman wish to be recognized on the amendment?

Mr. VITALI. No, I do not.

The SPEAKER. The Chair thanks the gentleman.

Representative McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, I would ask that we vote against the Gabig amendment.

Mr. Speaker, we considered a like amendment to HB 443, and it was defeated 47 to 149. And I sympathize with the gentleman, Mr. Gabig, because I think most of us do understand why he is offering this amendment, to really try to move the collective-bargaining process forward, and to be quite candid with you, Mr. Speaker, I think it would have the opposite effect, and that is a matter of my opinion and I think the opinion of 149 other members when they considered this amendment before.

And the question you have to ask is, will it improve negotiations or will they make the negotiations worse, and in fact, will it encourage or discourage the collective-bargaining agreements or the discussion as the way we know it, and I firmly believe that it will have a very chilling effect on collective bargaining. And if it was really such good public policy, we should not just be doing it with school districts; we should be doing the same thing with State government and we should be doing the same thing with local governments, and the reason why he is not – because it is not good public policy. The fact of the matter is that information that is being actively negotiated would become a matter of public record in 14 days, whether or not it becomes the agreement of the negotiating teams. The reality is, whatever is agreed to in those negotiation processes, they become public record.

I do not think we should hamper or discourage collective bargaining. It is always done behind closed doors so they can extract the best deal on both sides, and I do not think we should play around with that process, and I would ask that we vote against the amendment.

The SPEAKER. Representative Vitali, for the second time.

Mr. VITALI. Thank you, Mr. Speaker. Just to clarify.

There was some confusion about the position of the Pennsylvania School Boards Association, and in the interim, someone handed me a document by them basically stating that they oppose amendment A4934.

The SPEAKER. Will the House agree to the amendment? The Chair recognizes— Is there any other member seeking recognition on the amendment before the Chair recognizes the prime sponsor?

Representative Gabig, for the second time.

Mr. GABIG. Thank you, Mr. Speaker.

I have not seen that document that was referred to by the prior speaker, so there was not any confusion on my part; I had not seen it. I checked my e-mail right before I stood up, and I do not know if we all have that or not.

I do have to respond to my very good friend from Carbon County, though. This is not the same amendment that was voted before, and I know we are all, some people are getting some chow at their desk here and maybe there is some confusion about that. This is a new amendment, and the reason that it was opposed was because my prior amendment did not have local control, that the school boards could not decide what was best for them, and so I rewrote the amendment, which says nothing in this amendment will require public negotiation, number one. That was a concern. So it is specifically, expressly stated in there, nothing requires these doors to be open. They can still have the closed doors. You can be behind those closed doors and make all the negotiation you want.

I have been behind closed doors and negotiated a lot of things, but when you make a formal, written— I was. I was in the D.A.'s office for a long time. You close those doors, you sit down and hammer out something, then you come back up. But when you come up with a negotiated agreement that you put in writing, that is a public record; that is a public record. You go in court and you put that in there and the court wants to know what it is. They say, are there any sub rosa agreements, things behind the door where skulduggery could be taking place, for all we know? So this opens this up, and when you have a formal agreement that the public is interested in – the public; this is the public school board – that should be open to the public, and they should decide during that formal negotiation what they like and what they do not like and they should have some input into that.

So I have made a huge concession on this. It is now at the local school board level to release this information to the public or not, and when I hear about how important the accountability at the school board level is, I do have to say this about, for example, it is in my district. The school board, they just had an election, as we all know, this past year. It is done by sections or regions for the one school district in my area. Nobody ran for that school director, school board member. There were three write-in votes, three different names. They went to the sheriff's office, the county sheriff's office, to pull a straw to see who those three were going to be. The one straw, the person's name was John Smith. It turned out it was some kind of fictitious name, so I know what they are doing now is a coin flip to decide.

So, you know, this is the open records law, the open records law. We want the public to know. There is no reason why they cannot know this. Why can they not know it? What is the big problem with it? I do not get it now. I have conceded that it is going to be the local school district's option. So if your school districts are different than mine, I know my school district loved transparency and openness, yours might be different. They might like to do things the old way, under the old law, behind closed doors. Well, they are going to be permitted to do that here.

So I honestly do not see what the bugaboo is in this amendment, what the fear is. You know, change – sometimes people are afraid of change, and we have seen that here. But I would ask the other side, do not be afraid of change; embrace change. I ask my friend from Delaware County, embrace that change, open these doors, let the light in. It is still a local option. Let the people see what their government is doing, the documents in their control. They have a right to see that.

I would ask for support of this very watered-down version of my amendment. Thank you.

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

The following roll call was recorded:

YEAS-65

Adolph	Ellis	Mackereth	Quinn
Baker	Everett	Maher	Rapp
Barrar	Fairchild	Major	Raymond
Bastian	Gabig	Mantz	Reichley
Bear	Gingrich	Marsico	Roae
Benninghoff	Harhart	Mensch	Rock

Boback	Harris	Metcalfe	Rohrer
Boyd	Helm	Micozzie	Rubley
Brooks	Hennessey	Millard	Schroder
Cappelli	Hershey	Moul	Smith, S.
Causar	Hickernell	Mustio	Sonney
Civera	Hutchinson	Perry	Steil
Clymer	Kauffman	Petri	Stevenson
Cox	Keller, M.	Phillips	True
Creighton	Kessler	Pickett	Turzai
Cutler	Killion	Quigley	Watson
Denlinger			

NAYS-137

Argall	Gergely	McIlhattan	Seip
Belfanti	Gibbons	Melio	Shapiro
Bennington	Gillespie	Miller	Shimkus
Beyer	Godshall	Milne	Sipthoth
Bianucci	Goodman	Moyer	Smith, K.
Bishop	Grell	Mundy	Smith, M.
Blackwell	Grucela	Murt	Solobay
Brennan	Haluska	Myers	Staback
Buxton	Hanna	Nailor	Stairs
Caltagirone	Harhai	Nickol	Stern
Carroll	Harkins	O'Brien, M.	Sturla
Casorio	Harper	O'Neill	Surra
Cohen	Hess	Oliver	Swanger
Conklin	Hornaman	Pallone	Tangretti
Costa	James	Parker	Taylor, J.
Cruz	Josephs	Pashinski	Taylor, R.
Curry	Keller, W.	Payne	Thomas
Daley	Kenney	Payton	Vereb
Dally	King	Peifer	Vitali
DePasquale	Kirkland	Perzel	Vulakovich
Dermody	Kortz	Petrarca	Wagner
DeWeese	Kotik	Petrone	Walko
DiGirolamo	Kula	Preston	Wansacz
Donatucci	Leach	Pyle	Waters
Eachus	Lentz	Ramaley	Wheatley
Evans, D.	Levdansky	Readshaw	White
Evans, J.	Longietti	Reed	Williams
Fabrizio	Mahoney	Roebuck	Wojnaroski
Fleck	Manderino	Ross	Yewcic
Frankel	Mann	Sabatina	Youngblood
Freeman	Markosek	Sainato	Yudichak
Galloway	Marshall	Samuelson	
Geist	McCall	Santoni	O'Brien, D.,
George	McGeehan	Saylor	Speaker
Gerber	McI. Smith	Scavello	

NOT VOTING-0

EXCUSED-1

DeLuca

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

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

Ms. **HARPER** offered the following amendment No. **A04745**:

Amend Sec. 708, page 25, line 1, by inserting after "agency" at a meeting subject to 65 Pa.C.S. Ch. 7 (relating to open meetings)

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

AMENDMENT WITHDRAWN

The SPEAKER. The Chair recognizes Representative Harper on the amendment.

Ms. HARPER. Thank you, Mr. Speaker.

I rise to withdraw this amendment, because it is essentially the same as the one we already passed. So thank you very much, but we do not need this one.

The SPEAKER. The Chair thanks the lady very much.

On the question recurring,

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

The SPEAKER. The Chair recognizes the gentleman from York County, Representative DePasquale, who offers— The gentleman indicates he is withdrawing the amendment. The Chair thanks the gentleman.

The Chair recognizes the gentelady from Montgomery County, Representative Harper, who offers amendment A04748, which the clerk will read. Withdrawn? The Chair thanks the lady.

On the question recurring,

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

Mr. VEREB offered the following amendment No. A04752:

Amend Sec. 1304, page 37, line 4, by striking out "and attorney fees" and inserting

, attorney fees and effect of violations

Amend Sec. 1304, page 37, line 23, by striking out all of said line and inserting

(c) Effect of violations by public employee or public official.—

(1) Three violations of this act by a public employee shall be considered grounds for dismissal. The violations must be based on findings by the clearinghouse or a court.

(2) Three violations of this act by a public official shall be considered grounds for forfeiture of office. The violations must be based on findings by the clearinghouse or a court.

(d) Construction.—Nothing in this act shall be construed to prohibit a

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

The SPEAKER. The Chair recognizes Representative Vereb for an explanation.

Mr. VEREB. Thank you, Mr. Speaker.

Mr. Speaker, I introduce this amendment to provide penalties for public officials and employees who violate the provisions of this proposed act.

The SPEAKER. The Chair recognizes Representative Vitali on the amendment.

Mr. VITALI. Thank you, Mr. Speaker.

Will the maker of the amendment stand for brief interrogation?

The SPEAKER. The gentleman indicates that he will. The gentleman is in order and may proceed with his interrogation.

Mr. VITALI. I understand, generally, that if there are three violations, an employee will be discharged, but could you kind of thresh that out? What world of employees are we talking about? What constitutes the violation? How is that determined? Just kind of thresh out what your amendment does.

Mr. VEREB. The hope of the amendment is to hold the person responsible that has caused the failure of release of these records, not necessarily the person who makes that decision within a department, the employee that makes that decision within a department, to not allow or to be in direct violation of the act.

Mr. VITALI. So it is the clerk? Or is it the head of the depart— Would it be, let us say, the director of an election bureau or would it be the clerk who says no?

Mr. VEREB. Well, if the clerk is ordered by the director not to release the records, one would assume it would be the director. It is the person that is ultimately accountable or has ownership of the documents that need to be released.

Mr. VITALI. And who makes the determination that a given strike occurs in this sort of three-strike scenario you are creating?

Mr. VEREB. The provision in the amendment is the findings must— Thank you, Mr. Speaker.

The person in the department that would sign off, either to acknowledge that the documents are a public record and would be released, that would be the person, certainly, who would be held responsible. But ultimately, the finding would be by the clearinghouse that I believe is established by this act or by the court. Thank you, Mr. Speaker.

Mr. VITALI. Now, what about in the circumstance— Would there be any given time period? For example, let us say you are a State House member and you have served for 10, 20 years, and you have, over the course of that time, been asked for a lot of information, maybe in 5-year intervals, although most of what you have, you have correctly complied with the law in most cases, but over a long period of time you get three strikes, as it were. For example, I guess it is kind of a compound question. The first question is, would this apply to a public official, would this apply to a legislator?

Mr. VEREB. The second part of this would apply to elected officials.

Mr. VITALI. So we theoretically, if we pass this act, could be removed from office under this provision.

Mr. VEREB. No. This could be used as a tool as part of the— I believe the only thing that constitutionally is sound to remove us from office is an impeachment. This would be a vehicle per se to be used in that process which the Constitution calls for.

Mr. VITALI. So this provision could serve as a grounds for impeachment of a member of the legislature?

Mr. VEREB. We are not going to go beyond the extent of it being constitutional. This particular violation would be serious enough to rise to be used in an impeachment against an elected official.

Mr. VITALI. The definition of "public official," does that include a legislator?

Mr. VEREB. I do not have the definition of "public official" listed in my amendment. I am assuming that the words "public official" would be anyone considered a public official in the Commonwealth.

Mr. VITALI. Right. Now, let me ask you a question: If you are proposing legislation that says three violations would cause

a public official to be discharged, and that would include a member of the legislature, have you reviewed whether this amendment passes constitutional muster?

Mr. VEREB. See, that is a decision that would ultimately be up to the legislature, but I have reviewed it with a number of people, and this is not an attempt to refute the Constitution. And certainly the term "public official," it is not listed in the bill; it certainly would refer to the definition of "public official" that is in the Constitution. Again, this is not here to supersede or in any way override the Constitution; this is to put some bite with the bark that would occur if an elected official were to stand in the way of the release, or violate this act, three times.

Mr. VITALI. Let me ask you the other part of that question: Are those three violations that would cause a public official to lose their job, is there any time period? In other words, if you do not have any violation, do those three violations have to occur within any given time period or could they be over a 30-year period?

Mr. VEREB. Three violations as designated by the amendment.

Mr. VITALI. The question is, is there a time period, or if three violations occurred over a 20-year period, would that still cause a discharge?

Mr. VEREB. Three violations of this act is what the amendment is addressing. Whether or not you are a legislator or if you leave the General Assembly and become a public employee, it is three strikes and you are out.

Mr. VITALI. So there is no time limit. You could have your third strike 20 years after your first strike, under this act, and you would still be out? Is that it?

Mr. VEREB. Mr. Speaker, in all honesty, I think I have answered the question. Thank you.

Mr. VITALI. Okay. That concludes my questions.

### CONSTITUTIONAL POINT OF ORDER

The SPEAKER. Representative McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, there are a lot of reasons why I would ask the members to vote against the Vereb amendment, but I will go right to the heart of his amendment, section (c), paragraph (2): "Three violations of this act by a public official shall be considered grounds for forfeiture of office. The violations must be based on findings by the clearinghouse or a court." Mr. Speaker, I would submit to the members that this is a clear violation of Article II, section 2, of the State Constitution, where the powers of each House for the expulsion of its members are contained in the Constitution. This amendment is clearly unconstitutional by allowing a clearinghouse that is created by the open records act, to allow a clearinghouse to expel a public official is absolutely crazy. I would say that this is clearly unconstitutional, to allow a clearinghouse— The clearinghouse that we set up in this act is not punitive; the clearinghouse is to be helpful. There is no way that that clearinghouse has the authority of the Constitution – Article II, section 2 – vested in it. This is clearly unconstitutional, and I would ask that the members vote this issue down on the issue of constitutionality in that the amendment violates Article II, section 2, of our Constitution – or section 11. I am sorry, Mr. Speaker.

The SPEAKER. The gentleman, Representative McCall, raises the point of order that amendment A04752 to SB 1 is unconstitutional.

The Speaker, under rule 4, is required to submit questions of constitutionality of an amendment to the House for decision.

On the question,

Will the House sustain the constitutionality of the amendment?

The SPEAKER. On the point of order, the Chair recognizes the gentleman, Representative McCall.

Mr. McCALL. Again, Mr. Speaker, the amendment clearly articulates in section (c), subsection (2), that the clearinghouse has the ability, after three violations of this act, the public official has to forfeit his or her office. That is clearly unconstitutional. It runs contrary to Article II, section 11, and I would ask the members to vote that the amendment is unconstitutional.

The SPEAKER. The Chair will remind members they are allowed to speak once on the issue of constitutionality.

Representative Vereb.

Mr. VEREB. Thank you, Mr. Speaker.

Just in contrast to the previous speaker, I do not believe that my amendment states that the clearinghouse can remove an employee and/or a public official; rather, the clearinghouse can determine that there was an actual violation of the act. So I encourage, obviously, a vote that it is constitutional.

The SPEAKER. Those who believe the amendment is constitutional will vote "aye"; those believing the amendment is not constitutional will vote "nay."

On the question recurring,

Will the House sustain the constitutionality of the amendment?

The following roll call was recorded:

#### YEAS—67

Adolph	Denlinger	Killion	Reed
Argall	DiGirolamo	Leach	Reichley
Baker	Ellis	Maher	Roae
Bastian	Evans, J.	Major	Rock
Bear	Everett	Marsico	Rohrer
Benninghoff	Fleck	Micozzie	Schroder
Beyer	Gabig	Moyer	Smith, S.
Boback	Geist	Murt	Sonney
Boyd	Godshall	Mustio	Stairs
Brooks	Harhart	O'Neill	Stern
Cappelli	Harper	Peifer	Stevenson
Civera	Harris	Perry	Taylor, J.
Clymer	Helm	Perzel	True
Cox	Hershey	Petri	Turzai
Creighton	Hickernell	Pickett	Vereb
Cutler	Hutchinson	Quinn	Watson
Dally	Kenney	Raymond	

#### NAYS—135

Barrar	Goodman	McIlhattan	Santoni
Belfanti	Grell	Melio	Saylor
Bennington	Grucela	Mensch	Scavello
Biancucci	Haluska	Metcalfe	Seip
Bishop	Hanna	Millard	Shapiro
Blackwell	Harhai	Miller	Shimkus
Brennan	Harkins	Milne	Siptroth

Buxton	Hennessey	Moul	Smith, K.
Caltagirone	Hess	Mundy	Smith, M.
Carroll	Hornaman	Myers	Solobay
Casorio	James	Nailor	Staback
Causar	Josephs	Nickol	Steil
Cohen	Kauffman	O'Brien, M.	Sturla
Conklin	Keller, M.	Oliver	Surra
Costa	Keller, W.	Pallone	Swanger
Cruz	Kessler	Parker	Tangretti
Curry	King	Pashinski	Taylor, R.
Daley	Kirkland	Payne	Thomas
DePasquale	Kortz	Payton	Vitali
Dermody	Kotik	Petrarca	Vulakovich
DeWeese	Kula	Petrone	Wagner
Donatucci	Lentz	Phillips	Walko
Eachus	Levdansky	Preston	Wansacz
Evans, D.	Longietti	Pyle	Waters
Fabrizio	Mackereth	Quigley	Wheatley
Fairchild	Mahoney	Ramaley	White
Frankel	Manderino	Rapp	Williams
Freeman	Mann	Readshaw	Wojnaroski
Galloway	Mantz	Roebuck	Yewcic
George	Markosek	Ross	Youngblood
Gerber	Marshall	Rubley	Yudichak
Gergely	McCall	Sabatina	
Gibbons	McGeehan	Sainato	O'Brien, D.,
Gillespie	McI. Smith	Samuelson	Speaker
Gingrich			

NOT VOTING—0

EXCUSED—1

DeLuca

Less than the majority having voted in the affirmative, the question was determined in the negative and the constitutionality of the amendment was not sustained.

The SPEAKER. The amendment is declared unconstitutional.

On the question recurring,

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

Mr. TANGRETTI offered the following amendment No. A04930:

Amend Title, page 1, by inserting before line 1 (A04720)

Amend Title, page 1, line 5, by striking out "an Open Records Clearinghouse" and inserting

the Pennsylvania Public Records Office

Amend Table of Contents, page 2, line 5, by striking out all of said line and inserting Section 503. (Reserved).

Amend Table of Contents, page 1, by inserting between lines 6 and 7 (A04720)

Amend Table of Contents, page 2, line 26, by striking out all of said line

Amend Table of Contents, page 1, lines 13 and 14 (A04720), by striking out all of said lines and inserting Section 3101.2. Severability.

Amend Sec. 102, page 1, lines 13 and 14 (A04720), by striking out all of said lines and inserting

Amend Sec. 102, page 4, lines 13 through 21, by striking out all of said line

Amend Sec. 102, page 2, by inserting between lines 6 and 7 (A04720)

Amend Sec. 102, page 9, by inserting between lines 8 and 9 "Records office." The Pennsylvania Public Records Office established under section 1310.

Amend Bill, page 3, lines 3 through 7 (A04720), by striking out all of said lines and inserting

Amend Sec. 503, page 13, lines 9 through 30; page 14, lines 1 through 7, by striking out all of said lines on said pages and inserting Section 503. (Reserved).

Amend Sec. 504, page 14, line 11, by striking out "clearinghouse" and inserting records office

Amend Sec. 504, page 14, line 12, by inserting after "agency" where it appears the first time , legislative agency

Amend Sec. 504, page 14, line 17, by striking out "clearinghouse" and inserting records office

Amend Sec. 505, page 14, line 23, by striking out "agencies.—The clearinghouse" and inserting agencies and legislative agencies.—The records office

Amend Sec. 505, page 14, line 24, by inserting after "Commonwealth" agencies, legislative agencies

Amend Sec. 505, page 14, line 28, by striking out "clearinghouse's" and inserting record office's

Amend Sec. 505, page 15, lines 2 through 5, by striking out all of said lines and inserting records office.

Amend Sec. 708, page 4, by inserting between lines 18 and 19 (A04720)

Amend Sec. 708, page 20, lines 17 and 18, by striking out "Commonwealth or local"

Amend Bill, page 7, lines 24 through 30 (A04720), by striking out all of said lines and inserting

Amend Sec. 1101, page 33, line 11, by striking out all of said line and inserting records office within 15

Amend Sec. 1101, page 33, lines 18 through 20, by striking out "a" in line 18, all of line 19 and "assign an appeals officer to" in line 20 and inserting

an agency, the records office shall

Amend Sec. 1101, page 33, lines 22 and 23, by striking out "appeals officer" and inserting records office

Amend Sec. 1101, page 33, line 26, by striking out "appeals officer" and inserting records office

Amend Sec. 1101, page 33, line 29, by striking out "appeals officer" and inserting records office

Amend Sec. 1101, page 33, line 30, by striking out "appeals officer" and inserting records office

Amend Sec. 1101, page 34, line 8, by striking out "appeals officer" and inserting records office

Amend Sec. 1101, page 34, line 9, by striking out "appeals officer" and inserting records office

Amend Sec. 1101, page 34, line 12, by striking out "appeals officer" and inserting records office

Amend Sec. 1101, page 34, line 15, by striking out "appeals officer" and inserting records office



Amend Sec. 1102, page 34, lines 19 through 30; page 35, lines 1 through 21, by striking out all of said lines on said pages

Amend Sec. 1301, page 35, line 27, by striking out "appeals officer" and inserting

records office

Amend Sec. 1302, page 36, line 12, by striking out "appeals officer" and inserting

records office

Amend Sec. 1303, page 37, line 3, by striking out "appeals officer" and inserting

records office

Amend Sec. 1304, page 37, line 6, by striking out "appeals officer" and inserting

records office

Amend Sec. 1307, page 38, lines 21 through 26, by striking out the colon after "established" in line 21 and all of lines 22 through 26 and inserting

by the records office.

(2) (i) The fees must be reasonable and based on prevailing

Amend Sec. 1310, page 7, lines 41 and 42; page 8, lines 1 through 17 (A04720), by striking out all of said lines on said pages and inserting

Amend Bill, pages 41 and 42, lines 1 through 30, by striking out all of said lines on said pages and inserting

Section 1310. Pennsylvania Public Records Office.

(a) Establishment.—The Pennsylvania Public Records Office is established within the State Ethics Commission, which shall appoint an executive director of the public records office who shall hire other staff as necessary to operate the office.

(b) Powers and duties.—The director of the public records office has the following powers and duties:

(1) To receive and respond to requests for information from persons who have been denied access to public records by a Commonwealth agency, a local agency, the General Assembly or a legislative agency under this act.

(2) To receive and respond to requests for information from a Commonwealth agency, a local agency, the General Assembly or a legislative agency regarding compliance with this act.

(3) To order a Commonwealth agency, a local agency, the General Assembly or a legislative agency to comply with provisions of this act upon finding that a request for access to a public record was properly made.

(4) To issue advisory opinions on compliance with this act.

(5) To request information from Commonwealth agencies, local agencies, the General Assembly and legislative agencies in order to make compliance determinations under this act. All information supplied by a Commonwealth agency, a local agency, the General Assembly or a legislative agency which is relevant to a request shall be subject to confidentiality under subsection (c).

(6) To guide and oversee the compliance with this act by all Commonwealth agencies, local agencies, the General Assembly and legislative agencies.

(7) To provide a list to any requesting agency or individual of Federal and State laws that exempt certain types of records from disclosure.

(8) To make its advisory opinions and written decisions available for review.

(9) To conduct training for public officials, public employees and third parties relating to the Commonwealth's access laws with assistance from the Department of Community and Economic Development's Center for Local Government.

(10) To issue a report semi-annually to the General Assembly and to the Governor, which report shall include, but not be limited to:

(i) The number of requests to review denials from persons making public record requests.

(ii) The number of public record requests which were determined, upon review of the access office, to have been improperly denied.

(iii) The number of requests made by agencies seeking clarification on compliance with this act.

(iv) The number of orders issued by the public records office directing an agency to comply with this act.

(v) The number of advisory opinions issued by the public records office.

(vi) The number of requests for the list of Federal and State exemptions to public access of records.

(vii) The number of training sessions conducted for public officials, public employees and third parties relating to public access of records, including the number of persons attending such training sessions.

(11) To make available in electronic form to persons making requests for public records, examples of previous requests for public records by other persons and the documents to which the other persons were given access. In performing this duty, the office may not reveal any information relating to the identity of the persons who made the previous requests.

(12) To promulgate any regulations necessary to administer this act.

(13) Set a schedule for the requester and agency to submit documents in support of their positions.

(14) To review all information filed relating to a request. The public records office may hold a hearing, but the decision to hold or not to hold a hearing is not appealable. The public records office may admit into evidence testimony, evidence and documents it believes to be reasonably probative and relevant to an issue in dispute. The public records office may limit the nature and extent of evidence to be cumulative.

(c) Confidentiality.—All information requested by the public records office from an agency in order to make a determination of whether an agency is complying with this act shall remain confidential and shall not be subject to public access.

(d) Fees.—The following shall apply:

(1) The public records office may impose a reasonable filing fee for an appeal made under section 1101, and any fees collected under this subsection shall be deposited in a restricted account in the General Fund which is established for the public records office. The money from this account shall be appropriated as necessary for the operation of the public records office.

(2) The public records office may waive the filing fee if the person requesting access to the public record is unable to afford the fee based on guidelines established by the public records office.

Section 1311. Administrative appeals.

(a) General rule.—Notwithstanding any other provision of law, a party aggrieved by a denial or deemed denial of access to a public record by a Commonwealth agency, local agency, the General Assembly or a legislative agency may, within 30 days after a request is denied or deemed denied, appeal to the public records office by forwarding to the office a copy of the request and the written explanation for the denial, if any, provided by the Commonwealth agency, local agency, the General Assembly or legislative agency, and requesting a review of the matter.

(b) Ruling.—

(1) Within 30 business days after receipt of the appeal, the public records office shall rule either that the denial or deemed denial of access to the record by the Commonwealth agency, local agency, the General Assembly or legislative agency is upheld or that the decision to deny access to the record was improper, and a Commonwealth agency, the local agency, the

General Assembly or legislative agency must provide access to the record. The public records office may hold a private hearing on the matter and may review the record.

(2) The 30-business-day period may be extended by agreement of the parties. If the parties do not agree to an extension or the public records office does not issue a ruling within 30 business days after the date of the appeal, the denial from the Commonwealth agency, local agency, the General Assembly or legislative agency shall be deemed affirmed.

(c) Explanation.—If the public records office upholds the decision of the Commonwealth agency, local agency, the General Assembly or legislative agency to deny access to the public record, the office shall fully explain in writing to the person requesting the public record the reason for the denial. If the public records office rules that the Commonwealth agency, local agency, the General Assembly or legislative agency shall provide access to the public record, it shall order the Commonwealth agency, local agency, the General Assembly or legislative agency to provide the individual with access to the record and shall fully explain in writing the reason access must be provided.

(d) Other appeals.—Costs or attorney fees shall not be awarded under this section for administrative appeal to the public records office under this section.

Amend Bill, page 10, by inserting between lines 12 and 13 (A04720)

Section 3101.1. Severability.

All provisions of this act are severable.

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Tangretti for an explanation of the amendment.

Mr. TANGRETTI. Thank you, Mr. Speaker.

Mr. Speaker, this amendment reverts back to the language dealing with the appeal of any decision by an agency not to release documents that was in the original HB 443 that the Representative from Fayette County had, and I think it only makes sense that we, in my opinion, allow the Ethics Commission to be the clearinghouse by creating the Pennsylvania Public Records Office within their jurisdiction, in which they would hire the executive director and staff to do the appropriate review of appeals. I think it is consistent, it is standard, it reduces the burden for a number of people to go to a number of different appeal agencies and individuals, and I think this is the appropriate place where it should be. And I would ask all the members to consider this amendment and, hopefully, vote in the positive. Thank you.

The SPEAKER. Will the House agree to the amendment?

The House will be at ease.

The Chair recognizes Representative Shapiro on the amendment.

Mr. SHAPIRO. Thank you, Mr. Speaker.

Mr. Speaker, I applaud the maker of the amendment's intent, and I understand his intent is to try to create an office that is as strong as it can be to ensure that the public has access to as many records as possible. I, however, rise in opposition to the gentleman's amendment. I do so based upon the global compromise that we have been able to reach. Actually, I should not yet call it a compromise but the global discussions that we have had, Democrat and Republican, who have come together to try to come up with a solution to address the gentleman's concerns. Specifically, what we do as it relates to the executive director and what we have tried to do to accomplish greater

independence for the executive director is to vest that executive director with a 6-year term, a term that does not necessarily run concurrent with one Governor or another, to create more independence for that office, very similar to how the FDA (Food and Drug Administration), for example, would work down in Washington, DC. In addition to that, as I understand it relevant to the Ethics Commission, I understand the Ethics Commission at this time is not prepared to accept the responsibilities, as the gentleman's amendment would lay out.

And so I would urge the members to vote against the Tangretti amendment, recognizing that the baseline language is such that we will still have independence in this office and still have a very strong Office of Open Records. Thank you, Mr. Speaker.

The SPEAKER. Are there any members seeking recognition before the Chair recognizes the prime sponsor of the amendment?

Representative Tangretti, for the second time.

Mr. TANGRETTI. Thank you, Mr. Speaker.

With all due respect for the gentleman from Montgomery County, I really believe that this is the way that we should proceed. I think that it is removed from the possibility of, regardless of the term, of the administration – any administration – from here into the future having some concerns or causing some concerns by appointing that executive director. And I would also remind the gentleman from Montgomery County, as was brought out in debate earlier on another amendment, that this is to be implemented in a year from now, so I would think that the Ethics Commission would have plenty of time to do what they need to do to gear up for this.

So again, I would ask for an affirmative vote. Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—144

Adolph	Fleck	Marsico	Reichley
Argall	Freeman	McGeehan	Roae
Baker	Gabig	McIlhattan	Rock
Barrar	Geist	Melio	Roebuck
Bastian	George	Mensch	Rohrer
Bear	Gibbons	Metcalfe	Ross
Benninghoff	Gillespie	Micozzie	Rublely
Bennington	Gingrich	Millard	Sabatina
Beyer	Godshall	Miller	Samuelson
Boback	Grell	Milne	Saylor
Boyd	Grucela	Moul	Scavello
Brennan	Hanna	Moyer	Schroder
Brooks	Harhart	Murt	Seip
Buxton	Harper	Mustio	Smith, K.
Caltagirone	Harris	Nailor	Smith, M.
Cappelli	Helm	Nickol	Solobay
Carroll	Hennessey	O'Brien, M.	Sonney
Causar	Hershey	O'Neill	Staback
Civera	Hess	Oliver	Stairs
Clymer	Hickernell	Pallone	Steil
Conklin	Hornaman	Payne	Stern
Costa	Hutchinson	Peifer	Stevenson
Cox	Josephs	Perry	Swanger
Creighton	Kauffman	Perzel	Tangretti
Cruz	Keller, M.	Petrarca	Taylor, J.
Cutler	Keller, W.	Petri	True
Daley	Kenney	Phillips	Turzai

Dally	Kessler	Pickett	Vereb
Denlinger	Killion	Pyle	Vitali
DePasquale	Kula	Quigley	Vulakovich
DiGirolamo	Mackereth	Quinn	Watson
Donatucci	Maher	Ramaley	White
Ellis	Mahoney	Rapp	Wojnaroski
Evans, J.	Major	Raymond	Yewcic
Everett	Mantz	Readshaw	Youngblood
Fairchild	Marshall	Reed	Yudichak

## NAYS—58

Belfanti	Gergely	Mann	Siptroth
Bianucci	Goodman	Markosek	Smith, S.
Bishop	Haluska	McCall	Sturla
Blackwell	Harhai	McI. Smith	Surra
Casorio	Harkins	Mundy	Taylor, R.
Cohen	James	Myers	Thomas
Curry	King	Parker	Wagner
Dermody	Kirkland	Pashinski	Walko
DeWeese	Kortz	Payton	Wansacz
Eachus	Kotik	Petrone	Waters
Evans, D.	Leach	Preston	Wheatley
Fabrizio	Lentz	Sainato	Williams
Frankel	Levdansky	Santoni	
Galloway	Longietti	Shapiro	O'Brien, D.,
Gerber	Manderino	Shimkus	Speaker

## NOT VOTING—0

## EXCUSED—1

DeLuca

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 second consideration as amended?

**PARLIAMENTARY INQUIRY**

The SPEAKER. For what purpose does the gentleman, Representative Maher, rise?

Mr. MAHER. I believe it is a parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. MAHER. Now, the amendment just adopted dealt with changing the "clearinghouse" term and so forth. It strikes me that that means there are a number of amendments – though some have been considered and others yet to be considered – that now have a defect that is curable under our rules by allowing amendments to be redrafted and resubmitted. What is the procedure— I guess I am just trying to understand, for amendments that are yet to be considered, it seems straightforward enough that a member has to read his amendment and decide if it has been adversely affected by the one that just passed. If it has, they need to notice the Chair, and then the Chair will grant them dispensation or whatever is appropriate. They will go to LRB (Legislative Reference Bureau) and proceed with redrafting. But I guess my question is more towards, for instance, the Mahoney amendment makes references— I am not quite sure where we stand, I guess,

in terms of, given the adoption of this amendment, how that affects all the preceding amendments. Can the Chair provide some guidance to us?

The SPEAKER. The opportunity for replacement amendments is lost if they have already been considered. Those amendments that have not been considered, if they are affected by the previous adoption of the amendment, can be offered as replacement amendments.

Mr. MAHER. So what is the result with respect to amendments that have already been considered that refer to an entity—

The SPEAKER. The Chair has already answered that.

Mr. MAHER. —that no longer exists?

The SPEAKER. The Chair has already answered that question.

Mr. MAHER. I did not understand.

The SPEAKER. If amendments had been offered, the opportunity to have a replacement amendment drafted is lost.

Mr. MAHER. So I am guessing that we will wind up with a bill then that has references in it to an entity that does not exist anymore? That is what I am trying to understand.

The SPEAKER. The Legislative Reference Bureau will reconcile those differences. The result of the last amendment is what it is. If it affects amendments that have yet to be offered, replacement amendments can be requested.

The House will be at ease.

**LEAVE OF ABSENCE**

The SPEAKER. Without objection, Representative GRELL will be placed on leave. The Chair sees no objection.

The House will continue to be at ease.

**CONSIDERATION OF SB 1 CONTINUED****AMENDMENT A04930 RECONSIDERED**

The SPEAKER. The Chair is in receipt of a reconsideration motion.

Representative McCall and Representative Evans move that the vote by which amendment A04930 was passed to SB 1, PN 1583, on the 10th day of December 2007 be reconsidered.

On the question,

Will the House agree to the motion?

The SPEAKER. The Chair recognizes Representative Tangretti on the motion to reconsider.

Mr. TANGRETTI. Thank you, Mr. Speaker.

Mr. Speaker, just to explain what has occurred, in an effort to move the process forward, as a result of the passage of the amendment, we have, in effect, brought the process to a standstill, which was not my intent. What has been agreed to by me is that – and others – that we will reconsider this vote and it will be taken again at the end of the night so that all the other amendments that would have been ruled out of order or had to have been redrafted, which, of course, would have delayed the process significantly to the extent that we may not have had the opportunity to get this to the Governor before the end of the

year, can be offered, will be offered and voted on, and then ultimately, with the reconsideration of this amendment, at the end of the night, at the end of this debating period – hopefully it is not too much longer in this evening – then we will offer the amendment again, and I would appreciate a vote for reconsideration. Thank you.

Mr. DeWEESE. Mr. Speaker?

The SPEAKER. The Chair recognizes the majority leader, Representative DeWeese.

Mr. DeWEESE. The honorable gentleman from Westmoreland's recantation of the agreement was precise, and I embrace his perspective.

The SPEAKER. Representative Maher.

Mr. MAHER. Mr. Speaker, I understand the mechanical aspects insofar as they have been described. However, it strikes me that as we undertake further amendments that refer to an entity which would be obliterated by the gentleman, Mr. Tangretti's amendment, that we will actually be compounding the difficulty already before us. And I suppose it would make sense to travel the path described by Mr. Tangretti if, in fact, his amendment would be redrafted so that all these other parts of the bill, and I understand what the Speaker said earlier, that LRB could do something to reconcile these differences, but I genuinely do not know that we should get in the business of having conflicts between entities that exist and entities that do not exist and that LRB can just paper it over. That has never been my experience here before. I certainly understand how LRB can reconcile references to sections and numbers and subsections and so forth, but substantive questions such as whether or not an entity exists are really not, it seems to me, matters for LRB to simply be scribbling away.

So I guess what I am asking for from the other side of the aisle would be a commitment that if we do, in fact, reconsider this amendment, that it will, in fact, be reintroduced as an amendment which contemplates the bill as it is and not the bill as it once was. Those are very different bills at this point. Is the Chair aware of other cases where LRB simply has gone about changing substantive text in bills in ways not adopted by this chamber or the other chamber? I cannot think of one. And it may just be as simple as Mr. Tangretti adding an amendment that says any reference to the one would be deemed to be a reference to the other. Maybe that would get it done; I do not know, but I certainly do not think we can expect to have a finished product that refers to one entity in some places, another entity in other places, and it seems to me that part of the point of his amendment is that they are really very different entities. If they were identical entities, identical in their authority and mission and responsibilities and lines of chain of command and we are just dealing with the name—

Mr. DeWEESE. Mr. Speaker? Mr. Speaker?

Mr. MAHER. —I think that would be okay, but that is not before us.

The SPEAKER. For what purpose does the majority leader rise?

Mr. DeWEESE. Only to encourage my honorable friend from Upper St. Clair to focus on the motion to reconsider and have the Speaker focus on it too, respectfully.

Mr. MAHER. Well, you know, Mr. Speaker, this very much affects my thoughts on whether we should be reconsidering, because to reconsider so that we can compound the problem before us does not seem to be a good path. The members who have conflicting amendments at this stage can have them

redrafted, and we will have no further compounding of this problem. But to say that the alternative, with reconsideration as it has been described, would be that we would merrily go forth adopting amendments that will refer to one entity and full expectation that that entity will cease to exist, which basically means all of those amendments will refer to actions to be taken by an entity that will not exist, but there being no provision that those responsibilities are to be taken up by the new entity to be created, it seems to me that that is more than just a technical problem; it is at the crux of whether or not to reconsider, because I think I would rather have amendments redrafted based on how the bill is than sally forth and face a more compound problem later.

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

The following roll call was recorded:

#### YEAS—118

Adolph	Frankel	Manderino	Scavello
Argall	Freeman	Mann	Seip
Baker	Galloway	Markosek	Shapiro
Belfanti	George	McCall	Shimkus
Bennington	Gerber	McGeehan	Siproth
Bianucci	Gergely	McI. Smith	Smith, K.
Bishop	Gibbons	Melio	Smith, M.
Blackwell	Goodman	Miller	Smith, S.
Brennan	Grucela	Moul	Solobay
Buxton	Haluska	Mundy	Staback
Caltagirone	Hanna	Mustio	Sturla
Carroll	Harhai	Myers	Surra
Casorio	Harkins	O'Brien, M.	Tangretti
Civera	Harris	Oliver	Taylor, R.
Cohen	Hess	Pallone	Thomas
Conklin	Hornaman	Parker	Vitali
Costa	James	Pashinski	Wagner
Cruz	Josephs	Payton	Walko
Curry	Keller, W.	Petrarca	Wansacz
Daley	Kessler	Petrone	Waters
DePasquale	King	Phillips	Wheatley
Dermody	Kirkland	Preston	White
DeWeese	Kortz	Ramaley	Williams
DiGirolo	Kotik	Readshaw	Wojnaroski
Donatucci	Kula	Roebuck	Yewcic
Eachus	Leach	Rohrer	Youngblood
Ellis	Lentz	Sabatina	Yudichak
Evans, D.	Levdansky	Sainato	
Fabrizio	Longietti	Samuelson	O'Brien, D., Speaker
Fairchild	Mahoney	Santoni	

#### NAYS—83

Barrar	Gillespie	Mensch	Reed
Bastian	Gingrich	Metcalf	Reichley
Beare	Godshall	Micozzie	Roae
Benninghoff	Harhart	Millard	Rock
Beyer	Harper	Milne	Ross
Boback	Helm	Moyer	Ruble
Boyd	Hennessey	Murt	Saylor
Brooks	Hershey	Nailor	Schroder
Cappelli	Hickernell	Nickol	Sonney
Causler	Hutchinson	O'Neill	Stairs
Clymer	Kauffman	Payne	Steil
Cox	Keller, M.	Peifer	Stern
Creighton	Kenney	Perry	Stevenson
Cutler	Killion	Perzel	Swanger
Dally	Mackereth	Petri	Taylor, J.
Denlinger	Maher	Pickett	True
Evans, J.	Major	Pyle	Turzai

Everett	Mantz	Quigley	Vereb
Fleck	Marshall	Quinn	Vulakovich
Gabig	Marsico	Rapp	Watson
Geist	McIlhattan	Raymond	

NOT VOTING—0

EXCUSED—2

DeLuca Grell

The majority 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 amendment?

AMENDMENT PASSED OVER TEMPORARILY

The SPEAKER. This amendment will go over temporarily.

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

Mr. **McCALL** offered the following amendment No. **A04754**:

Amend Sec. 3101, page 46, by inserting between lines 20 and 21  
(5) If a provision of this act regarding access to a record conflicts with any other Federal or State statute, regulation or judicial order or decree, the provision of this act shall not control.  
Amend Bill, page 47, by inserting between lines 6 and 7

Section 3103. References.

A reference in a statute, regulation or judicial order or decree to the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, shall be deemed a reference to this act.

Amend Sec. 3103, page 47, line 7, by striking out "3103" and inserting

3104

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

The SPEAKER. The Chair recognizes Representative McCall on the amendment.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, the amendment that I am offering mirrors pretty much what is in the Mahoney amendment, but we wanted to add some more clarification in that we all understand that open records is intended to deal with public records, and I believe that that is exactly and precisely what this bill does. But we also recognize that there are other things or other information that is released by government that is not a public record – and let me reemphasize that – that we do, in fact, release information to other entities that are not public records, and we do that for a variety of good reasons. And if Chairman Geist and Chairman Markosek will allow me to wear my transportation hat, I will refer you to the Drivers Privacy Protection Act that allows for and provides that driver's license information can go to the insurance industry so they can rate those driver's licenses through an underwriting process with the records that they obtain from PENNDOT, and Federal law

allows that to occur; there is a Federal law on the books that allows that to occur. And if that did not happen, the insurance industry would have a real concern, and it can literally place that industry in crisis without having that kind of information, that underwriting information, on drivers that they insure.

I, frankly, do not believe that this legislation really has an effect on the law in that way. I think that that flow of information will continue to flow, and I want to say for the record that it is not our intent to, in any which way, stop the flow of that nonpublic record from flowing to those industries – the insurance industry, the banking industry, et cetera. But I am going to offer the amendment because there is concern within the insurance industry, within the banking industry, within the reporting credit agencies pursuant to the Fair Credit Reporting Act and other laws, and other industries do, in fact, have concerns that that free flow of information that they need to have at their disposal will not be released to them. And I just want to make it abundantly clear with the amendment that I am offering here, that I wanted to make it clear and unambiguous that nothing in this act is intended to preclude the release of appropriate information for legitimate purposes, that this information is being released pursuant to some other State or Federal law and we are not going to stop that information from being released, and I would ask that we vote for the McCall amendment.

The SPEAKER. Will the House agree to the amendment? Representative Gabig.

Mr. GABIG. Thank you, Mr. Speaker.

I wonder if the gentleman would stand for interrogation?

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

Mr. GABIG. Thank you, Mr. Speaker.

I want to thank the gentleman for that explanation. It was very helpful to me and I am sure many others on the floor. My question has to do, I think it is the second part of the McCall amendment that appears on the computer screen, I am not sure what section, but the second part which references the old 1957 law, to draw the gentleman's attention to what my question has to do with. Is there anything in there – I completely agree with what the gentleman is trying to do, health issues, insurance issues – but is there anything in there, in that old 1957 law which you cite by reference and will thereby be incorporated into our current law, which would prevent, for example, legislative records from being released or other records? I mean, are there exemptions that are listed in the 1957 law that are cited that could potentially really take a lot of the meat out of what we are trying to do or not? Has that been looked at by your staff to ensure that we are not going a little bit too far with this McCall amendment?

Mr. McCALL. It does not have any effect at all on that.

Mr. GABIG. Okay. So the reference to the 1957 law that might be cited in other statutes or regulations or court orders will not prevent us from, in fact, doing what we have been trying to do in this SB 1 as amended. Is that the gentleman's intent with this amendment?

Mr. McCALL. Yes, Mr. Speaker, and just for the information of the members, the language that I have referenced in this amendment is already in the Statutory Construction Act.

Mr. GABIG. I would thank the gentleman for those responses, and I do not have any further comment. Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—201

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

NAYS—0

NOT VOTING—0

EXCUSED—2

DeLuca Grell

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 second consideration as amended?

Mr. KAUFFMAN offered the following amendment No. A04756:

Amend Sec. 102, page 8, by inserting between lines 7 and 8  
(18) The results of polling contracted for or conducted by a legislative agency and paid for with funds of the legislative agency.

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

The SPEAKER. The Chair recognizes Representative Kauffman for an explanation of the amendment.

Mr. KAUFFMAN. Thank you, Mr. Speaker.

This amendment is very simple. It attempts to bring under public disclosure any polling done by a legislative agency and paid for by that same legislative agency.

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

The following roll call was recorded:

YEAS—201

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

Eachus	Levdansky	Ramaley	White
Ellis	Longietti	Rapp	Williams
Evans, D.	Mackereth	Raymond	Wojnarowski
Evans, J.	Maher	Readshaw	Yewcic
Everett	Mahoney	Reed	Youngblood
Fabrizio	Major	Reichley	Yudichak
Fairchild	Manderino	Roae	
Fleck	Mann	Rock	O'Brien, D.,
Frankel	Mantz	Roebuck	Speaker
Freeman	Markosek	Rohrer	

NAYS-0

NOT VOTING-0

EXCUSED-2

DeLuca Grell

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 second consideration as amended?

Mr. **REICHLEY** offered the following amendment No. **A04759**:

Amend Sec. 3102, page 47, by inserting between lines 6 and 7  
(3) (i) The General Assembly declares the repeal under subparagraph (ii) is necessary to effectuate the provisions of section 102.  
(ii) The provisions of 4 Pa.C.S. § 1206(f) are repealed.

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

AMENDMENT PASSED OVER TEMPORARILY

The **SPEAKER**. The Chair recognizes Representative Reichley for an explanation of the amendment.  
This amendment will go over temporarily.

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

Mr. **SOLOBAY** offered the following amendment No. **A04763**:

Amend Sec. 506, page 16, line 6, by inserting after "access" substantially  
Amend Sec. 708, page 24, line 4, by striking out "award" and inserting  
proceedings  
Amend Sec. 708, page 24, by inserting between lines 4 and 5  
(ii) An arbitration opinion and award, any exhibits entered into evidence at an arbitration proceeding and any transcript of an arbitration proceeding.

Amend Sec. 708, page 24, line 5, by striking out "(ii)" and inserting

(iii)  
Amend Sec. 708, page 24, line 7, by striking out "ARBITRATION AWARD" and inserting  
final order in an arbitration proceeding

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

The **SPEAKER**. The Chair recognizes Representative Solobay on the amendment.

Mr. **SOLOBAY**. Thank you, Mr. Speaker.

Basically what this amendment will allow for is that the final word of arbitration rulings will be that that will be disclosed, but the negotiations that go on during an arbitration hearing would not be.

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

The following roll call was recorded:

YEAS-180

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

NAYS—21

Bear	Denlinger	Kauffman	Rapp
Boyd	Fairchild	Keller, M.	Roae
Brooks	Gabig	Metcalf	Rock
Cox	Hickernell	Nickol	Schroder
Creighton	Hutchinson	Phillips	True
Cutler			

NOT VOTING—0

EXCUSED—2

DeLuca            Grell

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 second consideration as amended?

Mr. S. SMITH offered the following amendment No. **A04764**:

Amend Bill, page 46, by inserting between lines 20 and 21 Section 3101.1. Continuation.

(a) General rule.—Except as set forth in subsection (b), this act is a continuation of the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, and any reference to that act shall be considered a reference to this act.

(b) Exception.—Nothing in this act shall be construed to adopt any prior judicial interpretation of the Right-to-Know Law.

On the question,

Will the House agree to the amendment?

AMENDMENT WITHDRAWN

The SPEAKER. The Chair recognizes Representative Smith for a brief explanation on the amendment.

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

Given the fact that the McCall amendment passed a little bit ago, I do not believe we will need to consider this language, and I would withdraw the amendment, Mr. Speaker. Thank you.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

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

Mr. STEIL offered the following amendment No. **A04785**:

Amend Table of Contents, page 2, by inserting between lines 1 and 2

Section 307. Special legislative task force.

Amend Bill, page 11, by inserting after line 30 Section 307. Special legislative task force.

(a) Establishment.—There is hereby established a legislative task force to study and develop a methodology for the General Assembly to implement and administer the provisions of this act as the act relates to records of the General Assembly.

(b) Composition of task force.—The task force shall consist of:

(1) Four members of the General Assembly, one each chosen by the Majority Leader and Minority Leader of the Senate and Majority Leader and Minority Leader of the House of Representatives.

(2) One member from a public media association appointed by the Speaker of the House of Representatives.

(3) One member from a public interest group, appointed by the President pro tempore.

(4) The Chief Clerk of the Senate.

(5) The Chief Clerk of the House of Representatives.

(c) Organization.—The task force shall select a chairperson and adopt operating procedures.

(d) Purpose.—The purpose of the task force is to adopt standards by which to interpret legislative records to ensure compliance with the intent of this act while protecting the confidential and personal relationships between legislators and their constituents. To that end, the task force shall study:

(1) Technology which might categorize legislative records, especially electronic records to define compliance.

(2) Determine changes which might be necessary to legislative storage and retrieval systems consistent with the legislative standards adopted.

(e) Report.—Within six months of the effective date of this section the task force shall make its report which when adopted by the Senate and the House of Representatives shall fully implement the intent of section 303. If the task force makes no report within six months or the Senate and the House of Representatives do not approve such report, then section 303 shall be implemented as drafted.

On the question,

Will the House agree to the amendment?

AMENDMENT WITHDRAWN

The SPEAKER. The Chair recognizes Representative Steil on the amendment.

Mr. STEIL. Thank you, Mr. Speaker.

This amendment was offered in anticipation of other amendments being added to the bill. Since it has not happened, I will withdraw the amendment. Thank you.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

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

Mr. BENNINGHOFF offered the following amendment No. **A04819**:

Amend Sec. 708, page 6, lines 1 and 2 (A04720), by striking out all of said lines and inserting

Amend Sec. 708, page 28, lines 8 through 10, by striking out "the cause" in line 8, all of line 9, "activity or criminal negligence" in line 10 and inserting

and the cause and manner of death to all persons interested therein

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Benninghoff for a brief explanation.



Mr. BENNINGHOFF. Thank you, Mr. Speaker.

This, too, is a pretty brief technical amendment. We are just adding a clause on behalf of the Coroners Association across the Commonwealth, and we are inserting to make sure the words "and the cause and manner of death to all persons interested therein" are added to this amendment, and I would appreciate people's support. Thank you very much.

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

The following roll call was recorded:

YEAS—201

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

NAYS—0

NOT VOTING—0

EXCUSED—2

DeLuca Grell

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 second consideration as amended?

Mr. **PALLONE** offered the following amendment No. **A04827**:

Amend Sec. 3101, page 9, by inserting between lines 26 and 27 (A04720)

(2) This act shall apply to records in existence prior to as well as subsequent to the effective date of this act.

Amend Sec. 3101, page 9, line 27 (A04720), by striking out "(2)" and inserting

(3)

Amend Sec. 3101, page 9, line 29 (A04720), by striking out "(3)" and inserting

(4)

Amend Sec. 3101, page 9, line 35 (A04720), by striking out "(4)" and inserting

(5)

Amend Sec. 3101, page 9, line 38 (A04720), by striking out "(5)" and inserting

(6)

Amend Sec. 3101, page 10, line 4 (A04720), by striking out "(6)" and inserting

(7)

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

AMENDMENT WITHDRAWN

The **SPEAKER**. The Chair recognizes Representative Pallone for an explanation on the amendment.

The gentleman withdraws the amendment. The Chair thanks the gentleman.

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

The **SPEAKER**. The Chair recognizes the gentleman from Montgomery County, Representative Shapiro, who offers amendment A04885.

The gentleman indicates the amendment is withdrawn. The Chair thanks the gentleman.

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

Mr. S. SMITH offered the following amendment No. A04887:

Amend Sec. 708, page 20, line 21, by inserting after "required" or authorized

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

The SPEAKER. The Chair recognizes the minority leader for an explanation of the amendment.

Mr. S. SMITH. Mr. Speaker, this amendment does parallel some of the language we were just talking about a little bit ago with the McCall amendment and the other amendment that I withdrew. What it hopes to do, Mr. Speaker, is clarify a situation where the law – the bill as it is drafted says that if the Federal law requires information to be released to some entity, that we would have to do that. What this amendment would do is it would change that to "authorized," essentially saying that if Federal law requires or authorizes, but maybe does not mandate, information to be released, that we would still have the ability to release information to those entities that the McCall amendment references, which are essentially people that do business with the Commonwealth but are not exactly government agencies. And hopefully it will clarify that, that where Federal law either requires or allows, and the way we do that is by changing the word "required" to "authorized."

Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—201

Table listing names of members who voted 'YEAS' (201 total). Includes names like Adolph, Argall, Baker, Barrar, Bastian, Bear, Belfanti, Benninghoff, Bennington, Beyer, Bianucci, Bishop, Blackwell, Boback, Boyd, Brennan, Brooks, Buxton, Caltagirone, Cappelli, Carroll, Casorio, Causer, Civera, Clymer, Cohen, Conklin, Costa, Cox, Creighton, Cruz, Curry, Gabig, Galloway, Geist, George, Gerber, Gergely, Gibbons, Gillespie, Gingrich, Godshall, Goodman, Grucela, Haluska, Hanna, Harhai, Harhart, Harkins, Harper, Harris, Helm, Hennessey, Hershey, Hess, Hickernell, Hornaman, Hutchinson, James, Josephs, Kauffman, Keller, M., Cruz, Kenney, Marshall, Marsico, McCall, McGeehan, McI. Smith, McIlhattan, Melio, Mensch, Metcalfe, Micozzie, Millard, Miller, Milne, Moul, Moyer, Mundy, Murt, Mustio, Myers, Nailor, Nickol, O'Brien, M., O'Neill, Oliver, Pallone, Parker, Pashinski, Payne, Payton, Peifer, Perry, Perzel, Ross, Rubley, Sabatina, Sainato, Samuelson, Santoni, Saylor, Scavello, Schroder, Seip, Shapiro, Shimkus, Siptroth, Smith, K., Smith, M., Smith, S., Solobay, Sonney, Staback, Stairs, Steil, Stern, Stevenson, Sturla, Surra, Swanger, Tangretti, Taylor, J., Taylor, R., Thomas, True, Turzai.

Table listing names of members who did not vote or were excused. Includes names like Cutler, Daley, Dally, Denlinger, DePasquale, Dermody, DeWeese, DiGirolamo, Donatucci, Eachus, Ellis, Evans, D., Evans, J., Everett, Fabrizio, Fairchild, Fleck, Frankel, Freeman, Kessler, Killion, King, Kirkland, Kortz, Kotik, Kula, Leach, Lentz, Levdansky, Longiotti, Mackereth, Maher, Mahoney, Major, Manderino, Mann, Mantz, Markosek, Petrarca, Petri, Petrone, Phillips, Pickett, Preston, Pyle, Quigley, Quinn, Ramaley, Rapp, Raymond, Readshaw, Reed, Reichley, Roae, Rock, Roebuck, Rohrer, Vereb, Vitali, Vulakovich, Wagner, Walko, Wansacz, Waters, Watson, Wheatley, White, Williams, Wojnarowski, Yewcic, Youngblood, Yudichak, O'Brien, D., Speaker.

NAYS—0

NOT VOTING—0

EXCUSED—2

DeLuca Grell

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 second consideration as amended?

The SPEAKER. The Chair rescinds its announcement that amendment A04885 was withdrawn.

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

Mr. SHAPIRO offered the following amendment No. A04885:

Amend Sec. 3101, page 9, line 28 (A04720), by striking out "103" and inserting 102

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

The SPEAKER. The Chair recognizes Representative Shapiro for an explanation on the amendment.

Mr. SHAPIRO. Mr. Speaker, this is a technical amendment. The Mahoney amendment A, which went in earlier, referenced on page 9, line 28, section 103, when, in fact, it should have referenced section 102.

I would just ask the members to support this technical correction. Thank you, Mr. Speaker.

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

The following roll call was recorded:

## YEAS—201

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

## NAYS—0

## NOT VOTING—0

## EXCUSED—2

DeLuca Grell

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 second consideration as amended?

Mr. **KORTZ** offered the following amendment No. **A04962**:

Amend Bill, page 7, by inserting between lines 40 and 41 (A04720)

Amend Sec. 1307, page 40, line 19, by inserting after "\$100."  
The agency may require a certified check, money order or other form of verified payment of funds when requiring open records request fees to be prepaid.

On the question,

Will the House agree to the amendment?

## AMENDMENT WITHDRAWN

The **SPEAKER**. The Chair recognizes Representative Kortz on the amendment.

The gentleman indicates he is withdrawing the amendment. The Chair thanks the gentleman.

On the question recurring,

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

Mr. **REICHLEY** offered the following amendment No. **A04965**:

Amend Sec. 3102, page 10, by inserting between lines 12 and 13 (A04720),

Amend Sec. 3102, page 47, by inserting between lines 6 and 7  
(3) (i) The General Assembly declares the repeal under subparagraph (ii) is necessary to effectuate the definition of "State-affiliated entity" in section 102.  
(ii) The provisions of 4 Pa.C.S. § 1206(f) are repealed.

On the question,

Will the House agree to the amendment?

## AMENDMENT WITHDRAWN

The **SPEAKER**. The Chair recognizes Representative— The gentleman withdraws.

Does the gentleman intend to offer any other amendments? The gentleman withdraws the remainder of his amendments. The Chair thanks the gentleman.

On the question recurring,

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

Mr. **YUDICHAK** offered the following amendment No. **A04981**:

Amend Sec. 701, page 17, line 11, by inserting after "agency."  
Communications between registered lobbyists and public officials shall be exempted only when the registered lobbyist is acting outside the scope of his lobbying activities.

Amend Sec. 701, page 17, line 14, by removing the period after "agency" and inserting

or to exempt records relating to communications between corporations and public officials.

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Yudichak on the amendment.

Mr. YUDICHAK. Thank you, Mr. Speaker.

There is a great writer who had a saying once, that do not mistake motion for action. We have been debating open records and debating reform now for many, many months, and I have talked to many of my colleagues on both sides of the aisle, and the level of frustration continues to increase because we see motion but no action.

The real issue in open records comes down to, and I believe the prime sponsor, the gentleman that has put his heart and soul to this bill, said it best, it comes down to the money. Constituents in Luzerne County, the most important thing that they are concerned about when it comes to open records is how are we spending their hard-earned tax dollars. So as we talk about opening the shutters and allowing the sunshine to come in the window, we have got to make sure that we are not bringing down the blinds right behind that.

My amendment gets at the heart of what I think most people, certainly most constituents, are concerned about and that is the money that we spend – their hard-earned tax dollars, that \$27.2 billion in the General Fund – they want to make sure that the lobbyists, the special interests, and the corporations that influence this place, that those records are open; that if someone is having a communication with a lobbyist and then trying to advance policy in this chamber, the people should have a right to know exactly how they are being influenced.

Please support the Yudichak amendment. Thank you.

The SPEAKER. Representative Maher.

Mr. MAHER. May I ask the maker of the amendment to answer a couple of questions, just for clarity?

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

Mr. MAHER. Thank you, Mr. Speaker.

And I know you to be a man of genuine integrity and a terrific legislator and have offered this with all the right purposes, but I would ask you, we all get endless, endless unsolicited correspondence from individuals, firms registered as lobbyists, and you may remember under our lobbying law, we also have the principal, that it may not be the lobbyists per se but those engaged as lobbyists. We all get all sorts of correspondence. Would this mean that when you open your e-mail and discover 22 bits of e-mail that you did not ask for and, frankly, you probably trash at a pretty good clip, that is now, under this amendment, that would be a public document, I believe. Is that correct?

Mr. YUDICHAK. Where would the e-mails be coming from? A constituent or from a—

Mr. MAHER. No. Some lobbyist sends you an e-mail that says, please vote "yes" on amendment XYZ, or some union sends you an e-mail and it says, please vote "no" on amendment ABC. We all get a zillion of these e-mails, and frankly, they do not have, generally, long life expectancies in my in-basket, and I am suspecting that is the same for most members of this body, and when you are talking about the communications between a lobbyist and a public official, it sounds to me that you would include those as public records. Am I understanding that?

Mr. YUDICHAK. I believe they would be included if the intent is to influence the process and influence the legislator, that they would be included.

Mr. MAHER. And you, like me, probably get stacks and stacks and stacks and stacks of correspondence,

glossy materials, much of which you go through triage – those things that may be of interest, those things that this lobbyist has contacted you and everybody else 1,000 times about and goes right to the circular file, et cetera. That would all be covered now as being public record?

Mr. YUDICHAK. My intent is to get out, and as you know, there are many ways that lobbyists or corporations try to influence this process, particularly in terms of the appropriation of funds. That, and if we can carve it out and if that can be done in conference committee, I will certainly be agreeable. I do not want to inundate everyone's offices with every e-mail and every piece of correspondence. However, we are in new ground here, and perhaps the new clearinghouse can further define exactly what we have. Not every piece of mail that is sent to me is received. Some of that does not get to my eye or to my desk.

So I understand your question, I understand your point, and I appreciate your making that point.

Mr. MAHER. Thank you, Mr. Speaker.

That concludes my inquiries, and I know the gentleman who offers this amendment appreciates the concern that I do have, and that it seems to me that the correspondence that I am most certainly never going to throw away is correspondence from my constituents. I have got 60,000 bosses, and when they write to me, they have got my attention, by e-mail, by letter, whatever. But all of those others, I try to dispose of most of that junk mail as readily as possible, and my concern is that if all of that junk mail is now a public record, instead of having a trash can in my office – because constituent stuff never goes into the trash, what is going into the trash is what comes from everybody else – and so instead of having a trash can, I am going to need to have a file cabinet so that these public records— I do understand what your concern is, and I would add that we are completing the first year just now, under the new lobbying law and the disclosures, and there is a great deal of information that is now available on the Web so we can see who is hiring whom and spending what to influence what issues.

And I am just concerned that without refinement, and maybe I will just present it back to you as an open-ended question, if the gentleman will receive any further interrogation, but without refinement, I am just concerned that we are going to have a real practical problem implementing this amendment.

May I ask the gentleman's—

Mr. YUDICHAK. Mr. Speaker, thank you.

If I can flip the question back to you, the important – in an effort, in a dialogue to try to flesh this out because I think you are making a valid point, how would you separate out the important correspondence from the lobbyists or from a corporation, one that may be of great significance?

Mr. MAHER. Well, it might disappoint them to realize there is not very much that would find its way into such a category, and I recognize that that is not much of a standard that could be applied, but just with the open-ended question I have left you with, if you want to illuminate for me, that would be appreciated, but I just, you know, even with the e-mail—

Mr. YUDICHAK. If I could, Mr. Speaker, for an example, corporation X corresponds with a legislator. That correspondence has information that, in turn, becomes a smoking gun in an investigation.

Mr. MAHER. Well—

Mr. YUDICHAK. How do you separate and say, well, there is the junk mail and then there is the serious mail? My point is, we may be able to get to that, and perhaps the wise colleagues

of ours that will be appointed to the conference committee or the individuals and the professionals that will be involved in this clearinghouse can get to that, but right now in this first step, as this is being called throughout the Commonwealth, a first step toward open records, that as it happens here in Harrisburg, this will not be the last word. But maybe we can get to that. I want it on the table, I want it for discussion, I want it debated.

Mr. MAHER. Thank you. That concludes my interrogation.

And I understand the gentleman—

The SPEAKER. The gentleman is in order if he wishes to make comments.

Mr. MAHER. Thank you.

I do understand the genuine issue that the gentleman is pursuing here, but if I understand his description, the question is, you save everything because we are not certain how we would define anything less than that, and I have got to just be candid and say there are certain lobbyists and lobbying firms and principals that I even use a spam filter for. I do not even know that they are sending me things, and that now I am going to be obliged to preserve such traffic is – it does not seem like a very good answer.

And so with the hope that a lot of the clarity about who is trying to influence whom about what and what they are spending to do it is going to be addressed under our lobbying law and is being addressed under the lobbying law that became effective this year, I am going to have to demur from being able to support the amendment as it stands.

And in another area of clarity that I think is going to be required is when it says, communications are to become a public record, does that mean, you know, a lot of communication happens in conversation or telephonically. Does this create some burden to maintain either an electronic recording or some sort of a series of notes or a transcript or something such from those conversations? And if it would, then that is going to incur a lot of costs.

Now, I have taken some pride in the years in having among the leanest staffs in the legislature, but I am afraid just to file and sort and transcribe to preserve the junk mail will add a cost that will add staff, that will not really advance the public interest in any way.

So I am afraid that as much as I respect what the gentleman is trying to accomplish, I think this is a bridge that is too far.

Thank you, Mr. Speaker.

The SPEAKER. Representative Manderino, on the amendment.

Ms. MANDERINO. Thank you, Mr. Speaker.

Will the maker of the amendment stand for a brief interrogation?

The SPEAKER. The gentleman indicates that he will. The lady is in order and may proceed.

Ms. MANDERINO. Thank you, Mr. Speaker.

The prior member asked about communications with lobbyists in what I will call after the fact, meaning after a legislation or an item is before us for consideration and they are trying to influence our vote. But I want to talk about communications with lobbyists at other times, because the language of your amendment does not talk about influence of a vote, but communication with a lobbyist.

As I read your amendment, if I communicate with a lobbyist or a lobbyist communicates with me in the development of legislation or in offering an opinion about a bill that I am

considering introducing, that would be covered under your amendment. Is that your understanding as well?

Mr. YUDICHAK. Communications between a lobbyist and a public official. The basis of and the intent of my legislation on its face is that it is hard for me to comprehend that a lobbyist, who influences the process, that we are going to say that is a private and exempted correspondence; that a correspondence between a legislator and a lobbyist or a corporation on a specific piece of legislation, they are exempted in terms of anything outside the scope of their lobbying activity. Private correspondence, communication specifically on the influence of this process, that correspondence would be covered by the open records act.

Ms. MANDERINO. Okay. So I think you answered yes, but let me be very specific. I am contemplating introducing a bill on the problem with the delivery of obstetrical services in Pennsylvania. My approach to developing legislation is to think of every potential person affected by what it is I am trying to do and gather input from them as I am developing my bill. So in that case, I would reach out to obstetricians. I would reach out to hospital administrators. I would reach out to trial lawyers. I would reach out to health-care practitioners who live in my district. I would think of the whole universe of people who might like or not like the idea that I am planning to develop into legislation so that I can develop the most comprehensive bill that I can think to address the problem as I see it. As your language is written, all of that communication is now a public record. Am I correct?

Mr. YUDICHAK. As we gather information in the committee process, that information is generally public, yes. So I am not exactly sure if I know where you are going. I mean, you were describing exactly how we should move a piece of legislation, so I think that is public and those people would understand that they are dealing in the public arena.

Ms. MANDERINO. Let me clarify one more time before I— A piece of legislation that is already developed and introduced is a public document. A piece of legislation that is not yet introduced, from my perspective, is my work product. Does your language affect my work product?

Mr. YUDICHAK. I do not believe so. You referenced that you would be speaking to physicians, et cetera. They are not registered lobbyists. They would not be under them.

Ms. MANDERINO. If I ask the Hospital and Healthcare Association of Pennsylvania for their opinion about what is impacting the obstetrical problems in Pennsylvania because I have a couple of ideas of how I might want to introduce legislation to address that, is their opinion to me about from where they sit as a registered lobbyist as to how it impacts the opinion, which may or may not make its way into my work product of a bill that is not yet introduced, is that a communication under your language?

Mr. YUDICHAK. Depending on the determination of the clearinghouse and how this bill finally evolves, that would be to be determined. The correspondence in the specific language of the amendment, for registered lobbyists as a correspondence, communication with a legislator, that is public record. Your example, the clearinghouse could say, this is not a bill before the House, this is a general opinion on legislation that is being developed, could be exempt. That is going to be determined by the clearinghouse.

Ms. MANDERINO. Thank you, Mr. Speaker.

I have finished my interrogation and would like to speak on the amendment.

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

Ms. MANDERINO. Thank you, Mr. Speaker.

I appreciate very much the gentleman's response to my interrogatories, but based on his response, I am asking members of the House to vote "no" on this amendment.

The amendment itself says nothing about final product which is already part of the public dialogue and is already a public record on which somebody is expressing an opinion. The language of the amendment, if you take a minute to look at it, talks about all communications. I think it is very dangerous and actually stifling to the legislative process to consider preliminary work-product issues as communications under the open records law.

As a matter of fact, in the body of the open records law as it came over from the Senate and as was in the Mahoney amendment, we specifically had work product – work product – as an exempt classification, and it makes sense to do that. Quite frankly, I believe that the best pieces of legislation are ones that started as an idea that was thoroughly vetted by the proposer before they actually put it into writing. I suspect that the vast majority of members approach drafting legislation and considering solutions to problems which may become legislative documents, the same way I do. You do not work in a vacuum, you do not take your ideas only in your own head and think that you have the answer to the solution. You reach out, you reach out to every vested interest or interested person or group that you could think of that might have a stake in the solution you are trying to solve. Some of those will be private citizens, some of those will be registered lobbyists.

A potential risk of this, because if you think about how we amended and opened our Lobbying Disclosure Act, is a lot of citizens who, prior to the passage of our new Lobbying Disclosure Act, clearly saw themselves, when they were advocating with their legislators, as individual citizens advocating on something, and some of them started to ask themselves, well now under this new Lobbying Disclosure Act, am I now becoming a lobbyist so that I now have an obligation to register? And that is a struggle that I think some people are still trying to work their way through.

I think this, in combination, would basically make everybody that you reach out to a lobbyist, whether it is the private citizen in your district who happens to be a nurse that works in a hospital or the hospitals association, just using the example I used in interrogation. But even if it does not, do we really want work product to be part of an open record? I do not think that that is good public policy. I think the goal of following the money of who is trying to influence the process is a valuable and worthy goal. I think that goal is accomplished through our current, enhanced, stronger lobbying disclosure law, which we passed last session and is just being implemented now.

I think the combination of the open records legislation as we have it drafted so far combined with our lobbying disclosure law will reach the goal of people being able to follow the money and see who is trying to influence the process, because under the lobbying disclosure law, they not only have to report what they are spending but they have to report what issues they are spending it on. So I think we have already accomplished that, and I ask you, please, to think very seriously about how you want your work product, your preliminary work product, to be

perceived. I want my work product to be just that, my private work product and not a public document until I introduce it across the desk and make it a bill for open debate.

So, please, I urge a "no" vote on this amendment.

### LEAVE OF ABSENCE CANCELED

The SPEAKER. The Chair recognizes the presence of Representative Grell on the floor. His name will be added to the master roll.

### CONSIDERATION OF SB 1 CONTINUED

The SPEAKER. The Chair recognizes Representative Leach on the amendment.

Mr. LEACH. Thank you, Mr. Speaker.

I rise in opposition to this amendment. A couple of weeks ago when we debated this, overwhelmingly we rejected an amendment which would have said that all of our e-mails are subject to the request of anybody, at any time, as a public record, and instead, we came up with what I think was a very well-crafted compromise on that issue, that Representative Shapiro and others came up with, which is that there are certain defined public records and if they happen to be e-mail, then they are recoverable, and if you can provide them in another form, then you can provide it in that form and meet any request for that information. That is a reasonable approach to take.

Mr. Speaker, if this amendment were to become law, that would completely obviate and destroy that carefully crafted compromise, and I think it would be a real disservice to the House to do that. There are a variety of contacts, and Representative Manderino and others have mentioned them, where communication with lobbyists is an important part of the legislative process. What is our strategy? Candid assessments of other lobbyists or other interest groups or other legislators, candid discussions about what would be acceptable to this group and what would not be acceptable. Negotiations where you say, would you be willing to accept this? How about if we start here and try to get there? You cannot negotiate in public with the newspaper printing every offer and every counteroffer that is going back and forth. You have to judge us on our product, and you certainly can judge us on any contributions we receive. But saying that people should be— I mean, this says, any communications. Now, I guess that does not mean that people are going to be listening in on our phone calls and sitting in our office, but it is the same thing as an e-mail or as a letter.

The fact is, it is very important that we have private conversations sometimes as part of the legislative process. We will destroy the deliberative process if we get rid of the ability to have candid, private conversations on important legislative matters. And ironically, the average person is not going to get any more information than they get now, because what will happen is, if we know that anyone can request an e-mail we send, then we are not going to use e-mail. We are just going to use it for the most mundane, banal scheduling matters. We will walk across the hall, we will walk across the street, and we will have a private conversation. The same thing will be communicated; it will be much less efficient, because now you can send an e-mail to six or seven different lobbyists or interest groups or whatever it is, advocates, at a time. But if you have to

walk around and try to reach someone on the phone, it is very difficult, it is going to wind up costing the taxpayers money.

The bottom line, Mr. Speaker, is, we have an interest as a legislator in being a deliberative body with candid, private discussions on very important, sensitive matters whereupon we are then judged on the product that we present to the people of Pennsylvania.

So I would strongly urge anyone who cares about this body as an institution to vote against this amendment. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes Representative Vereb.

Mr. VEREB. Thank you, Mr. Speaker.

If the maker could please rise for brief interrogation?

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

Mr. VEREB. The question of "public official" came up under my amendment. I do not know if you heard my definition, but what is your definition of "public official" in this amendment?

Mr. YUDICHAK. Primarily the intent and what I am trying to focus on is the Senate and the House in the Commonwealth of Pennsylvania. A "public official," I am sure, is defined in the bill, and I could get that further definition for you.

Mr. VEREB. Okay. I do not know if it is defined in the bill or referred to the Constitution. We definitely agree on that.

My good colleague from Philadelphia brought up the issue of the work product, the conversation that would occur before a bill would be introduced. In reading through on that, it is saying that the lobbyist is acting outside – the exemption is unless the lobbyist is acting outside of the scope of his or her lobbying activities. If our questioning – I do not want to be too redundant – but if our questioning or if our phone call or if our informational request, like we so often do via e-mail or via letter, is from us to them, unrelated to any types of solicitations they may have made to a bill or close to that bill in the past – I just missed the answer to that question – do you feel that that communication, with your amendment, would be public record?

Mr. YUDICHAK. Yes, I believe that the possibility can be that it would be exempted, and let me explain why. What I am trying to get at in terms of lobbying activity, and the reason that I have and that I point out that you exempt nonlobbying-related activity, if we are trying to develop a piece of legislation and we reach out to someone who has an expertise in the field and ask a question about a specific issue, they are not specifically paid by a client to influence us on that position. It would be after that work product is introduced in the chamber, then they are registered lobbyists being paid by a client and the public should be able to follow that trail.

I am having a hard time understanding. We are public officials, but yet there are a lot of individuals talking like they want to be private businesspeople or private attorneys, that they do not want that information to be known to the public. We are public officials. Our activity, our work product, should be viewed in the open and public forum.

Mr. VEREB. I do not know that I disagree with that. The whole storage issue, the retainment of the documentation and getting in the mindset to retain that for our own safety and future of the law, is certainly what I have in question.

Two other quick things: So the communication, let us just say the communication starts with the lobbyist representing a group, which is then immediately followed by inquiries from members of that group, whether they are immediate constituents in your district or not, but then the communications between

myself and the members of the group that that person lobbies for, would you then consider it a safe measure to maintain those communications as well since they are, obviously they are sending e-mails as a follow-up to a lobbyist's suggestion for support?

Mr. YUDICHAK. If they are not registered lobbyists, no.

Mr. VEREB. Okay. How about the support staff of the registered lobbyists?

Mr. YUDICHAK. If they are employed by the— Are you talking about constituents that are brought up by a lobbyist or an association that may bring up— The nurse association brings up nurses, they are not paid lobbyists. They communicate with you. That would not be included. Just the activities of the registered lobbyists who are paid to influence this process.

Mr. VEREB. Okay. How about the support staff of a lobbyist setting up an appointment, making some type of an inquiry?

Mr. YUDICHAK. No.

Mr. VEREB. No; okay. And then lastly, if you could help me with 701. Can you just very quickly summarize what that is? I am just having trouble understanding. I guess it involves similar things between a corporation and public officials?

Mr. YUDICHAK. There was an exemption in a previous printer's number to this bill that would have exempted records relating to communications between public corporations and public officials. We are removing that and making sure that you cannot exempt those communications.

Mr. VEREB. That we cannot – I am sorry?

Mr. YUDICHAK. That you cannot exempt those corporations under the open records law.

Mr. VEREB. If those corporations are actually lobbying for some type of bill or legislation?

Mr. YUDICHAK. Correct.

Mr. VEREB. Thank you.

The SPEAKER. Representative Reichley.

Mr. REICHLEY. Thank you, Mr. Speaker.

Would the maker of the amendment stand for brief interrogation?

The SPEAKER. The gentleman indicates he will. The gentleman is in order and may proceed with his interrogation.

Mr. REICHLEY. Thank you, Mr. Speaker.

Mr. Speaker, I would like to direct the level of inquiry to two different areas. As you may recall, Mr. Speaker, being an attorney yourself, a few years ago we had a situation where the Pennsylvania Supreme Court struck down our lobbyist disclosure law based upon a suit that was filed by lawyers who claimed the Supreme Court is the only constitutional body that can regulate the conduct of lawyers, even if they are acting in capacity as lobbyists. Is it possible for a lawyer/lobbyist to state that if your amendment went into the bill that eventually became law, that somehow that is an unconstitutional exertion of authority by the legislature, when only the Supreme Court can be acting in that capacity?

Mr. YUDICHAK. First, since we are talking about open records and full disclosure, I am not an attorney. I just had the good fortune to marry one, but I am not an attorney.

Mr. REICHLEY. You count that, okay. You are in.

Mr. YUDICHAK. The mandate is not on the lobbyist or the attorney. It is on the public official. So I think that we will be fine in terms of constitutionality as a result of that previous decision.

Mr. REICHLEY. Okay. I do have a concern that creative minds at work would state that this is somehow an

infringement, again, along the lines by which the lobbyist disclosure law was struck down a number of years ago. Let me ask you a second question, though. Following up with your conversation with Representative Vereb, I take it that your amendment would require disclosure, for instance, the number of e-mails that we received today on not only this bill but other bills that are before the House for consideration, that come from not only those, quote, unquote, "lobbyists" but associations. Is that correct?

Mr. YUDICHAK. Registered lobbyists.

Mr. REICHLEY. Well, if a county commissioner e-mails me to say, we disagree with provisions of SB 1 because of the impact it is going to have on county government, would that communication be disclosed under your amendment?

Mr. YUDICHAK. No.

Mr. REICHLEY. But if the lobbyist for the County Commissioners Association wrote that same e-mail, that would be subject to disclosure?

Mr. YUDICHAK. Correct.

Mr. REICHLEY. If the president of ExxonMobil sends me an e-mail and says, vote against such and such bill, is that to be disclosed?

Mr. YUDICHAK. Correct.

Mr. REICHLEY. That would be disclosed under this?

Mr. YUDICHAK. Correct.

Mr. REICHLEY. But he is not a registered lobbyist.

Mr. YUDICHAK. He is a corporation.

Mr. REICHLEY. How about any other employees of ExxonMobil, if they are writing me saying, do not do XYZ on some bill, would that person's e-mail to me—

Mr. YUDICHAK. Official correspondence from the corporation. You had mentioned the president, an official correspondence from the president.

Mr. REICHLEY. Okay. But, for instance, if the corporation asks its employees to send a series of e-mails to the members to say do not vote on XYZ bill, that e-mail from those employees, even if it ran up to hundreds of them, that would not be subject to disclosure?

Mr. YUDICHAK. Not my intent, no.

Mr. REICHLEY. But an e-mail from the corporate president or officer or their registered lobbyist would be?

Mr. YUDICHAK. Correct.

Mr. REICHLEY. How about on labor unions? If the members of labor unions contacted us?

Mr. YUDICHAK. The majority of the labor unions, to my knowledge, are registered lobbyists, and they would be covered.

Mr. REICHLEY. I am sorry, Mr. Speaker. I could not hear the last answer.

Mr. YUDICHAK. To my knowledge, the majority of the labor unions are registered as lobbyists. Certainly the largest, AFL-CIO, AFSCME (American Federation of State, County, and Municipal Employees), those are registered lobbyists. They would be qualified.

Mr. REICHLEY. What about a mass e-mailing from members of any organization, whether it is a labor union who would do work for an employee, or let us even leave it up to this: How about members of the League of Women Voters or Common Cause, if they send us a series of e-mails that say, do not vote for SB 1 in its current form, is that something which is subject to disclosure?

Mr. YUDICHAK. No.

Mr. REICHLEY. Okay. And lastly, I think based upon the exchange we have had and you have had with Representative Vereb and the earlier exchange we have had with Representative Mahoney on his particular amendment, a communication between a lobbyist and yourself or myself, that would be subject to disclosure. Is that correct?

Mr. YUDICHAK. Could you repeat that?

Mr. REICHLEY. Sure. Mr. Speaker, if there was a communication between a lobbyist to you or to me, that would be subject to disclosure. Is that correct?

Mr. YUDICHAK. Correct.

Mr. REICHLEY. But if the lobbyist orally said, hey, Doug, go ask John Yudichak to vote "no" on this amendment, that would not be subject to disclosure?

Mr. YUDICHAK. No.

Mr. REICHLEY. And if I sent you an e-mail that the XYZ lobbyist asked me to talk to you about this bill, that would not be subject to disclosure?

Mr. YUDICHAK. Correct.

Mr. REICHLEY. If the corporate president contacted me and said orally, can you send an e-mail to John to say we do not really think this is a good idea, that would not be subject to disclosure?

Mr. YUDICHAK. It would be disclosed on your end, not on mine. I am getting contacted by a colleague.

Mr. REICHLEY. Or if the lobbyist contacted your staff to say orally, we are not in favor of what John is doing, would that be subject to disclosure?

Mr. YUDICHAK. No.

Mr. REICHLEY. And if they wrote a note specifically to your staff assistant or to the gentleman who is helping you tonight saying, hey, we are not really crazy about John's amendment, that would not be subject to disclosure either. Is that correct?

Mr. YUDICHAK. Correct.

Mr. REICHLEY. Okay. So it is solely limited to the explicit communication between the lobbyist or a corporate official and the legislator?

Mr. YUDICHAK. Correct.

Mr. REICHLEY. But there are various permutations in which, as I said, creative minds would try to get around these prohibitions?

Mr. YUDICHAK. I have heard attorneys can be creative; that is correct, sir.

Mr. REICHLEY. All right. Thank you, Mr. Speaker.

The SPEAKER. Representative Pyle. The gentleman waives off.

Representative Yudichak, for the second time.

Representative Payne.

Mr. PAYNE. Thank you, Mr. Speaker.

I wanted to interrogate the maker of the amendment if I could, briefly?

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

Mr. PAYNE. Thank you.

Mr. Speaker, I am going to try to cut to just a couple of quick things, because I think it has been very well handled by both sides of the aisle tonight. Every one of us here gets in the mail the thick binders from groups, not necessarily a lobbyist, but a group, and inside that binder is a cover paper or a fact sheet or a white paper, if you will, of two or three pages. Under this,



if that would come from any corporation, organization, lobbyist, I would have to keep everything?

Mr. YUDICHAK. Registered lobbyists, official correspondence from a corporation.

Mr. PAYNE. Okay. But I would have to keep—

Mr. YUDICHAK. If it is a nonprofit, if it is an association, if it is not a registered lobbyist, if it is not influencing this process, if it is part of the preliminary work product, I would say no.

Mr. PAYNE. Many, many nonprofits, though, are corporations. They are incorporated. So my point I guess I am getting at is, right now I do not keep all the binders, normally. I doubt that most of us do. We keep the fact sheets so we know what the issues are, but my concern would be, because I am not an attorney, I would have to keep everything.

Mr. YUDICHAK. No. What I am trying to get at is not that preliminary product that was mentioned by the gentlelady from Philadelphia earlier, not that preliminary product, but if you have a specific piece of legislation that you are debating on this floor tonight and you have a binder from a registered lobbyist, from a corporation, that is specifically influencing and directing your activity on this floor, I believe the public should have a right to see that document.

I am not talking about the thousands and thousands of e-mails. I am not talking about the single white piece of white paper that may have an issue, there is a bill coming up. We are talking very specifically about the activity that you are directing on this floor and is being influenced by a registered lobbyist and/or corporation.

Mr. PAYNE. Thank you. Mr. Speaker, that would work out great if I got that binder yesterday or today and the bill is running today. Unfortunately, as you and I both know, we could get a binder in January or February and that bill may not run for 6 months or 8 months or 9 months, and I normally do not keep that full binder. I am concerned now I would have to keep it.

Let me just ask you another question: Every one of us in here, I know, have gotten chain e-mails. I am getting them from Pittsburgh, Philly, Erie on some topic, and they are normally driven by corporations or lobbyist groups who want to get a mass e-mail out to us. Now, they are not my constituents so I traditionally do not keep those e-mails, but they might, in fact, be coming through the efforts of a lobbyist or a corporation. What will I have to do now?

Mr. YUDICHAK. Since this is a new process, as I said earlier, the clearinghouse is going to have to determine that, or that will be the determination made in the conference committee before it comes back to the full House for another vote, and how you would determine whether a registered lobbyist is driving that information or whether they are simply private citizens or your constituents communicating with you, which would be exempt, so that would be determined through that clearinghouse process.

Mr. PAYNE. Well, clearly an e-mail or 300 e-mails which I have gotten already from Pittsburgh or Philly are not my constituents, and I doubt that somebody just in the spur of the moment decided to send those 300 e-mails. They are obviously being driven by a corporation, a lobbyist, or a group.

Okay. Last question: I get a phone call from the County Commissioners Association, the Boroughs Association, the AFL-CIO, and they talk about potential legislation that might come up or might come over from the Senate in that phone call. We do not have it before us, we are not voting, but they have called me. How do I write that down? How do I track that?

Mr. YUDICHAK. Oral communication. It would not be covered under this—

Mr. PAYNE. Your amendment says communication. It does not say written.

Mr. YUDICHAK. We are talking specifically about written e-mail, communication. You do not have a recording device on your, or at least I presume that you do not have a recording device on your phone. You would not be able to capture that information. If they had talked to your staff, your staff are not public officials, so that would be exempted. We went through those questions with the Representative from Lehigh County.

Mr. PAYNE. Okay. And I heard that discussion. I am just not an attorney and being that I want to be sure that I do not get rid of anything or create a loophole for people to say, well, do not send him anything in writing; just call him. Now you have no record.

Mr. YUDICHAK. As I expect with every amendment that has been offered and the entire bill as a whole, once a final open records law is in place, as happened with the lobbyist disclosure act, you will get a very specific guideline on how you will be governed under that new law so that we will be reeducated in the new open records and Right-to-Know Law. So all the questions that you have are very good questions. I am not dismissing those questions. They are not questions that are necessarily going to be answered by my amendment. They are going to be answered as the legislative process continues and as that clearinghouse is created and executes the final guidelines on this law.

Mr. PAYNE. Okay. Thank you, Mr. Speaker.

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

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

Mr. PAYNE. Mr. Speaker, I have a lot of respect for the gentleman across the aisle, but in my tenure here, I do not know that we have ever voted on stuff on a bill and then said, do not worry about what the answer is or do not worry whether that is going to be covered; some other organization in 6 months is going to decide what you have to keep and what you do not have to keep. Normally when we are voting on legislation, we have the facts in front of us; we know the results of that vote. I am a little concerned that I would be voting for something tonight that that clearinghouse or that agency, if we go back to Representative Tangretti's amendment, would interpret in several months what it is you have to keep and what it is you do not have to keep. That is a little tough to take a vote when you are not sure exactly what records they are talking about and what records they are not.

For that reason I will probably vote "no" on the amendment. Thank you, Mr. Speaker.

The SPEAKER. Is there any member seeking recognition? Representative McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, I will be very brief.

I would ask that we oppose the Yudichak amendment. I think, first and foremost, I really believe that administratively the job of keeping the records that would be required under this amendment would really be untenable. It could be a full-time job for each and every one of us just to maintain the records that would be required.

In the first instance in the first part of the amendment, I would have to determine, number one, is the communication from a lobbyist and then also determine is it within their scope as a lobbyist. That is a question that I would have to find out

and get information on my own. So that aspect of it I think is untenable.

In the second instance in the amendment, you know, I think you have to ask, is the communication from a corporation? Is it an e-mail from a lawyer? Is it from an insurance agent? Is it from a business agent? Is it from a businessman or a businesswoman from my district? I may not know the answer to that question, but if I get that correspondence, am I supposed to keep that? How am I going to know the answer to those questions, just on the e-mail side of the equation?

And as far as the corporate communications are concerned, we heard, are nonprofits included in this? Well, I am going to tell you, nonprofits, if they are incorporated, and most of them are incorporated, would be included in this. So all those correspondences between those nonprofits, you are going to have to maintain, keep those records, and save those e-mails.

So it seems to me in that corporate side of the information that we have to save, or be required to save, under this amendment, it seems to me we would have to save that information even if that information is exempted in another part of this legislation, and even if that information is confidential information or proprietary information, and for all those reasons, Mr. Speaker, I would say, we kind of understand where the gentleman is coming from on this amendment, I really believe it is poorly drafted, and we should defeat the amendment.

Thank you, Mr. Speaker.

The SPEAKER. Is there any member seeking recognition before the Chair recognizes the prime sponsor of the amendment?

The Chair recognizes Representative Yudichak.

Mr. YUDICHAK. Thank you, Mr. Speaker.

I appreciate the debate and the dialogue that we had tonight on this amendment. I think it is very important, a very important part of moving this open records bill forward. Certainly the intent, as I listened to my colleagues, they agree with the intent and have some question on the details. The one thing, though, that I am very concerned about that I heard in certain comments made is that this somehow jeopardizes a secret compromise that many of these members in this chamber were not a part of. Was that in an open and transparent forum, that compromise? We are debating open records. I have offered an amendment. We have a dialogue. You get to vote "yes" and "no."

All I am asking is that in the end of the discussion, should a correspondence between a registered lobbyist and a public official, a Representative or a Senator, should that correspondence on issues concerning the appropriation of taxpayer money, should that be public record? I believe it is. I would appreciate your support. Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS-62

Adolph	Galloway	Marshall	Samuelson
Bear	George	McGeehan	Scavello
Benninghoff	Gibbons	McIlhatten	Schroder
Beyer	Hanna	Metcalfe	Shapiro

Boyd	Harhart	Milne	Smith, K.
Brooks	Harris	Mustio	Smith, M.
Caltagirone	Hennessey	O'Brien, M.	Stevenson
Carroll	Hershey	Pallone	Tangretti
Conklin	Hickernell	Payton	Taylor, J.
Costa	Hutchinson	Peifer	Taylor, R.
Curry	Keller, W.	Rapp	True
Cutler	Kenney	Raymond	Turzai
Dally	Killion	Reed	White
Denlinger	King	Reichley	Yewcic
Freeman	Lentz	Sabatina	Yudichak
Gabig	Mahoney		

NAYS-140

Argall	Geist	McCall	Rohrer
Baker	Gerber	McI. Smith	Ross
Barrar	Gergely	Melio	Rubley
Bastian	Gillespie	Mensch	Sainato
Belfanti	Gingrich	Micozzie	Santoni
Bennington	Godshall	Millard	Saylor
Biancucci	Goodman	Miller	Seip
Bishop	Grell	Moul	Shimkus
Blackwell	Grucela	Moyer	Sipthoth
Boback	Haluska	Mundy	Smith, S.
Brennan	Harhai	Murt	Solobay
Buxton	Harkins	Myers	Sonney
Cappelli	Harper	Nailor	Staback
Casorio	Helm	Nickol	Stairs
Causer	Hess	O'Neill	Steil
Civera	Hornaman	Oliver	Stern
Clymer	James	Parker	Sturla
Cohen	Josephs	Pashinski	Surra
Cox	Kauffman	Payne	Swanger
Creighton	Keller, M.	Perry	Thomas
Cruz	Kessler	Perzel	Vereb
Daley	Kirkland	Petrarca	Vitali
DePasquale	Kortz	Petri	Vulakovich
Dermody	Kotik	Petrone	Wagner
DeWeese	Kula	Phillips	Walko
DiGirolamo	Leach	Pickett	Wansacz
Donatucci	Levdansky	Preston	Waters
Eachus	Longiotti	Pyle	Watson
Ellis	Mackereth	Quigley	Wheatley
Evans, D.	Maher	Quinn	Williams
Evans, J.	Major	Ramaley	Wojnaroski
Everett	Manderino	Readshaw	Youngblood
Fabrizio	Mann	Roae	
Fairchild	Mantz	Rock	O'Brien, D., Speaker
Fleck	Markosek	Roebuck	
Frankel	Marsico		

NOT VOTING-0

EXCUSED-1

DeLuca

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

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

Mr. DePASQUALE offered the following amendment No. A04982:

Amend Sec. 1307, page 40, line 10, by striking out "and such" and inserting including costs associated with legal reviews of records or record requests requiring the contracting or procuring of legal counsel outside the agency. Such

Amend Sec. 1307, page 40, lines 11 through 14, by striking out "No fee may be imposed for an agency's review of a" in line 11 and all of lines 12 through 14 and inserting An agency shall not charge a requester any fee for any of the following costs:

- (1) Costs related to reviewing a record to determine if it is a public record.
(2) Costs related to redacting exempt information from a record.
(3) Personnel costs for copying a record.
(4) Personnel costs for preparing a record for delivery.
(5) Personnel costs for observing a requester who is reviewing or copying a record.
(6) For use of agency computers, viewers or other equipment necessary for gaining access to examining a record.
(7) Costs for agency personnel to instruct a requester on the use of agency equipment used to view a record.
(8) Any other processing costs not specifically permitted under this section.

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

The SPEAKER. The Chair recognizes Representative DePasquale on the amendment.

Mr. DePASQUALE. Thank you, Mr. Speaker.

This amendment is intended to ensure that fees that are offered when people come to get their open records are not excessive and that costs that are put onto these do not take into account things that are already being paid for at the local level or by State agencies, and that is the intent of this amendment.

And I also want to state for the record that this does not impact any flat fees. This is to ensure that costs are not added on for these various points that I have outlined in this amendment.

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

The following roll call was recorded:

YEAS-141

Table listing names of representatives who voted 'YEAS-141', including Adolph, Argall, Barrar, Bastian, Bear, Belfanti, Bennington, Bianucci, Bishop, Blackwell, Boyd, Brennan, Buxton, Caltagirone, Clymer, Cohen, Conklin, Costa, Galloway, George, Gerber, Gergely, Gibbons, Gillespie, Godshall, Grucela, Haluska, Hanna, Harhai, Harhart, Harkins, Harper, Harris, Hennessey, Hershey, Hickernell, McCall, McGeehan, McI. Smith, McIlhattan, Melio, Micozzie, Millard, Miller, Milne, Moul, Moyer, Mundy, Murt, Mustio, Myers, Nickol, O'Brien, M., O'Neill, Samuelson, Santoni, Saylor, Scavello, Schroder, Shapiro, Shimkus, Siptroth, Smith, K., Solobay, Staback, Stairs, Steil, Stevenson, Sturla, Surra, Tangretti, Taylor, J.

Table listing names of representatives who were present or absent, including Cox, Creighton, Cruz, Curry, Cutler, Daley, Dally, DePasquale, Dermody, DeWeese, DiGirolamo, Donatucci, Eachus, Ellis, Evans, D., Fabrizio, Frankel, Freeman, Hornaman, James, Josephs, Kenney, Kessler, Killion, Kirkland, Kula, Leach, Lentz, Levdansky, Mackereth, Mahoney, Manderino, Mann, Mantz, Markosek, Marshall, Oliver, Parker, Pashinski, Payton, Perry, Petrarca, Petrone, Preston, Pyle, Quigley, Quinn, Ramaley, Raymond, Readshaw, Rock, Roebuck, Rohrer, Rubley, Taylor, R., Thomas, True, Turzai, Vereb, Vitali, Wagner, Walko, Wansacz, Waters, Watson, Wheatley, Williams, Youngblood, O'Brien, D., Speaker

NAYS-60

Table listing names of representatives who voted 'NAYS-60', including Baker, Benninghoff, Beyer, Boback, Brooks, Cappelli, Carroll, Casorio, Causer, Civera, Denlinger, Evans, J., Everett, Fairchild, Fleck, Gabig, Geist, Gingrich, Goodman, Grell, Helm, Hess, Hutchinson, Kauffman, Keller, M., King, Kortz, Kotik, Longietti, Maher, Major, Marsico, Mensch, Metcalfe, Nailor, Pallone, Payne, Peifer, Perzel, Petri, Phillips, Pickett, Rapp, Reed, Reichley, Roae, Ross, Sabatina, Sainato, Seip, Smith, M., Smith, S., Sonney, Stern, Swanger, Vulakovich, White, Wojnaroski, Yewcic, Yudichak

NOT VOTING-1

Keller, W.

EXCUSED-1

DeLuca

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 second consideration as amended?

The SPEAKER. The Chair recognizes Representative Roae. Will the gentleman inform the Chair which amendment he intends to offer.

Mr. ROAE. Thank you, Mr. Speaker.

Previously I spoke on amendment A4732, and the Chair put the amendment over. I would like to come back to that amendment.

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

The clerk read the following amendment No. **A04732**:

Amend Sec. 708, page 29, line 7, by striking out all of said line and inserting

(26) (i) A proposal pertaining to agency procurement or Amend Sec. 708, page 29, by inserting between lines 15 and 16

(ii) (A) This paragraph does not apply to records or other information created or provided by a consultant or other person under contract with an agency and received or retained by the agency or any other person.

(B) If a requester submits a request for a public record, legislative record or financial record relating to information created or provided by a consultant or other person under contract with an agency, and no public record, legislative record or financial record of the information exists, the agency shall create a record by obtaining testimony under oath from the consultant or other person and creating a transcript therefrom.

(C) The testimony shall include information in ample detail, which is proportional to the total cost of the contract, regarding the nature of the work performed under the contract, the specific tasks required by the agency under the contract, the specific tasks performed by the consultant or other person under the contract, any research or findings conducted or issued by the consultant or other person and any recommendations made by the consultant or other person to the agency.

(D) The transcript shall be considered a public record, legislative record or financial record of the agency and shall be provided to the requester, in accordance with this act, and retained by the agency, in accordance with applicable record retention schedules.

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

The SPEAKER. The Chair recognizes Representative Roae on the amendment.

Mr. ROAE. Thank you, Mr. Speaker.

I spoke on this probably an hour ago or so, and basically this was the amendment that would make sure that consulting work that is paid for with tax money is part of the public record, and if the consulting report is not written down, it would ensure that the public has access to the report anyway. It would require that the consulting report be done by oral testimony under oath so that a transcript could be written so that the taxpayer can get access to the consulting information. Taxpayers deserve access of knowing how their tax money is being spent, and my amendment does that, Mr. Speaker.

The SPEAKER. Representative Vitali.

Mr. VITALI. Thank you, Mr. Speaker.

Will the maker of the amendment stand for interrogation?

The SPEAKER. The gentleman indicates that he will. The gentleman is in order and may proceed with his interrogation.

Mr. VITALI. Thank you, Mr. Speaker.

I am having a little trouble visualizing how this is going to work in the real world. Are there any models out there in any other States where the approach you are suggesting has been taken?

Mr. ROAE. Mr. Speaker, we are going to have a model here in Pennsylvania. If tax money is used to pay a consultant to do consulting work, the consulting report is going to be public record, under my amendment.

Mr. VITALI. Could I assume that is a "no" answer?

Mr. ROAE. I have not researched other States.

Mr. VITALI. Okay. So what you are suggesting— I am trying to get an idea for who is going to do the transcribing, who is going to provoke the questions. You have a system set up where there is going to be a transcript of testimony. Could you just sort of maybe give an example of how this would work and who would do the recording and how it would be recorded?

Mr. ROAE. Mr. Speaker, I think it should be noted that in most circumstances when a consultant does consulting work, it is normal process for there to be a report. Normally when you hire a consultant, when the consultant is done, they issue a report. The report states what the consultant was charged to do, what the findings were, what the recommendations were, and so on.

How this would work, Mr. Speaker, is that most of the time when tax money is used to fund some type of a consultant study, most of the time there is going to be a written report, because that is how things are normally done. In the rare instance of where the consultant does not put anything in writing, this amendment added to the bill would push the issue and require it if somebody makes a request for public record. In most circumstances, if somebody hires a consultant for a half an hour to do some mundane task, it is probably not going to involve somebody from the public even knowing about it, let alone asking for a transcript of the consulting work.

Where this would mainly apply would be if somebody hired a consultant and they spent \$100,000 or \$200,000 of tax money, the public deserves to know why that money was spent.

Mr. VITALI. Okay. So let us say the Parking Authority of Philadelphia spends \$200,000 on a consultant and there is no record. What happens next? I mean, how is this testimony recorded? Who determines what length? Who determines how detailed? How is the recording accomplished? I understand what you are getting at, but I am sort of wondering, is this in any way workable in the real world?

Mr. ROAE. Mr. Speaker, this is very workable. If there is a written document, a written consultant report, you know, a document on pieces of paper, if somebody requested the information, you would say, here, you can have it. If there is no written report, the person that did the consulting work would have to give testimony and a paper record would be created.

Mr. VITALI. Whom would he testify to?

Mr. ROAE. The exact details would have to be worked out by the agency, just like any other. If somebody makes a public record request, this legislation does not say whether the secretary gives you the report or the person who authorized the consulting work gives it to you or they give it to you on blue paper or yellow paper. The intent of this bill is to give the public access to information.

Mr. VITALI. I truly know what the intent is. But let us use the example if the Philadelphia Parking Authority pays its consultant \$200,000 and no record is created. I mean, what happens next in your mind, under this, if this were to become law?

Mr. ROAE. A request would have to be made to the consultant to provide testimony under oath as to what the nature of the consulting work was, what they did, why they did it,

and so on, and presumably it would be one of the officers of the Parking Authority who would make that request to the consultant.

Mr. VITALI. And what if he just came in and gave some vague five-sentence explanation? How would that help things here?

Mr. ROAE. Well, with anything, there could be a court challenge. Somebody could challenge in court that it was not specific enough. Again, this issue is not going to come up that often, because in 99.99 percent of the time, if somebody spends \$100,000 on a consultant or they spend \$200,000 of tax money on a consultant, 99.99 percent of the time there is going to be a written report.

Mr. VITALI. That concludes my questioning. Thank you.

Mr. ROAE. Thank you.

The SPEAKER. Representative Sainato.

Mr. SAINATO. Will the maker of the amendment agree to interrogation?

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

Mr. SAINATO. Thank you, Mr. Speaker.

I just have a quick question. The consultant that has to make this transcript, who is going to be paying this consultant for their time that it is going to take to do this? I will repeat it, Mr. Speaker. For the consultant that has to make this transcript, from what I understand they may have to come in on their own time to do this. I do not think they are going to come for free. Who has to pay for them to do this? Would it be the municipality, the local governments?

Mr. ROAE. Mr. Speaker, I had difficulty hearing the question. I would like to answer the question, but I could not hear it.

The SPEAKER. The House will come to order.

Members will take their seats. I know the hour is late. Members will please take their seats. Conversations in the center aisles will break up.

Mr. SAINATO. I will repeat the question, Mr. Speaker.

The consultant has to come in and give this oral testimony. Who pays for the stenographer? Who pays for the consultant's time that it is going to take to make this record?

Mr. ROAE. The agency involved or the legislative agency, the executive branch, whoever it is that has to do it, that would come out of their budget. They would have to make sure that when they hire consultants, part of the bid specs should probably be that the consultant needs to put a consulting report in writing so you do not have that problem. I agree, it could be a problem if you have to re-create the whole thing. So when consulting work is bid out, people are going to have to tell the consultant that if we are spending \$100,000 for consulting work, we want a paper document, we do not just want an oral presentation of the findings.

Mr. SAINATO. Well, Mr. Speaker, would this not add to the costs for local government, State government, county government if they have to do this and put this extra time in?

Mr. ROAE. Mr. Speaker, I do not believe it would; 99.99 percent of consulting work normally involves a written report being done anyways. This is only very unusual circumstances where \$100,000 or \$200,000 of taxpayer money is spent on consulting and no written documentation is produced as part of the consultant's report.

Mr. SAINATO. All right, Mr. Speaker. I have ended my interrogation. I just would like to speak, though.

I do have some concern—

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

Mr. SAINATO. Thank you, Mr. Speaker.

I do have some concern on this. I think it could add to the costs, and the ultimate costs are borne by the taxpayers in Pennsylvania, especially if we are dealing with our local municipalities, our counties, and even when we get into the State legislature and Senate because the costs have to be paid by someone, and I think it would be borne by the taxpayers.

Thank you.

The SPEAKER. Representative McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, I would ask that the membership vote against the Roae amendment for a number of reasons. Number one, cost. When you read the current fiscal note that all of us have on our computers and at our desks, it tells you that there is no current quantifiable cost or statistics or numbers that they could put in place for us to determine what this will cost locally or what it will cost State government or the agencies of State government. So we may be opening up a Pandora's box to costs that are inconceivable and could run into the millions upon millions of dollars.

The second part of the amendment that we have concern about is the privity of contracts where we are going to open information up to a new realm that was never contemplated before. I hire an attorney for consultation with the assumption that consultation will be held very private for my use. Under this amendment, that information now becomes a public record. After I just hired that person for my own private advice, it now becomes a public record under this amendment.

And the other issue that I have a concern with is the attorney-client privilege as well as the attorney-work-product privilege. Under this language, there are no exceptions for that attorney-client privilege; that attorneys, conceivably, could be compelled to testify against their own client.

I think this is a very slippery slope and a very dangerous precedent for us to set, and I would ask that the members vote against this amendment.

The SPEAKER. Representative Longietti.

Mr. LONGIETTI. Thank you, Mr. Speaker.

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

There are times when local government bodies have real estate to sell and they will contract with a real estate appraiser for consulting to determine what the value of that real estate is, and if we make that information public, it hampers them on their ability to get the best value for the real estate by disclosing that in advance. So there is another example, Mr. Speaker, where we would not want information from a consultant public. We want our government agencies to be able to get the largest amount of money for property that they sell so that we can maximize taxpayer dollars. And here we would be releasing the consultant's report, showing our hand, showing what that value of that real estate is, and hampering us in our ability to negotiate the best value.

Thank you.

The SPEAKER. Representative Reichley.

Mr. REICHLEY. Thank you, Mr. Speaker.

I also rise against this amendment, Mr. Speaker.

I think that the gentleman from Carbon has raised a number of pertinent issues regarding the legal protections that are afforded to the people who are going to be producing the consultant arrangements, and speaking with another person, it is

akin to asking somebody to build you a house, and after the house is completed, asking for a report about that house. Now you have gone past the completion of the contract, the service has been rendered, and now you are requiring them to produce something above and beyond that.

So I think it violates the privity of contract. I think it requires people to perform services beyond the scope of a contract. I think it is also subject to attorney-client privilege being invoked and claiming somehow this would violate that particular communication.

So I urge "no" on this amendment. Thank you.

The SPEAKER. Is there any member seeking recognition before the Chair recognizes the prime sponsor of the amendment?

Representative Kortz.

Mr. KORTZ. Thank you, Mr. Speaker.

Can the maker of the amendment rise for brief interrogation?

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

Mr. KORTZ. Mr. Speaker, the question I have is, if there was consultant work done 10 years, 15 years, 20 years, 30 years ago where there was no report, since this bill is not prospective, that would be a record that we would have to generate. How do we do that? How do we go back into a 30-year timeframe, 40-year, and generate something?

Mr. ROAE. Mr. Speaker, the same situation could occur if there was a report. If consulting work was done 20 years ago or 30 years ago or 40 years ago, it may be difficult to find the paper copy of that, too. It may be difficult to find the paper copy of anything that was done, you know, 50 years ago, a letter, nothing to do with consulting work, anything that we do in this chamber, anything that we have ever done that would now be considered public record. So, Mr. Speaker, I do not think that is a valid argument, because you could say that about anything that has to do with anything in this entire bill.

Mr. KORTZ. Mr. Speaker, if I could follow up with another question. If the consultant has passed away, how do we get that information?

Mr. ROAE. Well, in that situation I do not believe you would be able to get it, and I think that if somebody went to court and they demanded testimony from a dead person, the judge would probably say no. I mean, obviously you would not be able to get it in that circumstance unless that consulting firm had something in writing. If they had something in writing, they could give it, but if they had something in writing, this would be a moot point anyways. All consulting work is normally put in writing. It is very rare to have consulting work not result in a written report.

Mr. KORTZ. Thank you, Mr. Speaker.

That completes my interrogation. If I could speak on the amendment?

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

Mr. KORTZ. Mr. Speaker, I think this amendment is a very slippery slope. We are putting local agencies under the gun for something, a document that may not exist. They may not be able to get the document, but yet they are under the gun to produce it. If they cannot produce it, the fines start adding up. Since this bill is not a prospective bill and we can go back 30, 40, 50, 60 years, I think it is a bad amendment, and I would ask everybody to vote negative.

The SPEAKER. The Chair recognizes Representative Roae for the second time.

Mr. ROAE. Thank you, Mr. Speaker.

Some points were made regarding this amendment. Somebody questioned the cost. I maintain that my amendment may actually save money. If somebody knows that the work of a consultant is going to be public record, they may not hire a consultant. If somebody was going to hire a consultant at \$20,000 a month or some large amount of money, they might not do that if they knew they had to put the consultant report in writing.

As far as all the other points made about my amendment, Mr. Speaker, I feel that it is the intent of the open records legislation to allow the public to have access to how our tax money is being spent. If a government agency or a member of the General Assembly or anybody that is using tax money, if we pay for consulting work with tax money, the public deserves to see what they were paying for.

I urge everybody to please vote for my amendment. Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—40

Barrar	Cox	Hutchinson	Quigley
Bear	Creighton	Kauffman	Rapp
Benninghoff	Cutler	Kenney	Reed
Boback	Dally	Mantz	Roae
Boyd	Denlinger	Metcalfe	Rock
Brooks	Everett	Moul	Rohrer
Caltagirone	Fairchild	Mustio	Schroder
Cappelli	Gillespie	Peifer	Taylor, J.
Causar	Harhart	Perry	True
Clymer	Hickernell	Phillips	Turzai

NAYS—162

Adolph	Gingrich	McGeehan	Santoni
Argall	Godshall	McI. Smith	Saylor
Baker	Goodman	McIlhattan	Scavello
Bastian	Grell	Melio	Seip
Belfanti	Grucela	Mensch	Shapiro
Bennington	Haluska	Micozzie	Shimkus
Beyer	Hanna	Millard	Siptroth
Biancucci	Harhai	Miller	Smith, K.
Bishop	Harkins	Milne	Smith, M.
Blackwell	Harper	Moyer	Smith, S.
Brennan	Harris	Mundy	Solobay
Buxton	Helm	Murt	Sonney
Carroll	Hennessey	Myers	Staback
Casorio	Hershey	Nailor	Stairs
Civera	Hess	Nickol	Steil
Cohen	Hornaman	O'Brien, M.	Stern
Conklin	James	O'Neill	Stevenson
Costa	Josephs	Oliver	Sturla
Cruz	Keller, M.	Pallone	Surra
Curry	Keller, W.	Parker	Swanger
Daley	Kessler	Pashinski	Tangretti
DePasquale	Killion	Payne	Taylor, R.
Dermody	King	Payton	Thomas
DeWeese	Kirkland	Perzel	Vereb
DiGirolamo	Kortz	Petrarca	Vitali
Donatucci	Kotik	Petri	Vulakovich
Eachus	Kula	Petrone	Wagner
Ellis	Leach	Pickett	Walko
Evans, D.	Lentz	Preston	Wansacz
Evans, J.	Levdansky	Pyle	Waters
Fabrizio	Longietti	Quinn	Watson

Fleck	Mackereth	Ramaley	Wheatley
Frankel	Maher	Raymond	White
Freeman	Mahoney	Readshaw	Williams
Gabig	Major	Reichley	Wojnaroski
Galloway	Manderino	Roebuck	Yewcic
Geist	Mann	Ross	Youngblood
George	Markosek	Rubley	Yudichak
Gerber	Marshall	Sabatina	
Gergely	Marsico	Sainato	O'Brien, D.,
Gibbons	McCall	Samuelson	Speaker

NOT VOTING—0

EXCUSED—1

DeLuca

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

On the question recurring,

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

The SPEAKER. Does the gentleman, Representative Roae, offer another amendment? The gentleman withdraws his amendments. The Chair thanks the gentleman.

The Chair recognizes Representative Perry. Will the gentleman inform the Chair which amendment he intends to offer.

Mr. PERRY. Thank you, Mr. Speaker.

Which amendment do you have; 705, Mr. Speaker?

The SPEAKER. The Chair would like to know which amendment the gentleman wishes to offer.

Mr. PERRY. 4705 would be fine at this time or any other one of the three.

The SPEAKER. 4705.

On the question recurring,

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

The clerk read the following amendment No. **A04705**:

Amend Sec. 102, page 4, by inserting between lines 6 and 7

"Account." Includes any record evidencing the receipt or disbursement of funds by an agency, including a receipt, invoice and other billing information related to the receipt or disbursement of such funds.

Amend Sec. 102, page 9, line 30, by striking out "and" and inserting a comma

Amend Sec. 102, page 10, line 1, by inserting after "Authority" and the Commonwealth Financing Agency

On the question recurring,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Perry.

Mr. PERRY. Thank you, Mr. Speaker.

Mr. Speaker, this is a simple amendment, which simply defines what "account" means in terms of this bill. Currently neither this bill nor any current law defines what the term "account" means, and it leaves it up to the courts to decide.

Under this amendment, the term "account," what would be used to define it is the same language as the Supreme Court most recently depicted in the opinion in *LaValle v. Office of General Counsel*, and that way, by denoting exactly what we mean, it will leave it out of the interpretation of the courts.

Thank you, Mr. Speaker.

The SPEAKER. Representative Maher.

Mr. MAHER. Thank you, Mr. Speaker.

I understand what my good friend desires to accomplish with this amendment, and I have been struggling to climb a hill on this subject this afternoon, and I appreciate his good efforts, but when I read the word "accounts," I tend to read that word — because we are talking about accounting records — the way I look at the world as a C.P.A. (certified public accountant). And I recognize there are all sorts of ways people might define "accounts," but accounts are really an accounting. It is not source document; it is not other records. And the Supreme Court decision that my colleague educated me about speaks to "accounts" and defines them in three words, "records evidencing disbursement." Now, you may notice that this amendment has considerably more than three words to define "accounts."

I think the mission is a good mission, but I cannot get past that C.P.A. instinct in me that says, if you are talking about a specific thing that has a name, the name should mean something. And in this case I am afraid that we are taking the word "cat" and defining it as "dog," and I am not comfortable doing that. And so although I appreciate the direction the gentleman is going, I am going to have to demur from an amendment that defines "accounts" in a way that departs so significantly from the way that I think most accountants would understand the word to mean.

Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes Representative Perry for the second time.

Mr. PERRY. Thank you, Mr. Speaker.

In deference to my good friend from Allegheny County, I would submit that most of the taxpayers are not accountants, and although he defines the term "account" the way he wishes to, most folks want to know where their money is being spent by whatever means are necessary. And such that the court in the past, for 40 years, had determined that "account" was determined to be a record of debits and credits, it did not adequately depict what the citizenry defined as an "account," which is an accounting of the spending of their money. And this amendment would define that, particularly so that it would not be left up to the courts and we could take a stand here for the citizens of Pennsylvania and say that we stand by them and we are in full support of an accounting of their money.

And I urge your support of this amendment. Thank you, Mr. Speaker.

The SPEAKER. Representative McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, I would ask for a "no" vote on the Perry amendment.

Mr. Speaker, the definition of "account" is certainly very broad. I do not feel that it is a proper definition, and I would ask that the members vote "no."

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

## YEAS—100

Adolph	Gabig	McI. Smith	Reichley
Baker	Galloway	McIlhattan	Roae
Bastian	Geist	Mensch	Rock
Bear	Gillespie	Metcalfe	Rohrer
Benninghoff	Gingrich	Millard	Ross
Boback	Grell	Miller	Rubley
Boyd	Harhart	Milne	Samuelson
Brooks	Harris	Moul	Saylor
Caltagirone	Helm	Mustio	Scavello
Cappelli	Hennessey	Nailor	Schroder
Causser	Hershey	Nickol	Shapiro
Clymer	Hess	O'Neill	Smith, M.
Cox	Hickernell	Peifer	Sonney
Creighton	Hutchinson	Perry	Steil
Curry	Kauffman	Petrarca	Stern
Cutler	Keller, M.	Petri	Stevenson
Dally	Kenney	Phillips	Swanger
Denlinger	King	Pickett	Taylor, J.
DePasquale	Kotik	Pyle	Thomas
DiGirolamo	Lentz	Quigley	True
Ellis	Mackereth	Quinn	Turzai
Everett	Major	Rapp	Vereb
Fairchild	Mantz	Raymond	Vulakovich
Fleck	Marshall	Readshaw	Watson
Freeman	Marsico	Reed	

## NAYS—102

Argall	George	Manderino	Seip
Barrar	Gerber	Mann	Shimkus
Belfanti	Gergely	Markosek	Siptroth
Bennington	Gibbons	McCall	Smith, K.
Beyer	Godshall	McGeehan	Smith, S.
Bianucci	Goodman	Melio	Solobay
Bishop	Grucela	Micozzie	Staback
Blackwell	Haluska	Moyer	Stairs
Brennan	Hanna	Mundy	Sturla
Buxton	Harhai	Murt	Surra
Carroll	Harkins	Myers	Tangretti
Casorio	Harper	O'Brien, M.	Taylor, R.
Civera	Hornaman	Oliver	Vitali
Cohen	James	Pallone	Wagner
Conklin	Josephs	Parker	Wansacz
Costa	Keller, W.	Pashinski	Waters
Cruz	Kessler	Payne	Wheatley
Daley	Killion	Payton	White
Dermody	Kirkland	Perzel	Williams
DeWeese	Kortz	Petrone	Wojnaroski
Donatucci	Kula	Preston	Yewcic
Eachus	Leach	Ramaley	Youngblood
Evans, D.	Levdansky	Roebuck	Yudichak
Evans, J.	Longiotti	Sabatina	
Fabrizio	Maher	Sainato	O'Brien, D.,
Frankel	Mahoney	Santoni	Speaker

## NOT VOTING—0

## EXCUSED—1

DeLuca

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

On the question recurring,

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

Mr. PERRY offered the following amendment No. **A04716**:

Amend Sec. 102, page 5, by inserting between lines 21 and 22

(4) Application and database compilation or log of applications by political subdivisions, nonprofit organizations, other entities and individuals for the receipt of State-funded grants awarded on a discretionary basis by a Commonwealth agency, including legislative initiative grants, regardless of whether the applicant receives the grant for which it has applied. For purposes of this paragraph, financial record shall include information regarding:

(i) where applicable, the application sequence number;

(ii) the date the application was received by the Commonwealth agency;

(iii) the applicant name and contact person;

(iv) the project description;

(v) the project location;

(vi) the amount of funding requested;

(vii) any notations as to whether the application was complete and consistent with program guidelines;

(viii) whether or not the Commonwealth agency had approved the application;

(ix) where applicable, the amount of the grant awarded;

(x) where applicable, the date on which the Commonwealth agency notified the applicant that it approved the application;

(xi) in the case of a legislative initiative grant, the name of any member of the General Assembly who recommends the grantee; and

(xii) any other relevant information that qualifies as a public record or financial record under this act.

Amend Sec. 102, page 6, by inserting between lines 28 and 29

"Legislative initiative grant." A grant that is awarded, in whole or in part, on the basis of a recommendation made by or on behalf of a member of the General Assembly.

Amend Sec. 708, page 30, line 14, by inserting after "(b)(5)."

Information described in paragraph (4) of the definition of "financial record" relating to individuals and protected under subsection (b)(28) shall also be exempt from access by a requester under this act.

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Perry on the amendment.

Mr. PERRY. Thank you, Mr. Speaker.

This, too, is a simple amendment, which just seeks to shine the light on the discretionary spending regarding the grants that are given out by this body and other bodies associated with State government.

Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

## YEAS—115

Adolph	Freeman	Marsico	Rapp
Argall	Gabig	McI. Smith	Raymond
Baker	Geist	McIlhattan	Readshaw
Barrar	Gillespie	Mensch	Reed
Bastian	Gingrich	Metcalfe	Reichley
Bear	Godshall	Micozzie	Roae



Benninghoff	Grell	Millard	Rock
Beyer	Hanna	Miller	Rohrer
Boback	Harhart	Milne	Ross
Boyd	Harper	Moul	Rubley
Brennan	Harris	Moyer	Sainato
Brooks	Helm	Murt	Samuelson
Buxton	Hennessey	Mustio	Saylor
Caltagirone	Hershey	Nailor	Scavello
Cappelli	Hess	Nickol	Schroder
Causer	Hickernell	O'Neill	Sonney
Civera	Hornaman	Pallone	Stairs
Clymer	Hutchinson	Payne	Steil
Cox	Kauffman	Peifer	Stern
Creighton	Keller, M.	Perry	Stevenson
Cutler	Kenney	Perzel	Swanger
Dally	Killion	Petrarca	Taylor, J.
Denlinger	Kortz	Petri	True
DiGirolo	Kotik	Petrone	Turzai
Ellis	Mackereth	Phillips	Vereb
Evans, J.	Maher	Pickett	Vitali
Everett	Major	Pyle	Vulakovich
Fairchild	Mantz	Quigley	Watson
Fleck	Marshall	Quinn	

NAYS—87

Belfanti	Gerber	Markosek	Smith, S.
Bennington	Gergely	McCall	Solobay
Bianucci	Gibbons	McGeehan	Staback
Bishop	Goodman	Melio	Sturla
Blackwell	Grucela	Mundy	Surra
Carroll	Haluska	Myers	Tangretti
Casorio	Harhai	O'Brien, M.	Taylor, R.
Cohen	Harkins	Oliver	Thomas
Conklin	James	Parker	Wagner
Costa	Josephs	Pashinski	Walko
Cruz	Keller, W.	Payton	Wansacz
Curry	Kessler	Preston	Waters
Daley	King	Ramaley	Wheatley
DePasquale	Kirkland	Roebuck	White
Dermody	Kula	Sabatina	Williams
DeWeese	Leach	Santoni	Wojnaroski
Donatucci	Lentz	Seip	Yewcic
Eachus	Levdansky	Shapiro	Youngblood
Evans, D.	Longietti	Shimkus	Yudichak
Fabrizio	Mahoney	Siptroth	
Frankel	Manderino	Smith, K.	O'Brien, D.,
Galloway	Mann	Smith, M.	Speaker
George			

NOT VOTING—0

EXCUSED—1

DeLuca

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 second consideration as amended?

The SPEAKER. Does the gentleman have any other amendments he wishes to offer?

Mr. PERRY. Thank you, Mr. Speaker.  
I would like to withdraw amendment 04758.

The SPEAKER. The Chair thanks the gentleman.  
Mr. PERRY. Thank you, Mr. Speaker.

The SPEAKER. The House will be at ease.

If the Chair could have the members' attention.

The Chair is not aware of any other amendments that are pending before the House that have been timely filed. Is there any member that believes they have a timely filed amendment that they wish to offer?

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

The clerk read the following amendment No. **A04930**:

Amend Title, page 1, by inserting before line 1 (A04720)  
Amend Title, page 1, line 5, by striking out "an Open Records Clearinghouse" and inserting

the Pennsylvania Public Records Office

Amend Table of Contents, page 2, line 5, by striking out all of said line and inserting  
Section 503. (Reserved).

Amend Table of Contents, page 1, by inserting between lines 6 and 7 (A04720)

Amend Table of Contents, page 2, line 26, by striking out all of said line

Amend Table of Contents, page 1, lines 13 and 14 (A04720), by striking out all of said lines and inserting  
Section 3101.2. Severability.

Amend Sec. 102, page 1, lines 13 and 14 (A04720), by striking out all of said lines and inserting

Amend Sec. 102, page 4, lines 13 through 21, by striking out all of said line

Amend Sec. 102, page 2, by inserting between lines 6 and 7 (A04720)

Amend Sec. 102, page 9, by inserting between lines 8 and 9 "Records office." The Pennsylvania Public Records Office established under section 1310.

Amend Bill, page 3, lines 3 through 7 (A04720), by striking out all of said lines and inserting

Amend Sec. 503, page 13, lines 9 through 30; page 14, lines 1 through 7, by striking out all of said lines on said pages and inserting  
Section 503. (Reserved).

Amend Sec. 504, page 14, line 11, by striking out "clearinghouse" and inserting

records office

Amend Sec. 504, page 14, line 12, by inserting after "agency" where it appears the first time

, legislative agency

Amend Sec. 504, page 14, line 17, by striking out "clearinghouse" and inserting

records office

Amend Sec. 505, page 14, line 23, by striking out "agencies.—The clearinghouse" and inserting

agencies and legislative agencies.—The records office

Amend Sec. 505, page 14, line 24, by inserting after "Commonwealth"

agencies, legislative agencies

Amend Sec. 505, page 14, line 28, by striking out "clearinghouse's" and inserting

record office's

Amend Sec. 505, page 15, lines 2 through 5, by striking out all of said lines and inserting

records office.

Amend Sec. 708, page 4, by inserting between lines 18 and 19 (A04720)

Amend Sec. 708, page 20, lines 17 and 18, by striking out "Commonwealth or local"

Amend Bill, page 7, lines 24 through 30 (A04720), by striking out all of said lines and inserting

Amend Sec. 1101, page 33, line 11, by striking out all of said line and inserting

records office within 15

Amend Sec. 1101, page 33, lines 18 through 20, by striking out "a" in line 18, all of line 19 and "assign an appeals officer to" in line 20 and inserting

an agency, the records office shall

Amend Sec. 1101, page 33, lines 22 and 23, by striking out "appeals officer" and inserting

records office

Amend Sec. 1101, page 33, line 26, by striking out "appeals officer" and inserting

records office

Amend Sec. 1101, page 33, line 29, by striking out "appeals officer" and inserting

records office

Amend Sec. 1101, page 33, line 30, by striking out "appeals officer" and inserting

records office

Amend Sec. 1101, page 34, line 8, by striking out "appeals officer" and inserting

records office

Amend Sec. 1101, page 34, line 9, by striking out "appeals officer" and inserting

records office

Amend Sec. 1101, page 34, line 12, by striking out "appeals officer" and inserting

records office

Amend Sec. 1101, page 34, line 15, by striking out "appeals officer" and inserting

records office

Amend Sec. 1102, page 34, lines 19 through 30; page 35, lines 1 through 21, by striking out all of said lines on said pages

Amend Sec. 1301, page 35, line 27, by striking out "appeals officer" and inserting

records office

Amend Sec. 1302, page 36, line 12, by striking out "appeals officer" and inserting

records office

Amend Sec. 1303, page 37, line 3, by striking out "appeals officer" and inserting

records office

Amend Sec. 1304, page 37, line 6, by striking out "appeals officer" and inserting

records office

Amend Sec. 1307, page 38, lines 21 through 26, by striking out the colon after "established" in line 21 and all of lines 22 through 26 and inserting

by the records office.

(2) (i) The fees must be reasonable and based on prevailing

Amend Sec. 1310, page 7, lines 41 and 42; page 8, lines 1 through 17 (A04720), by striking out all of said lines on said pages and inserting

Amend Bill, pages 41 and 42, lines 1 through 30, by striking out all of said lines on said pages and inserting

Section 1310. Pennsylvania Public Records Office.

(a) Establishment.—The Pennsylvania Public Records Office is established within the State Ethics Commission, which shall appoint an executive director of the public records office who shall hire other staff as necessary to operate the office.

(b) Powers and duties.—The director of the public records office has the following powers and duties:

(1) To receive and respond to requests for information from persons who have been denied access to public records by a

Commonwealth agency, a local agency, the General Assembly or a legislative agency under this act.

(2) To receive and respond to requests for information from a Commonwealth agency, a local agency, the General Assembly or a legislative agency regarding compliance with this act.

(3) To order a Commonwealth agency, a local agency, the General Assembly or a legislative agency to comply with provisions of this act upon finding that a request for access to a public record was properly made.

(4) To issue advisory opinions on compliance with this act.

(5) To request information from Commonwealth agencies, local agencies, the General Assembly and legislative agencies in order to make compliance determinations under this act. All information supplied by a Commonwealth agency, a local agency, the General Assembly or a legislative agency which is relevant to a request shall be subject to confidentiality under subsection (c).

(6) To guide and oversee the compliance with this act by all Commonwealth agencies, local agencies, the General Assembly and legislative agencies.

(7) To provide a list to any requesting agency or individual of Federal and State laws that exempt certain types of records from disclosure.

(8) To make its advisory opinions and written decisions available for review.

(9) To conduct training for public officials, public employees and third parties relating to the Commonwealth's access laws with assistance from the Department of Community and Economic Development's Center for Local Government.

(10) To issue a report semi-annually to the General Assembly and to the Governor, which report shall include, but not be limited to:

(i) The number of requests to review denials from persons making public record requests.

(ii) The number of public record requests which were determined, upon review of the access office, to have been improperly denied.

(iii) The number of requests made by agencies seeking clarification on compliance with this act.

(iv) The number of orders issued by the public records office directing an agency to comply with this act.

(v) The number of advisory opinions issued by the public records office.

(vi) The number of requests for the list of Federal and State exemptions to public access of records.

(vii) The number of training sessions conducted for public officials, public employees and third parties relating to public access of records, including the number of persons attending such training sessions.

(11) To make available in electronic form to persons making requests for public records, examples of previous requests for public records by other persons and the documents to which the other persons were given access. In performing this duty, the office may not reveal any information relating to the identity of the persons who made the previous requests.

(12) To promulgate any regulations necessary to administer this act.

(13) Set a schedule for the requester and agency to submit documents in support of their positions.

(14) To review all information filed relating to a request. The public records office may hold a hearing, but the decision to hold or not to hold a hearing is not appealable. The public records office may admit into evidence testimony, evidence and documents it believes to be reasonably probative and relevant to

an issue in dispute. The public records office may limit the nature and extent of evidence to be cumulative.

(c) Confidentiality.—All information requested by the public records office from an agency in order to make a determination of whether an agency is complying with this act shall remain confidential and shall not be subject to public access.

(d) Fees.—The following shall apply:

(1) The public records office may impose a reasonable filing fee for an appeal made under section 1101, and any fees collected under this subsection shall be deposited in a restricted account in the General Fund which is established for the public records office. The money from this account shall be appropriated as necessary for the operation of the public records office.

(2) The public records office may waive the filing fee if the person requesting access to the public record is unable to afford the fee based on guidelines established by the public records office.

Section 1311. Administrative appeals.

(a) General rule.—Notwithstanding any other provision of law, a party aggrieved by a denial or deemed denial of access to a public record by a Commonwealth agency, local agency, the General Assembly or a legislative agency may, within 30 days after a request is denied or deemed denied, appeal to the public records office by forwarding to the office a copy of the request and the written explanation for the denial, if any, provided by the Commonwealth agency, local agency, the General Assembly or legislative agency, and requesting a review of the matter.

(b) Ruling.—

(1) Within 30 business days after receipt of the appeal, the public records office shall rule either that the denial or deemed denial of access to the record by the Commonwealth agency, local agency, the General Assembly or legislative agency is upheld or that the decision to deny access to the record was improper, and a Commonwealth agency, the local agency, the General Assembly or legislative agency must provide access to the record. The public records office may hold a private hearing on the matter and may review the record.

(2) The 30-business-day period may be extended by agreement of the parties. If the parties do not agree to an extension or the public records office does not issue a ruling within 30 business days after the date of the appeal, the denial from the Commonwealth agency, local agency, the General Assembly or legislative agency shall be deemed affirmed.

(c) Explanation.—If the public records office upholds the decision of the Commonwealth agency, local agency, the General Assembly or legislative agency to deny access to the public record, the office shall fully explain in writing to the person requesting the public record the reason for the denial. If the public records office rules that the Commonwealth agency, local agency, the General Assembly or legislative agency shall provide access to the public record, it shall order the Commonwealth agency, local agency, the General Assembly or legislative agency to provide the individual with access to the record and shall fully explain in writing the reason access must be provided.

(d) Other appeals.—Costs or attorney fees shall not be awarded under this section for administrative appeal to the public records office under this section.

Amend Bill, page 10, by inserting between lines 12 and 13 (A04720)

Section 3101.1. Severability.

All provisions of this act are severable.

On the question recurring,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes the gentleman, Representative Tangretti, on the amendment.

Mr. TANGRETTI. Thank you, Mr. Speaker.

Mr. Speaker, can I have one second, please.

The SPEAKER. The House will be at ease.

The Chair recognizes Representative Tangretti on the amendment.

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

Again, Mr. Speaker, this is the amendment that we considered previously this evening, that passed, that goes back to the original Mahoney language on HB 443 that sets up the Public Records Office in the Ethics Commission as opposed to a clearinghouse in the Department of Community and Economic Development, which the Ethics Commission would, in fact, appoint the executive director, and I would ask for an affirmative vote on that.

Again, thank you very much.

### PARLIAMENTARY INQUIRY

The SPEAKER. For what purpose does the gentleman, Representative Maher, rise?

Mr. MAHER. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. MAHER. At the time that the motion for reconsideration of this amendment was considered, I believe that I understood the rationale to be that it would be held to be the caboose on the train so that we would not encounter concerns with respect to other amendments, and while I heard the Chair's inquiry as to whether there were any other amendments timely filed, I believe there are at least two reconsideration motions on file with the Chair, and I am wondering, would the better process be to address those and then have the Tangretti amendment at the very end so we do not stumble in the same concern as we had before?

The SPEAKER. For the gentleman's information, we are checking the consequence of that process as we speak.

Mr. MAHER. Thank you, Mr. Speaker.

The SPEAKER. For the information of the members, the three amendments for reconsideration motions have been filed and will not be affected by the result of the Tangretti amendment.

The House will be at ease.

### AMENDMENT PASSED OVER TEMPORARILY

The SPEAKER. The Tangretti amendment will go over temporarily.

On the question recurring,

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

### MOTION TO RECONSIDER AMENDMENT A04705

The SPEAKER. The gentlemen, Representative Schroder and Representative Perry, move that the vote by which amendment A04705 was defeated to SB 1, PN 1583, on the 10th day of December be reconsidered.

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

Mr. DeWEESE. Mr. Speaker?

The SPEAKER. Representative DeWeese.

Mr. DeWEESE. I would like to respectfully request a negative vote – respectfully request a negative vote –on the motion to reconsider.

The SPEAKER. Representative Perry, do you wish to speak?

Mr. PERRY. Thank you, Mr. Speaker.

Mr. Speaker, we have heard two arguments against this amendment. So on the motion to reconsider, I would ask you to support it because the two arguments against this were, one, it did not fit an accounting definition, and if you look in the dictionary, there are many definitions for many different terms. The other argument against this bill was just vote "no," which I do not think is an appropriate reason to vote "no." So I would ask you to vote "yes" just to reconsider it so we could have an intelligent discussion about what this amendment does.

Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—100

Adolph	Fleck	Marsico	Rapp
Argall	Gabig	McIlhattan	Raymond
Baker	Geist	Mensch	Reed
Barrar	Gillespie	Metcalfe	Reichley
Bastian	Gingrich	Micozzie	Roae
Bear	Godshall	Millard	Rock
Benninghoff	Grell	Miller	Rohrer
Beyer	Harhart	Milne	Ross
Boback	Harper	Moul	Rubley
Boyd	Harris	Moyer	Saylor
Brooks	Helm	Murt	Scavello
Cappelli	Hennessey	Mustio	Schroder
Causar	Hershey	Nailor	Smith, S.
Civera	Hess	Nickol	Sonney
Clymer	Hickernell	O'Neill	Stairs
Cox	Hutchinson	Payne	Steil
Creighton	Kauffman	Peifer	Stern
Cutler	Keller, M.	Perry	Stevenson
Dally	Kenney	Perzel	Swanger
Denlinger	Killion	Petri	Taylor, J.
DiGiolamo	Mackereth	Phillips	True
Ellis	Maher	Pickett	Turzai
Evans, J.	Major	Pyle	Vereb
Everett	Mantz	Quigley	Vulakovich
Fairchild	Marshall	Quinn	Watson

NAYS—102

Belfanti	George	Mann	Shimkus
Bennington	Gerber	Markosek	Siptroth
Bianucci	Gergely	McCall	Smith, K.
Bishop	Gibbons	McGeehan	Smith, M.
Blackwell	Goodman	McI. Smith	Solobay
Brennan	Grucela	Melio	Staback
Buxton	Haluska	Mundy	Sturla
Caltagirone	Hanna	Myers	Surra
Carroll	Harhai	O'Brien, M.	Tangretti
Casorio	Harkins	Oliver	Taylor, R.
Cohen	Hornaman	Pallone	Thomas
Conklin	James	Parker	Vitali
Costa	Josephs	Pashinski	Wagner
Cruz	Keller, W.	Payton	Walko

Curry	Kessler	Petrarca	Wansacz
Daley	King	Petrone	Waters
DePasquale	Kirkland	Preston	Wheatley
Dermody	Kortz	Ramaley	White
DeWeese	Kotik	Readshaw	Williams
Donatucci	Kula	Roebuck	Wojnaroski
Eachus	Leach	Sabatina	Yewcic
Evans, D.	Lentz	Sainato	Youngblood
Fabrizio	Levdansky	Samuelson	Yudichak
Frankel	Longietti	Santoni	
Freeman	Mahoney	Seip	O'Brien, D.,
Galloway	Manderino	Shapiro	Speaker

NOT VOTING—0

EXCUSED—1

DeLuca

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

On the question recurring,

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

MOTION TO RECONSIDER  
AMENDMENT A04763

The SPEAKER. It has been moved by Representative Turzai and Representative Perry that the vote by which amendment 4763 was passed to SB 1 on the 10th of December be reconsidered.

On the question,

Will the House agree to the motion?

The SPEAKER. On the question, Representative DeWeese.

Mr. DeWEESE. Thank you, Mr. Speaker.

Respectfully, again, I would ask that the chamber move the process forward. We are in the 12th month of debating this legislation. We have had public hearings. We have had hours and hours and hours and days and days and days of debate. We have already considered this once. To have another hour or two on this amendment would be unproductive, in my view, and I would respectfully request that we not reconsider this proposal.

Thank you very much, Mr. Speaker.

The SPEAKER. Representative Turzai.

Mr. TURZAI. Thank you, Mr. Speaker.

With all due respect to the majority leader, giving us two more minutes for a reconsideration of amendment 4763 will not delay what has been significantly delayed before.

This merely, this amendment, protects arbitration opinions and awards, and upon reflection, many of us feel that in the spirit of openness of all these records, that there is no real justification for protecting arbitration opinions and awards, as well as exhibits and transcripts, from arbitration proceedings. We think, in fact, they should be part of the open public record and that a motion to reconsider would allow us to get a revote on that. A motion to reconsider is for more openness and a motion against this particular amendment is for more openness,

and I just want to make that clear to the members and to the public.

Thank you.

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

The following roll call was recorded:

YEAS—100

Adolph	Fleck	Marsico	Rapp
Argall	Gabig	McIlhattan	Raymond
Baker	Geist	Mensch	Reed
Barrar	Gillespie	Metcalfe	Reichley
Bastian	Gingrich	Micozzie	Roae
Bear	Godshall	Millard	Rock
Benninghoff	Grell	Miller	Rohrer
Beyer	Harhart	Milne	Ross
Boback	Harper	Moul	Rubley
Boyd	Harris	Moyer	Saylor
Brooks	Helm	Murt	Scavello
Cappelli	Hennessey	Mustio	Schroder
Causar	Hershey	Nailor	Smith, S.
Civera	Hess	Nickol	Sonney
Clymer	Hickernell	O'Neill	Stairs
Cox	Hutchinson	Payne	Steil
Creighton	Kauffman	Peifer	Stern
Cutler	Keller, M.	Perry	Stevenson
Dally	Kenney	Perzel	Swanger
Denlinger	Killion	Petri	Taylor, J.
DiGirolamo	Mackereth	Phillips	True
Ellis	Maher	Pickett	Turzai
Evans, J.	Major	Pyle	Vereb
Everett	Mantz	Quigley	Vulakovich
Fairchild	Marshall	Quinn	Watson

NAYS—102

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

NOT VOTING—0

EXCUSED—1

DeLuca

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

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

**MOTION TO RECONSIDER  
AMENDMENT A04730**

The SPEAKER. It is moved by Representative Maher and Representative Clymer that the vote by which amendment 4730 was defeated to SB 1, PN 1583, on the 10th day of December be reconsidered.

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

The SPEAKER. On the question, Representative Maher.  
Mr. MAHER. Thank you, Mr. Speaker.

I am not sure that a reconsideration will actually change the outcome, but it would allow certain members to have their votes recorded as they intended, and I would ask for the courtesy of reconsideration.

Thank you.  
The SPEAKER. On the question, Representative DeWeese.

Mr. DeWEESE. This is a moment of keen disappointment, because my amicable rapport with the gentleman from Upper St. Clair is at its dizzying zenith tonight, but nevertheless, for the reasons that I have enunciated earlier, I would ask, respectfully, that we get this process moving forward. We have to work on our hazardous sites proposal, our health-care proposal. We have already been through all of these things, and I would prefer not to debate them again. They have been debated already today.

So I would ask, respectfully and with a manly affection to my colleague, that we not support him.

Thank you.

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

The following roll call was recorded:

YEAS—100

Adolph	Fleck	Marsico	Rapp
Argall	Gabig	McIlhattan	Raymond
Baker	Geist	Mensch	Reed
Barrar	Gillespie	Metcalfe	Reichley
Bastian	Gingrich	Micozzie	Roae
Bear	Godshall	Millard	Rock
Benninghoff	Grell	Miller	Rohrer
Beyer	Harhart	Milne	Ross
Boback	Harper	Moul	Rubley
Boyd	Harris	Moyer	Saylor
Brooks	Helm	Murt	Scavello
Cappelli	Hennessey	Mustio	Schroder
Causar	Hershey	Nailor	Smith, S.
Civera	Hess	Nickol	Sonney
Clymer	Hickernell	O'Neill	Stairs
Cox	Hutchinson	Payne	Steil
Creighton	Kauffman	Peifer	Stern
Cutler	Keller, M.	Perry	Stevenson

Dally	Kenney	Perzel	Swanger
Denlinger	Killion	Petri	Taylor, J.
DiGrolamo	Mackereth	Phillips	True
Ellis	Maher	Pickett	Turzai
Evans, J.	Major	Pyle	Vereb
Everett	Mantz	Quigley	Vulakovich
Fairchild	Marshall	Quinn	Watson

NAYS—102

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

NOT VOTING—0

EXCUSED—1

DeLuca

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

On the question recurring,

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

**MOTION TO RECONSIDER  
AMENDMENT A04982**

The SPEAKER. It has been moved by Representative Beyer and Representative Sam Smith that the vote by which amendment A4982 was passed to SB 1, PN 1583, on the 10th day of December be reconsidered.

On the question,

Will the House agree to the motion?

The SPEAKER. On the question, Representative Beyer.

Mrs. BEYER. Mr. Speaker, thank you.

I am asking that this amendment be reconsidered because I believe that all of the facts and the implications and the massive amount of problems that school districts and municipalities may face in reprinting and distributing

documents that are requested without proper reimbursement were not fully considered.

Now, I am asking the majority leader, whom I have wholesome and sisterly affection for, that he not oppose this motion to reconsider and we redebate this particular issue because of its serious financial impact to school districts and municipalities across the State.

The SPEAKER. Representative DeWeese.

Mr. DeWEESE. This proposal passed at approximately 141 to 60, and again, I was an advocate of the sanctity of the collective-bargaining agreements that I thought could be compromised by this proposal.

I would also ask that the sisterly affection be extended to my worthy colleague from Fayette County, Mr. Mahoney, as the session rolls forward. Thank you.

By the way, I am not for your proposal. I want to defeat your proposal.

The SPEAKER. Representative Maher.

Mr. MAHER. Thank you, Mr. Speaker.

The SPEAKER. The gentleman will cease.

The gentleman is, under the rules, not permitted to speak on the motion to suspend.

On the motion to reconsider, the gentleman is in order and may proceed.

Mr. MAHER. Mr. Speaker, just for clarity, could you just explain what that ruling was. I did not understand.

The SPEAKER. The Chair was thinking about something else. The gentleman is in order and may speak on the motion.

Mr. MAHER. Thank you, Mr. Speaker.

For the sake of clarity, this particular amendment, the DePasquale amendment, is the one which is at question here, not Mrs. Beyer's amendment, and given the long number of votes that we have made today, it may have just been one of those unfortunate slips of an elbow or a finger or something such, but the board was actively cascading from green to red when the result was locked in.

I know there were a number of people who were attempting to record their vote the way they desired who were foreclosed from that opportunity on this particular proposal, and it may well be that the reason people were actively trying to record their vote as they intended was because the underlying amendment will remove from every town, every borough, every school district, every authority, every instrumentality the ability to have the most fundamental decisions about how to interact with their bosses – their constituents – that they have had for 5 years now, with virtually no complaints that I am aware of. However, there is an exception here. The amendment provides if you are an attorney, townships and boroughs, and on and on and on, can charge for attorneys doing the exact same procedures that if someone who is not an attorney is doing them will incur no cost.

Mr. D. EVANS. Mr. Speaker?

Mr. MAHER. This segregation of attorneys—

Mr. D. EVANS. Mr. Speaker?

Mr. MAHER. —being superior to regular Pennsylvanians—

The SPEAKER. For what purpose—

Mr. MAHER. Mr. Speaker, I am not interested in yielding.

The SPEAKER. For what purpose does the gentleman, Representative Evans, rise?

Mr. D. EVANS. Mr. Speaker, I thought this was on reconsideration?

The SPEAKER. The gentleman is correct.

The gentleman will confine his remarks to the motion to reconsider.

Mr. MAHER. Indeed, Mr. Speaker, and I think the core of the reason for the motion for reconsideration is because this amendment went up on the board, the board was barely yellow, or orange, with the number for this amendment before the vote was rolling, and the vote was locked in before the board had stabilized.

In the interest of fairness and openness, for heaven's sake – this is about open records – we ought to make sure that members have had the opportunity to vote the correct way on this. And I understand the reasons enunciated by the gentleman in opposition to some others, but members were deprived of the opportunity to debate or vote on this particular amendment, and it is going to affect every one of you in every community that you represent, and every school district you represent, and I think we all deserve a chance to ensure that we have voted as you would intend to.

Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—99

Adolph	Gabig	McIlhattan	Raymond
Argall	Geist	Mensch	Reed
Baker	Gillespie	Metcalf	Reichley
Barrar	Gingrich	Micozzie	Roae
Bastian	Godshall	Millard	Rock
Bear	Grell	Miller	Rohrer
Benninghoff	Harhart	Milne	Ross
Beyer	Harper	Moul	Ruble
Boback	Harris	Moyer	Saylor
Boyd	Helm	Murt	Scavello
Brooks	Hennessey	Mustio	Schroder
Cappelli	Hershey	Nailor	Smith, S.
Causar	Hess	Nickol	Sonney
Civera	Hickernell	O'Neill	Stairs
Clymer	Hutchinson	Payne	Steil
Creighton	Kauffman	Peifer	Stern
Cutler	Keller, M.	Perry	Stevenson
Dally	Kenney	Perzel	Swanger
Denlinger	Killion	Petri	Taylor, J.
DiGirolamo	Mackereth	Phillips	True
Ellis	Maher	Pickett	Turzai
Evans, J.	Major	Pyle	Verb
Everett	Mantz	Quigley	Vulakovich
Fairchild	Marshall	Quinn	Watson
Fleck	Marsico	Rapp	

NAYS—103

Belfanti	George	Mann	Shimkus
Bennington	Gerber	Markosek	Siproth
Bianucci	Gergely	McCall	Smith, K.
Bishop	Gibbons	McGeehan	Smith, M.
Blackwell	Goodman	McI. Smith	Solobay
Brennan	Grucela	Melio	Staback
Buxton	Haluska	Mundy	Sturla
Caltagirone	Hanna	Myers	Surra
Carroll	Harhai	O'Brien, M.	Tangretti
Casorio	Harkins	Oliver	Taylor, R.
Cohen	Hornaman	Pallone	Thomas
Conklin	James	Parker	Vitali
Costa	Josephs	Pashinski	Wagner
Cox	Keller, W.	Payton	Walko

Cruz	Kessler	Petrarca	Wansacz
Curry	King	Petrone	Waters
Daley	Kirkland	Preston	Wheatley
DePasquale	Kortz	Ramaley	White
Dermody	Kotik	Readshaw	Williams
DeWeese	Kula	Roebuck	Wojnarowski
Donatucci	Leach	Sabatina	Yewcic
Eachus	Lentz	Sainato	Youngblood
Evans, D.	Levdansky	Samuelson	Yudichak
Fabrizio	Longietti	Santoni	
Frankel	Mahoney	Seip	O'Brien, D.,
Freeman	Manderino	Shapiro	Speaker
Galloway			

NOT VOTING—0

EXCUSED—1

DeLuca

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

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

**MOTION TO RECONSIDER  
AMENDMENT A04981**

The SPEAKER. It is moved by Representative Boback and Representative Argall that the vote by which the amendment A4981 was defeated to SB 1, PN 1583, on the 10th day of December be reconsidered.

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

The SPEAKER. On the question, Representative Boback.  
Ms. BOBACK. Thank you, Mr. Speaker.  
I request the courtesy of the floor, if you would be so kind, a clarification from Representative Yudichak's amendment.

We all want total disclosure. I just ask for your courtesy for reconsideration of this amendment.  
Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—100

Adolph	Fleck	Marsico	Rapp
Argall	Gabig	McIlhattan	Raymond
Baker	Geist	Mensch	Reed
Barrar	Gillespie	Metcalf	Reichley
Bastian	Gingrich	Micozzie	Roae
Bear	Godshall	Millard	Rock
Benninghoff	Grell	Miller	Rohrer
Beyer	Harhart	Milne	Ross
Boback	Harper	Moul	Ruble
Boyd	Harris	Moyer	Saylor
Brooks	Helm	Murt	Scavello
Cappelli	Hennessey	Mustio	Schroder

Causer	Hershey	Nailor	Smith, S.
Civera	Hess	Nickol	Sonney
Clymer	Hickernell	O'Neill	Stairs
Cox	Hutchinson	Payne	Steil
Creighton	Kauffman	Peifer	Stern
Cutler	Keller, M.	Perry	Stevenson
Dally	Kenney	Perzel	Swanger
Denlinger	Killion	Petri	Taylor, J.
DiGirolamo	Mackereth	Phillips	True
Ellis	Maher	Pickett	Turzai
Evans, J.	Major	Pyle	Vereb
Everett	Mantz	Quigley	Vulakovich
Fairchild	Marshall	Quinn	Watson

NAYS—102

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

NOT VOTING—0

EXCUSED—1

DeLuca

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

On the question recurring,

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

The SPEAKER. The gentleman, Representative Turzai, moves that the rules be suspended for the immediate consideration of amendment A05— The gentleman withdraws? The Chair thanks the gentleman.

The gentleman, Mr. Turzai, all the amendments are withdrawn? The Chair thanks the gentleman.

On the question recurring,

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

MOTION TO SUSPEND RULES

The SPEAKER. The gentleman, Representative Kauffman, moves that the rules be suspended for the immediate consideration of amendment A05075.

On the question,

Will the House agree to the motion?

MOTION WITHDRAWN

The SPEAKER. Is the gentleman waiving off speaking or— Withdraw the amendment? Withdraw the amendment? The Chair thanks the gentleman.

On the question recurring,

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

MOTION TO SUSPEND RULES

The SPEAKER. The gentleman, Representative Scott Perry, moves for a suspension of the rules for the immediate consideration of amendment A05071.

On the question,

Will the House agree to the motion?

The SPEAKER. On the motion to suspend the rules, the Chair recognizes Representative Perry.

Mr. PERRY. Thank you, Mr. Speaker.

As most of you in this body know, I am often a proponent of suspending the rules, and so in this case, because this is so important, I feel compelled to ask for your support on the suspension on this occasion so I can offer this amendment.

Thank you, Mr. Speaker.

The SPEAKER. Representative DeWeese.

Mr. DeWEESE. It gives me great pause to try to contravene the honorable lieutenant colonel, whom I consider among my worthy companions. But nevertheless, one more time, this proposal was inaugurated in January. We have had hundreds of efforts to amend, and we have had scores and scores of hours to debate. So if my honorable colleague for some reason was not able to get this amendment in on time, I really believe that tonight's future hours should be devoted to the hazardous waste cleanup proposal and to our health-care proposal. We are making substantial progress. This open records bill has been debated aggressively, and I would reluctantly ask that Mr. Perry's efforts be overruled.

I would oppose a suspension of our rules. Thank you.

On the question recurring,

Will the House agree to the motion?

The following roll call was recorded:

YEAS—99

Adolph	Fleck	McIlhattan	Reed
Argall	Freeman	Mensch	Reichley
Baker	Gabig	Metcalfe	Roae
Barrar	Geist	Micozzie	Rock



Bastian	Gillespie	Millard	Rohrer
Bear	Gingrich	Miller	Ross
Benninghoff	Godshall	Milne	Rubley
Beyer	Harhart	Moul	Saylor
Boback	Harper	Moyer	Scavello
Boyd	Harris	Murt	Schroder
Brooks	Helm	Mustio	Smith, S.
Cappelli	Hennessey	Nailor	Sonney
Causer	Hershey	Nickol	Stairs
Civera	Hickernell	O'Neill	Steil
Clymer	Hutchinson	Peifer	Stern
Cox	Kauffman	Perry	Stevenson
Creighton	Keller, M.	Perzel	Swanger
Cutler	Kenney	Petri	Taylor, J.
Dally	Killion	Phillips	True
Denlinger	Mackereth	Pickett	Turzai
DiGirolamo	Maher	Pyle	Vereb
Ellis	Major	Quigley	Vitali
Evans, J.	Mantz	Quinn	Vulakovich
Everett	Marshall	Rapp	Watson
Fairchild	Marsico	Raymond	

NAYS—103

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

NOT VOTING—0

EXCUSED—1

DeLuca

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 agree to the bill on second consideration as amended?

**MOTION TO SUSPEND RULES**

The SPEAKER. Representative Longietti moves for a suspension of the rules for the immediate consideration of amendment A05059.

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

MOTION WITHDRAWN

The SPEAKER. Representative Longietti.  
Mr. LONGIETTI. Mr. Speaker, I withdraw my amendment.  
The SPEAKER. The Chair thanks the gentleman.

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

The SPEAKER. It has been moved by Representative Perry that the rules be suspended for the immediate consideration of amendment A05072. The gentleman withdraws. The Chair thanks the gentleman.

Are there any other members seeking to suspend the rules?

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

CONSIDERATION OF  
AMENDMENT A04930 CONTINUED

The SPEAKER. The Chair returns to the Tangretti amendment A04930.

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

The SPEAKER. Does Representative Tangretti wish to be recognized? The Chair recognizes Representative Tangretti on the amendment.

Mr. TANGRETTI. Thank you, Mr. Speaker.

Again, for the third time, I would ask the members of the House to support the amendment that places the appeals for the decisions on records in the Ethics Commission where I think it belongs, and I would hope that you all agree.

Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—147

Adolph	Everett	Mantz	Rohrer
Argall	Fairchild	Marsico	Ross
Barrar	Freeman	McGeehan	Rubley
Bastian	Gabig	McI. Smith	Sabatina
Bear	George	McIlhattan	Samuelson
Benninghoff	Gibbons	Melio	Saylor
Bennington	Gillespie	Mensch	Scavello
Beyer	Gingrich	Metcalfe	Schroder
Bianucci	Godshall	Micozzie	Seip
Bishop	Goodman	Millard	Shimkus
Blackwell	Grucela	Miller	Siptroth
Boback	Hanna	Milne	Smith, K.
Boyd	Harhai	Moul	Smith, M.
Brennan	Harhart	Murt	Solobay
Brooks	Harris	Mustio	Sonney
Buxton	Helm	Nailor	Staback

Caltagirone	Hennessey	Nickol	Steil
Cappelli	Hershey	O'Brien, M.	Stern
Carroll	Hess	O'Neill	Stevenson
Causser	Hickernell	Oliver	Swanger
Civera	Hornaman	Pallone	Tangretti
Clymer	Hutchinson	Parker	Taylor, J.
Conklin	Kauffman	Payne	Taylor, R.
Costa	Keller, W.	Perry	Thomas
Cox	Kenney	Petrarca	True
Creighton	Kessler	Petri	Turzai
Cruz	Killion	Petrone	Vitali
Curry	King	Phillips	Vulakovich
Cutler	Kirkland	Pyle	Waters
Daley	Kortz	Quigley	Watson
Dally	Kula	Quinn	White
Denlinger	Lentz	Ramaley	Williams
DeWeese	Levdansky	Rapp	Wojnaroski
DiGirolamo	Mackereth	Raymond	Yewcic
Donatucci	Mahoney	Reed	Youngblood
Ellis	Major	Reichley	Yudichak
Evans, D.	Manderino	Rock	

NAYS—55

Baker	Grell	McCall	Santoni
Belfanti	Haluska	Moyer	Shapiro
Casorio	Harkins	Mundy	Smith, S.
Cohen	Harper	Myers	Stairs
DePasquale	James	Pashinski	Sturla
Dermody	Josephs	Payton	Surra
Eachus	Keller, M.	Peifer	Vereb
Evans, J.	Kotik	Perzel	Wagner
Fabrizio	Leach	Pickett	Walko
Fleck	Longiotti	Preston	Wansacz
Frankel	Maher	Readshaw	Wheatley
Galloway	Mann	Roae	
Geist	Markosek	Roebuck	O'Brien, D.,
Gerber	Marshall	Sainato	Speaker
Gergely			

NOT VOTING—0

EXCUSED—1

DeLuca

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 second consideration as amended?

Bill as amended was agreed to.

(Bill as amended will be reprinted.)

**VOTE CORRECTIONS**

The SPEAKER. Representative Boback.

Ms. BOBACK. Thank you, Mr. Speaker.

On amendment 4981, I would like to be recorded in the positive. I have been recorded in the negative.

The SPEAKER. The Chair thanks the lady. Her remarks will be spread upon the record.

Ms. BOBACK. Thank you.

The SPEAKER. Representative Stevenson.

Mr. STEVENSON. Thank you, Mr. Speaker. Correction of the record.

On amendment 4763, I was recorded in the affirmative. I would like to be recorded in the negative.

The SPEAKER. The Chair thanks the gentleman. His remarks will be spread upon the record.

Representative Turzai.

Mr. TURZAI. Thank you, Mr. Speaker.

A4763, an amendment to SB 1, I was marked as in the affirmative. I would like to be marked in the negative. Thank you.

The SPEAKER. The Chair thanks the gentleman. His remarks will be spread upon the record.

Representative O'Neill.

Mr. O'NEILL. On amendment 4982, I was inadvertently recorded in the positive. I should be in the negative.

The SPEAKER. The Chair thanks the gentleman. His remarks will be spread upon the record.

Mr. O'NEILL. Thank you.

The SPEAKER. Representative Rubley.

Mrs. RUBLEY. Thank you, Mr. Speaker.

On amendment 4934, I was recorded in the positive, affirmative. I would like to turn it to the negative. Thank you.

The SPEAKER. The Chair thanks the lady. Her remarks will be spread upon the record.

**BILLS ON SECOND CONSIDERATION**

The House proceeded to second consideration of **SB 810, PN 1301**, entitled:

An Act authorizing and directing the Department of General Services, with the approval of the Governor, to grant and convey certain lands situate in the City of Pittston, Luzerne County, to the Redevelopment Authority of the City of Pittston; and authorizing the Department of General Services, with the approval of the Governor, to grant and convey to Bensalem Township, certain lands situate in Bensalem Township, Bucks County.

On the question,

Will the House agree to the bill on second consideration?

Ms. **HELM** offered the following amendment No. **A03099**:

Amend Title, page 1, line 5, by striking out "AND"

Amend Title, page 1, line 8, by removing the period after "COUNTY" and inserting

; and authorizing the Department of General Services, with the approval of the Governor, to grant and convey to the Pennsylvania State Employees Credit Union, certain lands situate in Susquehanna Township, Dauphin County.

Amend Bill, page 7, by inserting between lines 6 and 7 Section 3. Conveyance in Susquehanna Township, Dauphin County.

(a) Authorization.—The Department of General Services, with the approval of the Governor, is authorized on behalf of the Commonwealth of Pennsylvania to grant and convey to the Pennsylvania State Employees Credit Union certain lands, and any improvements thereon, situate in Susquehanna Township, Dauphin County for \$2,718,600 and under terms and conditions to be established in an agreement of sale with the Department of General Services.

(b) Description.—The property to be conveyed under subsection (a) consists of approximately 47.28-acres, and any improvements thereon, bounded and more particularly described as follows:

Beginning at a point, said point being located along the southerly right-of-way line of Interstate 81, approximately 355 feet from the centerline of Kohn Road, THE POINT OF BEGINNING; thence progressing South 18 degrees 15 minutes 00 seconds East a distance of 256.84 feet to a point on the western right-of-way line of Kohn Road; thence progressing along said right of way along a curve to the right having a radius of 551.04 feet, an arc length of 201.48 feet, a chord bearing of South 72 degrees 53 minutes 02 seconds West, and a chord distance of 200.36 feet to a point; thence along said right of way along a curve to the right having a radius of 1365.28 feet, an arc length of 130.90 feet, a chord bearing of South 89 degrees 18 minutes 14 seconds West, and a chord distance of 130.84 feet to a point; thence progressing along said right of way North 85 degrees 57 minutes 13 seconds West a distance of 402.09 feet to a point; thence progressing along said right of way North 86 degrees 33 minutes 02 seconds West a distance of 123.91 feet to a point; thence progressing along said right of way along a curve to the left having a radius of 316.50 feet, an arc length of 92.88 feet, a chord bearing of South 85 degrees 02 minutes 33 seconds West, and a chord distance of 92.55 feet to a point; thence progressing along said right of way along a curve to the left having a radius of 155.68 feet, an arc length of 214.47 feet, a chord bearing of South 37 degrees 10 minutes 05 seconds West, and a chord distance of 197.91 feet to a point; thence progressing along said right of way along a curve to the left having a radius of 2381.50, an arc length of 230.54 feet, a chord bearing of South 05 degrees 04 minutes 21 seconds East, and a chord distance of 230.45 feet to a point; thence progressing along said right of way South 07 degrees 50 minutes 44 seconds East a distance of 255.94 feet to a point; thence progressing along said right of way South 07 degrees 56 minutes 18 seconds East a distance of 105.02 feet to a point; thence progressing along said right of way South 09 degrees 38 minutes 55 seconds East a distance of 94.05 feet to a point; thence progressing along said right of way South 13 degrees 31 minutes 27 seconds East a distance of 96.77 feet to a point; thence progressing along said right of way South 13 degrees 16 minutes 31 seconds East a distance of 138.40 feet to a point; thence progressing along said right of way South 13 degrees 42 minutes 07 seconds East a distance of 41.97 feet to a point; thence leaving the right of way of Kohn Road and progressing South 82 degrees 38 minutes 10 seconds West a distance of 1,158.49 feet to a point; thence progressing North 07 degrees 21 minutes 50 seconds West a distance of 1,661.98 feet to a point along the southerly right of way of Interstate 81; thence progressing along said right of way South 85 degrees 54 minutes 11 seconds East a distance of 1,511.03 feet to a point; thence progressing along said right of way along a curve to the left having a radius of 3939.83, an arc length of 445.14 feet, a chord bearing of South 85 degrees 54 minutes 11 seconds East, and a chord distance of 444.90 feet to a point; thence progressing along said right of way North 00 degrees 51 minutes 37 seconds East a distance of 20.00 feet to a point; thence progressing along said right of way along a curve to the left having a radius of 3919.83 feet, an arc length of 239.27 feet, a chord bearing of North 89 degrees 06 minutes 42 seconds East, and a chord distance of 239.23 feet to a point, THE POINT OF BEGINNING.

CONTAINING 47.28-Acres.

(c) Easements.—The conveyance shall be made under and subject to all lawful and enforceable easements, servitudes and rights of others, including streets, roadways and rights of any telephone, telegraph, water, electric, gas or pipeline companies, as well as under and subject to any lawful and enforceable estates or tenancies vested in third persons appearing of record, for any portion of the land or improvements erected thereon.

(d) Restrictions.—Any conveyance authorized under this section shall be made under and subject to the condition, which shall be contained in the deed of conveyance, that no portion of the property conveyed shall be used as a licensed facility, as defined under 4 Pa.C.S. § 1103 (relating to definitions), or any other similar type of facility authorized under State law. The condition shall be a covenant running with the land and shall be binding upon the grantee, its successors and

assigns. If the grantee, its successors or assigns, permits any portion of the property authorized to be conveyed under this section to be used in violation of this subsection, the title shall immediately revert to and revest in the grantor.

(e) Special warranty deed.—The deed of conveyance shall be by special warranty deed and shall be executed by the Secretary of General Services in the name of the Commonwealth of Pennsylvania.

(f) Costs and fees.—Costs and fees incidental to this conveyance shall be borne by the grantee.

(g) Proceeds.—The Department of General Services shall utilize the proceeds from the conveyance to reimburse itself for costs or fees it incurred as a result of this conveyance. Any funds remaining after reimbursement to the Department of General Services shall be deposited into the Agricultural Farm Operations Account established under the act of June 18, 1982 (P.L.549, No.159), entitled "An act providing for the administration of certain Commonwealth farmland within the Department of Agriculture."

(h) Alternate disposal.—If the grantee and the Department of General Services cannot reach a mutually acceptable agreement of sale within 12 months of the effective date of this section, the property may be disposed of in accordance with section 2406-A of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

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

4

On the question,

Will the House agree to the amendment?

#### AMENDMENT WITHDRAWN

The SPEAKER. The Chair recognizes Representative Helm.

Ms. HELM. Mr. Speaker, I am withdrawing that amendment because I had attached it to SB 648, which the House unanimously passed awhile earlier. So I appreciate it, but I am waiving off on that one.

The SPEAKER. The Chair thanks the lady.

On the question recurring,

Will the House agree to the bill on second consideration?

Mr. O'NEILL offered the following amendment No. **A04723**:

Amend Title, page 1, line 5, by striking out "AND"

Amend Title, page 1, line 8, by removing the period after "COUNTY" and inserting

; and authorizing the Department of General Services, with the approval of the Governor, to grant and convey to the Bowman's Hill Wildflower Preserve Association, Inc., certain lands situate in Solebury Township, Bucks County.

Amend Bill, page 7, by inserting between lines 6 and 7

Section 3. Conveyance in the Township of Solebury, Bucks County.

(a) Authorization.—The Department of General Services, with the approval of the Governor and the Pennsylvania Historical and Museum Commission, is hereby authorized and directed on behalf of the Commonwealth to convey to the Bowman's Hill Wildflower Preserve Association, Inc., for \$1 the tract of land described in subsection (b). In exchange for the \$1 consideration, the Bowman's Hill Wildflower Preserve Association will continue to maintain, improve, preserve, and beautify the wildflower preserve and provide overflow parking capacity for Pennsylvania Historical and Museum Commission's Thompson Neely complex and the Mill in a mutually agreeable location to be detailed in the Agreement of Sale. In addition, the exchange will include an easement granted by Bowman's Hill Wildflower Preserve Association, Inc., which will grant the Pennsylvania Historical and Museum Commission access to Pidcock,

the mill pond, dam and millrace. The easement description will be detailed in the Agreement of Sale.

(b) Description.—The property to be conveyed under subsection (a) is described as follows:

All that certain piece or parcel of land situate, lying and being in Solebury Township, Bucks County, Pennsylvania, bounded and described as follows:

All that certain tract or parcel of land known as Parcel A - Bowman's Hill Wildflower Preserve situated in Solebury Township, Bucks County, Pennsylvania, as shown on a Boundary Survey Plan prepared by Barry Isett & Associates, Inc. of Norristown, Pennsylvania, Job number 146204.ONZ, dated October 13, 2004, last revised February 24, 2005, said tract being more fully bounded and described as follows:

Beginning at a point at the intersection of the Centerline of Aquetong Road with the centerline of River Road;

Thence from said point of beginning and extending along the centerline of River Road, the eight following courses and distances,

- 1.) South 14 degrees 41 minutes 11 seconds East 303.63 feet to a point of curve;
- 2.) Along a curve to left having a radius of 575.00 feet, an arc distance of 217.83 feet, a delta of 21 degrees 42 minutes 19 seconds, and a chord of South 25 degrees 32 minutes 21 seconds East 216.53 feet to a tangent point;
- 3.) South 36 degrees 23 minutes 30 seconds East 127.47 feet to a point of curve;
- 4.) Along a curve to the left having a radius of 1,375.00 feet, an arc distance of 181.75 feet, a delta of 07 degrees 34 minutes 25 seconds and a chord of South 40 degrees 10 minutes 43 seconds East 181.62 feet to a tangent point;
- 5.) South 43 degrees 57 minutes 55 seconds East 197.11 feet to a point;
- 6.) South 42 degrees 55 minutes 40 seconds East 590.31 feet to a point of curve;
- 7.) Along a curve to the left having a radius of 3,000.00 feet, an arc distance of 305.85 feet, a delta of 05 degrees 50 minutes 29 seconds and a chord of South 45 degrees 50 minutes 54 seconds East 305.72 feet to a tangent point;
- 8.) South 48 degrees 46 minutes 08 seconds East 402.76 feet to a point; thence partly crossing River Road and along the approximate line between Solebury Township and Upper Makefield Township,
- 9.) South 72 degrees 51 minutes 46 seconds West 17.98 feet to a point in line of Parcel B; thence along Parcel B, the two following courses and distances:
- 10.) North 50 degrees 21 minutes 11 seconds West 176.25 feet to a point;
- 11.) South 48 degrees 14 minutes 20 seconds West 353.89 feet to a corner of lands now or formerly of the Commonwealth of Pennsylvania; thence along lands The Commonwealth of Pennsylvania and also partly along lands of Block 7, Lot 001.
- 12.) South 72 degrees 51 minutes 46 seconds West 3,359.81 feet to a concrete monument, a corner of lands of Block 36, Lot 63. passing through a concrete monument situated 311.65 feet therefrom; thence partly along lands of Block 36, Lot 63, passing through a rebar w/cap 643.23 feet thereof,
- 13.) North 15 degrees 45 minutes 29 seconds West 1,442.96 feet to a point, a corner of lands of Block 36, Lot 67-6; thence along Block 36, Lots 67-6, 67-5, and 67-4, passing through two concrete monuments 83.53 feet and 1,047.78 feet thereof,
- 14.) North 64 degrees 21 minutes 28 seconds East 1,978.87 feet to a point; thence continuing partly along Block 36, Lot 67-4, along lands of Block 36, Lot 67-2 and partly crossing Aquetong Road;
- 15.) North 03 degrees 37 minutes 00 seconds West 854.10 feet to a point in the centerline of Aquetong Road; thence along the centerline of Aquetong Road, the five following courses and distances:
- 16.) South 69 degrees 31 minutes 39 seconds East 182.10 feet to a point of curve;

17.) Along a curve to the left having a radius of 1,250.00 feet, an arc distance of 244.08 feet, a delta of 11 degrees 11 minutes 15 seconds and a chord of South 75 degrees 07 minutes 17 seconds East 243.69 feet to a point of compound curve;

18.) South 80 degrees 42 minutes 54 seconds East 256.00 feet to a point of curve;

19.) Along a curve to the left, having a radius of 12,528.10 feet, an arc distance of 78.51 feet, a delta of 01 degree 46 minutes 45 seconds and a chord of South 81 degrees 36 minutes 17 seconds East 78.50 feet to a tangent point;

20.) South 82 degrees 29 minutes 40 seconds East 129.70 feet to the first mentioned point and place of beginning.

Excepting Thereout and Therefrom a parcel of land known as Parcel C - Bowman's Hill Wildflower Preserve situated in Solebury Township, Bucks County, Pennsylvania, as shown on a Boundary Survey Plan prepared by Barry Isett & Associates, Inc. of Norristown, Pennsylvania, Job number 146204.ONZ, dated October 13, 2004, last revised January 27, 2005, said tract being more fully bounded and described as follows:

Beginning at a rebar within lands of Parcel A, said rebar being situated the three following courses and distances from the intersection of the centerline of Aquetong Road with the centerline of River Road, along the Centerline of River Road; a.) South 14 degrees 41 minutes 11 seconds East 274.42 feet to a point and a common corner of Tax Block 36, Lots 64 and 65; thence along the line of said tax parcels and through Parcel A,

b.) South 66 degrees 04 minutes 04 seconds East 23.83 feet to a concrete monument;

c.) South 20 degrees 02 minutes 47 seconds East 763.61 feet to a rebar;

Thence from said point of beginning and extending through Parcel A, the four following courses and distances:

1.) North 47 degrees 55 minutes 55 seconds East 205.92 feet to a rebar;

2.) South 45 degrees 55 minutes 05 seconds East 290.11 feet to a point on the westerly side of the existing cartway and on a bridge of River Road;

3.) South 39 degrees 25 minutes 36 seconds West 283.48 feet to a rebar;

4.) South 32 degrees 39 minutes 02 seconds West 335.91 feet to a rebar, the first mentioned point and place of beginning.

Containing: 75,104 square feet or 1.72 acres of land.

Parcel A containing: 134.84 acres of land.

(c) Visitor's center.—Bowman's Hill Wildflower Preserve Association, Inc. or its successor, being knowledgeable and sensitive of the local view shed, shall consult with Pennsylvania Historical and Museum Commission or its successor on the location and design of a new visitor's center to minimize the impact on the view shed from the Thompson Neely House.

(d) Water and sewer service.—Pennsylvania Historical and Museum Commission will continue to provide the current capacity and service for water and sewer, until such time that the Bowman's Hill Wildflower Preserve Association constructs and operates their own independent system. The Commonwealth is under no obligation to increase water and sewer service beyond what is currently provided, as detailed in the 1997 Management Agreement.

(e) Right of reverter.—The deed of conveyance shall contain a clause that the property conveyed "shall not be used in a manner inconsistent with its use as a 'wildflower preserve' by the Bowman's Hill Wildflower Preserve Association, Inc., and, if at any time the Bowman's Hill Wildflower Preserve Association, Inc. or its successor in function sells or transfers the property or permits the property to be used for any purpose other than those specified in this section, the title to the property shall immediately revert to and revest in the Commonwealth."

(f) Easements.—The conveyance shall be made under and subject to all easements, servitudes and rights of others, including, but not confined to, streets, roadways and rights of any telephone, telegraph,

water, electric, sewer, gas or pipeline companies, as well as under and subject to any interest, estates or tenancies vested in third persons, whether or not appearing of record, for any portion of the land or improvements erected thereon.

(g) Approval.—The deed of conveyance shall be approved as provided by law and shall be executed by the Secretary of General Services in the name of the Commonwealth.

(h) Covenants.—Any conveyance authorized under subsection (b) shall be made under and subject to the condition, which shall be contained in the deed of conveyance, that no portion of the property conveyed shall be used as a licensed facility, as defined in 4 Pa.C.S. § 1103 (relating to definitions), or any other similar type of facility authorized under the laws of this Commonwealth. The condition shall be a covenant running with the land and shall be binding upon the grantee, its successors and assigns. Should the grantee, its successors or assigns, permit any portion of the property authorized to be conveyed in this section to be used in violation of this section, the title shall immediately revert to and re-vest in the grantor.

(i) Cost and fees.—Costs and fees incidental to the conveyance shall be borne by the Grantee.

Amend Sec. 3, page 7, line 7, by striking out "3" and inserting  
4

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

#### AMENDMENT WITHDRAWN

The SPEAKER. The Chair recognizes Representative O'Neill on the amendment.

The gentleman indicates he wishes to withdraw the amendment. The Chair thanks the gentleman.

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

\* \* \*

The House proceeded to second consideration of **SB 1100, PN 1617**, entitled:

An Act providing for the Hazardous Sites Cleanup Fund, for its funding from certain lapses and appropriation, for expenditures from the fund and for audits of the fund; making an appropriation; and making related repeals.

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

#### MOTION TO REVERT TO PRIOR PRINTER'S NUMBER

The SPEAKER. For what purpose does the gentleman rise?

Mr. PETRI. Mr. Speaker, I would like to make a motion to revert to the prior printer's number.

The SPEAKER. Does the gentleman want to state which printer's number that is?

Mr. PETRI. Yes, Mr. Speaker; hold on a second – 1483.

The SPEAKER. It has been moved by Representative Petri that the House revert to the prior printer's number 1483.

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

The SPEAKER. On the motion, the Chair recognizes Representative Petri.

Mr. PETRI. Thank you, Mr. Speaker.

In Appropriations last week there was an amendment offered which stripped out \$40 million for the Hazardous Sites Cleanup Fund for next year. Mr. Speaker, I move to revert to the prior printer's number so that we can specifically address that problem.

We stand here 1 year from the time we tried to resolve this issue for this year. This particular amendment to the bill that the Senate has sent over addresses the Hazardous Sites Cleanup Fund for the end of the year. So, Mr. Speaker, we start with a substantive problem in the way that this bill was amended. It never should have been amended in Appropriations, in my opinion. But more importantly, Mr. Speaker, the Hazardous Sites Cleanup Fund personnel face a layoff. At the end of this month, there will be no money left for hazardous sites cleanup funds anywhere in the Commonwealth of Pennsylvania. And the reality is, we stand right before the Christmas break with a Senate bill that, while we may all have different methods of solving the problem, solves the problem without a tax increase not only for this year but for the next budget year, and the reality is that we can amend this bill, we can pass the bill as amended, and the Senate is not going to concur. December is going to come, the Senate will have left, and the personnel will receive layoffs. They are ready and they are coming.

Now, what is the reality of that for a district like mine in the 178th? Not long ago, constituents contacted me about a neighbor who had an unfortunate spill. Ten homes, 10 wells, were facing the potential of not receiving the oversight that we all need in our communities to protect our water supplies. So I am asking the House to strongly consider reverting to the prior printer's number and making sure we fund the Hazardous Sites Cleanup Fund. This is a fund which we need desperately. It should be part of every budget. There should be no gamesmanship. There should be no other alternative purposes. A vote not to revert to the prior printer's number is a vote against the environment.

Quite frankly, it would be irresponsible for us to do anything other than to revert to the prior printer's number. I ask for an affirmative vote.

The SPEAKER. Representative Scavello. The gentleman waives off.

Representative Evans.

Mr. D. EVANS. Thank you, Mr. Speaker.

Mr. Speaker, the gentleman did say one thing that was very correct from the very beginning, that this would take \$40 million out of the current year's budget. The gentleman, who is a member of the Appropriations Committee, understands very basic budget 101, that you have a balanced budget and that there is no way you can take \$40 million out of the current year to address this problem.

There were proposals put together, Mr. Speaker, and those proposals – people did not want to address that particular issue at that particular time. Under SB 1100, we did offer a solution, and the solution would have addressed the issue between here and June and allow us to resolve this issue in the budget negotiations. So taking \$40 million off of next year's budget sheet will leave us in an unbalanced position. Where are you going to take it from? Education? Economic development? Take it from our prisons? If the gentleman understands anything about the budget – he has been on the Appropriations

Committee – he knows full well that he has not specifically indicated where this \$40 million is going to come from.

So I would say to the gentleman that I understand the objective that he would like to accomplish. We on this side want to accomplish that. We do not want to see 146 people laid off. We want to address the 312 sites that need to be addressed, but we need a permanent, long-term solution, not a short-term stopgap measure.

So in my view, Mr. Speaker, this is short term, what the gentleman is expressing, and I would say "no" to reverting back to the prior printer's number. Thank you, Mr. Speaker.

The SPEAKER. Representative Ross.

Mr. ROSS. Thank you, Mr. Speaker.

Mr. Speaker, we have discussed the Hazardous Sites Cleanup Fund on a number of occasions over the past several years, and every time we have come to the moment when we can actually solve this problem for an extended period of time, where we can take some funds that are currently available from leadership accounts and resolve it, where we can deal with more than just the next 6 months but actually give the people of Pennsylvania a reliable funding source that is available in the future years. We have a choice tonight. We can resolve this problem here, now, and send this bill directly to the Governor's desk. If we do not, the Department of Environmental Protection has told their employees in the Hazardous Sites Cleanup Fund that they can expect a furlough in time for Christmas. We should stop fooling with these people. If we send this back to the Senate in a different version, we have no guarantee that they will address the problem in a timely fashion. We have no guarantee that those people will avoid the furlough.

More importantly, these are very important funds. The idea that a tractor-trailer might tip over and we might not have the funds available to deal with it is absolutely critical. We should not play ping-pong back and forth with the Senate on this. We are running out of time; the Senate is not going to be here much longer. If we further amend this and we force a situation where we have a conference committee, we are likely to expose the public to some serious problems.

I urgently ask the members of this General Assembly to approve this motion, to move the bill on to the Governor's desk as quickly as we possibly can for the safety of the public, for the workers who were threatened with layoff, and for the good of the Commonwealth as a whole.

Please vote "yes."

The SPEAKER. Representative Rubley.

Mrs. RUBLEY. Thank you, Mr. Speaker.

I think it is very unfortunate that SB 1100 was not referred to the Environmental Resources and Energy Committee but instead went directly to the Appropriations Committee where it was amended in a major way. This is a violation of the spirit of our rules reform movement.

The Reform Commission had proposed that bills not be rewritten in Appropriations as they had previously been done in Rules Committee, and our members did overrule that, but the intent, I was told, was to keep it pretty much to fiscal matters. That did not occur here. I think the right thing to do, as we heard from our previous speaker, is to revert to the prior printer's number, make sure that our HSCA (Hazardous Sites Cleanup Act) fund is solvent, and it will continue to be in place. This fund is not only taking care of established, long-term abandoned waste sites; it has to be there to take care of any emergency spills. If you have a spill in your area, you do not

want those toxic chemicals going into a stream. You want them cleaned up immediately, and that is why it is imperative that we have this money.

I urge you all to revert to the prior printer's number and move this bill right to the Governor's Office. Thank you, Mr. Speaker.

The SPEAKER. Representative Harper.

Ms. HARPER. Thank you, Mr. Speaker.

I rise in support of the motion to revert to a prior printer's number. I want to remind my colleagues that in July I stood here and gave a list of the active hazardous sites across the Commonwealth, from Allegheny to York, from Beaver to Philadelphia, and at that time I was assured that we would fund the Hazardous Sites Cleanup Act fund as soon as we came back from summer vacation. We did not do that. We are in December of the year. Layoff notices have gone out, or will go out, within the next week or two.

More importantly, the Senate in a bipartisan move, 46 to zero, passed a bill that will not only fund HSCA through the end of this fiscal year, it will give it stability until 2012. Why is it important that the Hazardous Sites Cleanup Fund have funding through 2012, tonight? Well, let me tell you, not only do hazardous sites take years to set up and clean when we are able to attract private funds, and every dollar we spend leverages dollars, millions of dollars, in private funds of developers willing to come in and clean up these sites, but only if they can get brownfield certification, and that work is done by the folks who work for the HSCA fund.

Contrary to what has been stated on this floor, we are not putting a hole in the budget; we are taking funds from our own accounts, House leadership accounts. They are important, truly, but funding hazardous sites cleanup is also important, arguably more important than holding on to these leadership funds. Seventeen million dollars through the end of this year and then \$40 million a year from the capital stock and franchise tax will keep the fund solvent, will keep the folks at DEP (Department of Environmental Protection) working, will keep the hazardous sites across this Commonwealth being cleaned up. This is an issue that affects every legislative district. It affects every third-class city. It affects every first-class city. It affects the suburbs, the rural areas, and the cities. We cannot take another break without taking care of the Hazardous Sites Cleanup Fund. If we pass the Senate version of this bill, we can drop it right on Governor Rendell's desk before we go home. To do otherwise is to shirk a duty that we should have taken care of 6 months ago.

It is well past time to put a funding bill on the Governor's desk for hazardous sites cleanup. The way to do that tonight is to agree with Representative Petri and to revert to the prior printer's number. This is what we need to do. This is important to do, and it is important to do now.

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

The SPEAKER. Representative Civera.

Mr. CIVERA. Thank you, Mr. Speaker.

Mr. Speaker, as we listen to the debate and on the debate to revert back to the prior printer's number, just let me give you a little oversight of what happened in the Appropriations Committee meeting when this bill was amended that day.

First of all, this is a very important piece of legislation, and when we concluded our budget in '07 in July, we had realized that this part, the hazardous cleanup waste sites, had not been funded, and there were a lot of different commitments, not only from the legislature but from the Governor's Office. Let me make it clear, and the previous speaker has mentioned this,

that the funds will not interrupt the budget, the current budget that we are in in '07, that this money comes out of the legislative accounts, which was mentioned before.

Now, it was talked about by the majority chairman that this was short term. This goes to 2011, Mr. Speaker – 2011 – and the \$40 million that was mentioned here, \$40 million per year comes out of the capital franchise fund, which, by the way, does not interrupt the scale-down to that. So as you look across Pennsylvania, there are approximately 450 sites throughout the entire State – just not in the southeast, just not in the north, but across Pennsylvania. There are over 95 Federal Superfund sites that have to be taken care of in Pennsylvania.

Now, for us to say just to put a stopgap and do what the bill says it is presently and the way it came out of Appropriations would bring us to \$18 million, and by June 30, we have to go back and look at this again. This is a procedure where it passed the Senate 46 to nothing, both sides. So why would we here tonight not put a vote to revert back to the prior printer's number, send this to the Governor's Office, and let me make it clear, when we did this in June and July and this was left out of the budget, the Governor was very concerned. He said it the next day when he signed the budget in his office that this was a priority in his administration, that we needed to get this done. We are here tonight; we are here tonight. This bill does not say that we are going to raise taxes. It does not say that. It does not incline that, okay? What it says is, number one, the money is coming out of the legislative accounts for this year – for this year – and originally where this idea came from, the money came from the capital franchise tax. That was originally the idea. We go to 2011. This problem can be put aside.

Now, the other side is going to argue that we are going to be taking \$40 million, and we have to do a budget in the beginning of July, that we have to adopt a balanced budget. This bill and what we read here tonight does not say that it forces a tax increase. It does not say that. It says where it originally came from, under the capital franchise tax, which we still phase down, will give this Commonwealth \$40 million to clean up these sites, which is very, very much needed throughout Pennsylvania, and we can deal with this tonight, put it to rest, and the next time you look at it is in 2011.

This is a no-brainer. I hope that we would vote to revert to the prior printer's number. Thank you, Mr. Speaker.

The SPEAKER. Representative Gerber.

Mr. GERBER. Thank you, Mr. Speaker.

You know, I sit and I listen to all these doomsday predictions, and I cannot help but feel the irony. On June 20 in the Environmental Committee, the same committee that people are calling to have this bill go to now, we had a chance to vote for a dedicated, sufficient funding source for HSCA, a funding source that would not expire, but a lot of the very people that are talking tonight voted "no." Then later this summer, when the Senate sent us a bill that would raid the Key '93 Fund to pay for HSCA, a lot of these people jumped up and down and said, we cannot rob Peter to pay Paul, but here they go, offering to rob unnamed sources to pay Paul. They do not say where the \$40 million will come from. They do not say what other part of the General Fund they want to take the money from to pay for HSCA. It is not really a straightforward approach to solving a problem.

The bill as amended gets us through this period where we are worried about work stoppage and a discontinuing of the program, and if we pass it tonight as amended over to the

Senate, there is plenty of time for the Senate to act, and in fact, in this form, it is going over to the Senate in a very similar fashion with concepts we know the Senate already has embraced.

We have got to stop this shell game. You have got to stop pretending like you are doing something that you are not. And the fact is, you are robbing Peter to pay Paul with this proposal just like the Senate was when they talked about taking money from Key '93 to put into HSCA.

Mr. Speaker, we need to find a dedicated, sufficient funding source for HSCA, not something that will just last a couple of years again, not something that comes from unnamed sources, but something real, something concrete, and if we go with the bill as amended, we give ourselves a chance to do just that.

Mr. Speaker, I urge a "no" vote on this motion to revert to a prior printer's number. Thank you, Mr. Speaker.

The SPEAKER. Representative Argall.

Mr. ARGALL. Thank you, Mr. Speaker.

Mr. Speaker, what we are looking for tonight is a bipartisan solution which has eluded us for way too many years. As I am looking at this list, Butler Township in Schuylkill County has three of these sites – Coaldale, Frackville, Girardville, Mahanoy City, Schuylkill Haven – down into Berks County – Hamburg, Longswamp, Reading, Reading, Reading, Shoemakersville, Topton. I mean, the people living in these communities did not ask to live next to a contaminated waste site, and for way too many years, a solution has eluded us. Tonight we have the opportunity to keep 147 DEP employees working on this problem for at least 4 more years; if we lose this vote, we have a 6-month solution, and so we have a choice: Do you want to push this problem off until June and hope that we come up with a solution, or do you want to send this bill to the Governor's desk immediately and keep 147 employees working on this problem? Not just in the Harrisburg office; these are regional office employees in Williamsport and Wilkes-Barre and Harrisburg and Conshohocken and Meadville.

I think that this is a very reasonable compromise. I believe it is one that speaks to an environmental problem which has really plagued this State for many years. And the people in these communities – it does not matter if they are represented by Republican Representatives or Democratic Representatives, they want a solution, and I think that this would be a wonderful opportunity for us tonight to put partisan labels aside and get this bill to the Governor's desk.

Thank you, Mr. Speaker.

The SPEAKER. Representative Saylor.

Mr. SAYLOR. Thank you, Mr. Speaker.

I, first of all, think that we all – and particularly those of you that are freshmen in the House tonight need to pay close attention to this vote – first of all, we voted and passed new reform rules in this House that said that the Rules Committee and the Appropriations Committee would do exactly – what this committee did tonight it was not to do. So if you, tonight, are telling your people back home that you are for reform and you are going to condone what the Appropriations Committee did by violating House rules tonight, go ahead, but how are you going to justify that to the people back home when you have lied to them when you say you are for House reforms? We do not want the Appropriations Committee and the Rules Committee going about adjusting bills in a major transition way. That is what we said when we passed rules reform in this House.

Second of all, the gentleman from Montgomery County has his facts wrong. Not only do we dedicate money out of the stock and franchise tax—

Mr. DeWEESE. Mr. Speaker? Mr. Speaker?

### QUESTION OF PERSONAL PRIVILEGE

The SPEAKER. For what purpose does the gentleman, Representative DeWeese, rise?

Mr. DeWEESE. My honorable colleague, in the incandescent excitement of the moment, just made an egregious error when he said that we had violated our rules. The Appropriations Committee was given amplitude by vote of this chamber months and months ago, and we indicated during that debate that it would happen seldomly, but from time to time, for timing and for making certain that we were able to get the people's business accomplished and agreed to by both sides, by both floor leaders and both Appropriations chairmen and by a vote of this chamber, that the Appropriations Committee, from time to time, would make those substantive alterations. So my honorable colleague just said that we had violated our rules. I know that the gentleman did not – did not – do that on our purpose.

### POINT OF ORDER

Mr. CIVERA. Mr. Speaker? Mr. Speaker? Mr. Speaker?

Mr. Speaker, point of order.

The SPEAKER. Representative Civera.

Mr. CIVERA. The gentleman, Mr. Saylor, had the floor. I realize that Mr. DeWeese is a floor leader, but to bluntly interrupt like that, I think, is wrong.

Mr. DeWEESE. Mr. Speaker, I would never – and I respect Mr. Civera eminently, as well as Mr. Saylor – I just wanted to interrupt because I thought Mr. Saylor said we had violated our rules, which indeed we have not violated our rules, and I thought that was, once a year or twice a year when somebody would be interrupted abruptly, that was an appropriate time for the interruption.

The SPEAKER. The gentleman's remarks were under the provision of personal privilege.

The Chair returns to Representative Saylor.

Mr. SAYLOR. Thank you, Mr. Speaker.

I happen to disagree with the majority leader. I agree that there are times when the Appropriations Committee has a right to make certain adjustments, but the Appropriations Committee should never have gotten this bill in the first place without having it gone to the proper committee, and had it gone to the proper committee, I would not have been standing here tonight, most likely, talking about what I believe and in my interpretation and I think a lot of our interpretations on the House floor that this does violate the intention of our House rules.

Second of all, we have dedicated— The gentleman from Montgomery County was wrong in his facts. We do dedicate funding from the stock and franchise tax to pay for this HSCA fund. My question is, is it because of what the Appropriations Committee has done in committee? Is it their intent to protect the leadership accounts of this House from being raided for a good cause? That is the question I have. This money is a

question of, where do we want this money to come from? We have spelled out in the previous bill sent to us by the Senate exactly how we want to pay for it, and we should revert to the prior printer's number.

Thank you, Mr. Speaker.

The SPEAKER. Representative Milne.

Mr. MILNE. Thank you, Mr. Speaker.

I rise to urge my colleagues to vote to revert to the prior printer's number. This will allow us to move towards something that all of us agree on, which is to devise a dedicated funding source for HSCA. This is a program that is certainly pro-environment, pro-economic developments, pro-Republican, pro-Democrat, pro-urban, pro-suburban. It is something that all of us agree on, and it is something that we left back in the summer as an implicit agreement with the citizens of the Commonwealth that we would move toward a permanent solution for funding HSCA. Moving toward this particular motion will move us in that direction, because as Chairman Civera has pointed out, it is not just for this one fiscal year, but this will take care of the problem toward 2011, because that will help set a framework for moving it in a permanent funding direction.

I am reminded every day about the importance of the HSCA program when I go to my district office. I do have a HSCA site that is within a quarter mile of my district office. My citizens are very concerned about this issue, and we do have an obligation to solve it for them.

I would also point out that one of the values of HSCA is that it helps leverage private dollars. It is not simply the public dollars, but it is the private dollars that are attracted to be able to remediate, redevelop, and help reclaim some of these brownfield sites. To do that, we have to be able to offer them consistency. The private sector needs to know and count on those public-sector dollars continuing to come into this program. Otherwise, they do not have their incentive to take on these sites, many of which are very difficult, many of which are very environmentally polluted, many of which are very long-term problems to be worked on. We need to be able to assure them that there will be constancy and consistency of these dollars.

Right now we are down to \$3 million in this program. We have an obligation to make sure it is funded, not just to finish out this fiscal year but also to move in a longer-term direction. This bill will help get us there. We do not want this program to run out of dollars, and I urge my colleagues to support the Petri motion.

The SPEAKER. Representative Hutchinson.

Mr. HUTCHINSON. Thank you, Mr. Speaker.

I, too, rise in favor of the motion to revert to the prior printer's number for this very vital bill. As has been said earlier, a long-term dedicated funding source for HSCA is something that is a bipartisan issue, something that we all know and believe is a priority for our State government.

As the Republican chairman of the Environmental Resources and Energy Committee, I am appalled at the systematic bypass of our committee in moving this bill directly to the House Appropriations Committee, an end run around our Environmental Committee, and I think it sets a terrible, terrible precedent as we move forward other important legislation that we have a committee system in process for. So that is one great reason that we should revert to the prior printer's number and get this bill directly to the Governor's desk.



I want to correct the record or correct a statement that was made earlier by the gentleman from Montgomery County – or maybe to clarify is a better way to say it. Yes, the Environmental Committee did have a bill addressing this issue earlier this summer, but I think we who voted against that bill in committee were standing up against what our constituents do not want, and that is another tax. The bill that was before our committee this summer was a tax increase on the people of Pennsylvania. This is something that can be funded within our current budget framework, and that is the way we should go, not adding new taxes that the people of Pennsylvania clearly do not want, and it is clearly the reason that this bill did not make it to the floor.

Finally, I think I just have to say that is it not ironic on this day, when our very own Al Gore is receiving the Nobel Prize for his environmental work – what a great American – and now all the people who are clapping are going to vote against the environment, they are going to shortchange the funding for this vital environmental program, and that is wrong.

Mr. Speaker, I ask to revert to the prior printer's number. Thank you for helping make my case, those of you who clapped. Thank you.

The SPEAKER. Representative Bud George.

Mr. GEORGE. Thank you, Mr. Speaker.

The SPEAKER. The House will come to order. Members will take their seats. The House will come to order. The House will come to order.

Mr. GEORGE. I thank you, Mr. Speaker.

I can understand why they do not want to quiet down, because they know well they are not going to like what I am going to say. And I am greatly impressed with so many of our members who wish they had voted for Al Gore and Mr. Kerry, but with that being said, there are many things when you are here on your 34th year you still will not know why some of these things happen. And I am not going to insist for one minute that those who spoke on the other side are not as concerned and as well-meaning as anybody else. But the reason I said maybe, there will be a time in the next couple of months if what they want to do happens and we are asked to vote for taxes on the moneys, on the \$40 million that are being pulled, I daresay there is not one of us who will not take issue with the fact we are cutting money from the children; we are cutting moneys from the programs that the counties need.

Now, this situation is and this Governor should be very happy to know that we have become environmentally sound and aware, but the truth is, and whether it came to our committee or not, those of you who spoke know well that money had to be taken from the caucus and moneys would have had to be taken from worthwhile programs, and this just does not seem to be the year where you folks – or even we – want to vote for taxes.

Now, if you are really interested in doing things – we are going to do great things, this committee of ours, Republicans and Democrats alike. I would not trade any one of you, and I mean that from my heart. But the truth is, you are not going to put up the votes for the taxes. In a couple of days, until the Senate comes back, God willing, it is not going to cause any problems, and when they do come back, then let us stand together and let us not take all day and all night and all week and all month and whatever; let us work together as one group, regardless of our politics or even our bare-ground philosophy. Let us do the right thing.

So let us send this back to a body of the legislature that had been continually problematic, whether it is Republican or Democrat, and let us not worry about this bill. Let us worry about what we do tomorrow morning in our first committee meeting and then Wednesday in the second one until we get these energy bills out where they belong, out where the people can benefit. And I have heard you say tonight, oh, what are my people going to do? We should have thought about that some time ago. What are our people going to do? But I am amazed and happy to know that we are not going to have any problems winning environmental programs in this coming session.

I would say that my honest opinion is we would be better to vote against the movement and the effort to revert to a prior printer's number. I think the prior printer's number, we should have thought about that a long time ago. I am asking you, let us vote "no."

The SPEAKER. Representative Vereb.

Mr. VEREB. Thank you, Mr. Speaker.

I rise in support of the motion. I do not have some of the historical information that some of my other colleagues had.

I will wait until you are plugged in so you can hear me.

For those of you who are not familiar with my area, there is a situation now that involves four legislative districts and two senatorial districts. It is an issue called TCE, or trichloroethylene, and for those of you who have no idea what that is, you can certainly visit my Web site – I will give you a hint; it is repvereb.com – and click on "TCE," and it will give you an idea of exactly what is now going on in not only my district but Democratic senatorial districts and other Republican legislative districts.

And this is a major issue to us, and I did work in a bipartisan way to try to get other legislation run for this same cause. The threat of people losing their jobs did not work in June, so I am assuming it is not going to work this evening. So the real threat, I think, is the fact that over a thousand people have signed on to a petition that I have coming, and I think it is going to come here, obviously, to the House. I was hoping it would go to the Secretary, not only at the State level but the Federal level.

Secretary McGinty's office has been outstanding trying to work through the fix to the problem that two companies are emitting this hazardous chemical into the air. They have been phenomenal, but from her lips to my ears in a meeting, if this funding runs out – it is not a threat, it is a reality – equipment that is in houses now to keep water clean for them to drink, to keep wells for major public water systems clean so that the public can drink the water and use the water, is going to come into a great travesty for the people in that area.

This is not a pie in the sky. The reality of it is, I did not appoint Secretary McGinty, and I have a feeling that neither did Governor Ridge. She is a good person; she knows what she is talking about. She needs this funding, the administration needs this funding, and whether it is this bill or any other bill that has come up and has failed, the reality of it is, we have a chance right now to fix this going forward, and hopefully in the next 2 years we can work for that long-term solution, since obviously we have not come up with one yet.

Thank you. Repvereb.com.

The SPEAKER. Representative Killion.

Mr. KILLION. Thank you, Mr. Speaker.

I think we are all in agreement that we need to fund the \$40 million for HSCA. I do not think there is any disagreement in the room. But the fact of the matter is, if we pass an amended

bill, it is going to die before year's end. I would say 90 percent sure it is going to die before year's end, and we will not have HSCA funding.

I have to agree with my colleague from Montgomery County that said he is worried we are robbing Peter to pay Paul. Well, let me tell you, Peter can afford it. It is our legislative accounts. It is our money. I am more than willing to reach into my pocket to help to protect the environment of Pennsylvania. We should do that on both sides of the aisle and not risk this not being funded by the end of this session.

Vote to revert to the prior printer's number. Thank you.

The SPEAKER. Representative Ellis.

Mr. ELLIS. Thank you, Mr. Speaker.

You know, just last Thursday the Republican Policy Committee had an opportunity to have a hearing on this in Chester County, and we were fortunate enough on that day to have the Deputy Secretary of the DEP there, and what we learned were two simple things that day. One, it is a fact that, as we speak, they are preparing the furlough letter. Yes, our Governor is attempting to scare us into doing something again. Well, I will tell you what, we do not need to be scared. We can act tonight. We can pass this legislation, which brings me to my second point, Mr. Speaker.

The single largest environmental advocate group in Pennsylvania also testified, and they support immediate funding to solve this year's HSCA funding process. When I asked them point-blank, are you okay with SB 1100 the way it was written, they said they are not opposed to it. This is an opportunity for us to do something that everybody is on board with, and we cannot wait any longer. This affects real people. We have to do it tonight, Mr. Speaker.

I support reverting to the prior printer's number.

The SPEAKER. Representative Adolph.

Mr. ADOLPH. Thank you, Mr. Speaker.

Mr. Speaker, I rise to support the Petri motion for a couple reasons. Number one, I was the chairman of the Environmental Committee the two previous terms, and my good friend, the majority chairman of this committee – if this bill would have gone directly to the Appropriations Committee when he was chairman, or the two previous sessions, my good friend, we would be hearing from him tonight. Trust me, okay? This bill should have gone to the Environmental Committee.

As chairman of the Environmental Committee, I traveled across the State and went to many of these sites. Montgomery County, I remember it was a major issue near Ambler; BoRit, I believe the site was, an asbestos site. People came out from Montgomery County and talked about how important it was to clean up this site.

Let us really think about where this money is coming from. I heard some previous speakers talk about we are taking money from children, that this is going to cause a tax increase. Mr. Speaker, the fact of the matter is, this money has already been appropriated. This money is sitting in legislative accounts. We are not taking away money from children; we are not raising taxes. We may stop the money from, maybe, consultants from New York, consultants from Washington, DC, that may be paid to do polling on various issues around the State. However, we are not taking money, and we are not increasing taxes. This is money that should be going to the environment. This is something that should get done tonight.

I urge you to put aside the politics of this House. Finally – and here is an issue that we can all agree to – let us take

\$40 million for 2011 from these legislative accounts, and let us put it and clean up our hazardous sites. Please, Mr. Speaker, this is something that we can do to help the environment. Thank you very much.

The SPEAKER. Representative Reichley.

Mr. REICHLEY. Thank you, Mr. Speaker.

I wanted to respond to a couple of comments by the gentleman from Clearfield who said that members from both sides of the aisle do not want to have to vote for tax increases to be able to provide funding for this program. In checking with our staff director for the House Finance Committee on this side of the aisle, the \$40 million which the Senate appropriated out of the capital stock and franchise tax money does not endanger the budget, it does not throw it out of balance, and in fact, that funding creates a long-term, reliable source of a funding commitment to this particular program. It does not require a tax increase. That is a canard; that is a false statement. There is nobody who is going to have to come into this chamber or over in the Senate next June or next July to have to vote for a tax increase to be able to fund this HSCA up to the year 2011 if, in fact, we do vote in favor of the motion to revert to the prior printer's number. The money is already provided for within the revenue that would have come about from the capital stock and franchise tax. There is a phaseout contemplated with that, but that does not endanger this long-term funding, and I guess I am surprised that in a situation in which we have, frankly, been woefully deficient on accomplishments, members from the other side of the aisle would want to try to snatch defeat from the jaws of victory. Here is an easy one. It is sitting right out there for you. You can provide funding from the legislative accounts which supplements the amount of money which is already set aside in this fiscal year to guarantee perpetuation of the HSCA program through to the end of the fiscal year, avoid the layoffs, and provide long-term funding into 2011, so we do not have to deal with this issue being placed on the table during the budget negotiations of next year.

This is so easy, anybody could see there is an easy solution to this problem by voting to put back in the Senate language by reverting to the prior printer's number. And the gentleman from Schuylkill, Mr. Argall, mentioned the variety of sites that are in danger. I know within Lehigh and Berks Counties, looking down this list, which I will provide to the members from the other side of the aisle – it is about a 20-page list – in Lehigh County alone, there are sites in Allentown, there are sites in Upper Milford that Representative Beyer and I share which we are voting to have funded through this motion by the gentleman, Mr. Petri. In Berks County, although none of the sites in my Berks County district are within this list, neighboring areas, neighboring communities such as Birdsboro, Amity Township, Colebrookdale, those have hazardous sites that need to keep the cleanup process going. And why anybody would want to deny the funding to protect the residents of those communities is beyond me.

So I am asking – even the gentleman, the majority leader – in Greene County there are four separate sites that require continued assistance through this program, and why you would want to stop that dead in its tracks and perpetuate this as a problem, frankly, boggles my mind.

So I am asking the members from the other side of the aisle, put aside the partisan rancor, realize what is best for the constituents in your area, constituents throughout Pennsylvania, and which is widely supported by every environmental program

in the State, and vote in favor of the Petri motion to revert to the prior printer's number for long-term, sustainable, reliable funding for environmental cleanups. Thank you.

The SPEAKER. Representative Turzai.

Mr. TURZAI. Thank you, Mr. Speaker.

Three quick points in favor of the Representative from Bucks County's motion.

If you support the gentleman's motion, you are in favor of having this resolved by the end of this year. This is, without a doubt, the quickest route to the Governor's desk. If you are opposed to the Representative from Bucks County's motion, you are trying to stall on this issue and not get it resolved. As the majority leader stated with respect to SB 1, one of the points he tried to make with respect to that bill was that the Senate voted unanimously in favor of it. Well, the Senate voted 46 to nothing for the version that the Representative, the gentleman who is sponsoring the motion, is supporting.

Second: If you support the gentleman's motion, you do not have to worry about a furlough-of-employees issue. If you do not support the motion, it means you are perfectly content with furloughing those individuals who are charged with administering the HSCA program. It is very easy to make sure that the furloughs do not occur by supporting this commonsense motion.

Finally, if you are for the motion, you are for permanent funding through 2011, and for those individuals that have to deal with these cleanups, that permanent funding is important. If you are opposed to the motion, it means you only want to have a Band-Aid for 6 months, and that 6 months is not going to happen until some time next year because we are not going to get to it by the end of this year.

The Representative from Bucks County, I applaud his leadership on this issue. I applaud members of our delegation – Representative Milne, Representative Harper, Representative Ross, Representative Rubley, and others – who have been at the forefront of this issue, and I would ask everybody to support this motion. It is pretty clear what direction to take.

The SPEAKER. Representative Samuelson.

Mr. SAMUELSON. Thank you, Mr. Speaker.

I wanted to speak after hearing several of the speakers talk about, several of the speakers on the other side have said, we have to do this this night because the Senate has done it in a certain way, and we have to accept the Senate's version, period. I remember clearly in this House 6 months ago the Senate sent us a bad bill. The Senate's idea, the Senate's original idea on HSCA – you remember this – they wanted to fund the hazardous sites cleanup by raiding environmental funds, funding one environmental program by raiding another environmental program. That was spelled out in a bill that they sent over here, I think it was 46 to 3, but guess what? This House stood up and said, no, we are not going to raid environmental funds to pay for the hazardous sites cleanup; we are going to find funding.

And so I do not think that I want to blindly trust the Senate to come up with the solution here. Now, I am going to get back to that point because the one they sent us now has \$40 million in future years, but they do not say where the money is coming from. What an interesting concept. We were upset as a House when they told us they wanted to raid the environmental funds for \$20 million. Tonight some of you seem willing to accept the Senate's version of taking \$40 million but not saying what programs they would reduce.

Another concern is, some people are talking about how we need to take money out of the legislative accounts. Well, guess what? This bill that we are about to vote on without reverting takes \$10 million out of the legislative accounts. It also takes \$8 million out of the surplus; \$10 million plus \$8 million, that is \$18 million in the version that we could vote that came out of the Appropriations Committee. The alternative, those who want to revert are speaking up for a Senate version that allocates \$17 million. So the version this House voted in the Appropriations Committee has \$18 million, yet some of you are willing to settle for \$17 million tonight.

What about the long-term funding? Some of you are saying that we should devote \$40 million a year from the capital stock and franchise tax as a permanent solution, a long-term solution. Guess what? We have voted in this House to phase that tax out. I believe the year is 2011. So what happens in 2012? If you fund our hazardous sites cleanup with a tax that is being phased out in 2011, where is the long-term solution for a permanent funding source?

My final point, I want to get back to the \$40 million for the next budget year. Well, guess what? In 2 months we have a budget process that is starting. We should have on the table exactly what we are talking about. The \$40 million from the capital stock and franchise tax – should we allocate that in the future to hazardous sites cleanup? Well, where is that \$40 million this year? This year it is funding other programs through the General Fund. So if you put it towards hazardous sites cleanup and it is funding other programs this year, you are engaging in blind budgeting. You are taking \$40 million without saying where you are taking the money from.

I think we should respect the budget process of this House, be honest with where we are taking the funds from, come up with a long-term solution, but let us do that in the context of the budget. The bill we are voting on tonight for the current year – I would prefer \$18 million for hazardous sites cleanup rather than the \$17 million being offered by the gentleman from Montgomery County who seeks to revert.

So I say, let us vote "no" on revert, let us fund hazardous sites cleanup this year, and let us address this head-on in our budget process. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the majority leader, Representative DeWeese.

Mr. DeWEESE. Thank you very much, Mr. Speaker. This is only going to be 30 seconds.

The gentleman, Mr. Samuelson, did an eloquent job of presenting the Democratic perspective. Mr. Petri and six or eight of his Republicans have done the same thing. We have new rules in place that we are going to vote by 11 o'clock, unless we want to debate this ad nauseam. The lineaments of this dialectic are very clear. You are either for Mr. Petri's position or Mr. Samuelson's position. I would advocate that we have a vote "yes" or "no" on reverting to the prior printer's number. Additional debate will take us over the 11 o'clock hour and would certainly stymie the advance of this important legislation, regardless of whether you agree with Mr. Petri or Mr. Samuelson.

So I would just admonish, politely, the membership to keep this thing moving and let us have a vote here in the next few minutes. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the minority leader, Representative Smith.

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

Mr. Speaker, I am a little bit surprised. I mean, I think there are like six or seven other amendments to this bill, so the suggestion that somehow debating this is stopping us from getting things done is quite contrary to the facts. And in fact, Mr. Speaker, there have been a few other comments on the floor here tonight on this particular issue that are a little bit off target, to say the least.

The fact is, Mr. Speaker, as others have said, approving this motion to revert to the prior printer's number is the shortest course and a good course. It is a good, straight course to resolving this problem for the next several years. But let us not get into rewriting history while we are debating this. Several members have just stated the facts wrongly.

The fact is, Mr. Speaker – the fact is, Mr. Speaker – HSCA was originally funded by the capital stock and franchise tax up until 2002 when it was shifted to be funded partially or in some form through the Growing Greener I or II. Was that Growing Greener II, perhaps? The Growing Greener program provided funding for the Hazardous Sites Cleanup Fund. To suggest that what is being proposed here is some weird machination or some new machination is just utterly incorrect. It was funded by it. The fact is, if we enact this bill today as is currently being proposed before us, put it on the Governor's desk, it will have no impact on this current year's General Fund budget and in the next couple of years, although the capital stock and franchise tax is being phased out, there is still money there to pay for it for the \$40 million, or whatever, over the next couple of years.

So, Mr. Speaker, those who are suggesting that this is something devious or something irresponsible, it is just not correct, Mr. Speaker. The capital stock and franchise tax originally paid for this; for a while Growing Greener did. Now we are saying, give it back to the capital stock and franchise tax as a dedicated funding source. Let us face it; the truth is, some people do not want to do it because they do not want to be committing a tax to it. That, maybe, ties someone in the Budget Office, maybe that ties their arms a little bit in terms of how they want to propose next year's budget. Perhaps, Mr. Speaker, there are other hammers being held over members' heads as to why this is such a good thing to do or a bad thing to do. But I can tell you this, Mr. Speaker, do not let them write history over again; keep the history accurate.

This legislation is consistent with how we have dealt with this problem in the past, Mr. Speaker. Voting to move to the prior printer's number is the most direct and honest approach to resolving this issue, to ending this crisis, and you know I have talked before about the crises that some have created around this building. Well, the administration wants to have a crisis; here is the solution. They should be stepping up and saying this is the right thing to do, but no, now you want to go in a different direction.

So, Mr. Speaker, this is the right thing to do it is the right thing to do right now. You do that on this vote and we are done till tomorrow on this particular issue.

The SPEAKER. Representative O'Neill.

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

Mr. Speaker, earlier in the evening, one of the esteemed gentleman of this body said we were robbing Peter to pay Paul, and he is correct; we are robbing to pay Paul, but it is not happening tonight. It happened last July during the budget

process. Peter was the taxpayer. Peter were the people that lived near these hazardous sites, and Paul was the Governor.

The Governor made this cut. And if we remember correctly, many of us, bipartisan, stood in the media center and we opposed the Governor's plans. Both Democrat and Republican alike, we opposed what he was doing in July, and it is one of the reasons why many of us voted against the budget. But we were given a promise, and that promise was that we would deal with this as soon as we returned in the fall. Well, today I stand before you and it is December 10, and the last time I looked outside it is winter. Fall has passed; that promise was not kept.

The Senate was referred to, that sometimes the Senate, the other body of this great Commonwealth, does not bring forward good legislation. Well, in a bipartisan moment they found some wisdom and they did send to us a good bill here.

So I would highly recommend to everyone that we pass the Petri motion to revert back to the prior number. Thank you.

The SPEAKER. Representative Marshall.

Mr. MARSHALL. Thank you, Mr. Speaker.

Mr. Speaker, I rise in support of the Petri motion. On one hand, you have to think if we would ask our constituents, Mr. Speaker, if they would rather put money towards the environment, to protect the families of this Commonwealth, or keep the money in legislative leadership pockets, I would venture to say they would support Mr. Petri and they would hope that we would put this money into environmental protection.

Mr. Speaker, I have sites in Beaver County that are waiting for this funding – to be cleaned, to have these brownfields revitalized, to be able to encourage economic development.

Mr. Speaker, I believe we have to make a decision tonight to support this motion and bring this funding now to our Commonwealth. Thank you, Mr. Speaker.

The SPEAKER. Representative Mensch.

Mr. MENSCH. Thank you, Mr. Speaker.

There has been a lot of discussion here this evening about dollar amounts – \$18 million, \$17 million, \$40 million. I think the math is a whole lot simpler than that. The math is really 3 to 1. There are four houses, or four bodies, in the State legislature. Three of us see the wisdom of funding this in the manner that has been so eloquently described by the minority Appropriations chairman, Mr. Civera. Only one out of the four bodies is still, I believe, considering the prudence of the vote for the revert motion as recommended by Representative Petri.

The math is very simple. It is 3 to 1. It is kind of like we had back in the budget debates, 3 to 1. I would implore the freshmen on the other side of the aisle to really reconsider this position. Representative Vereb talked a little while ago about the contamination that has been caused in so many legislative districts. Mine is one of those districts that is affected by that contamination. If you look at the map, I have the most rural district in Montgomery County. It is not very populated, we do not have many factories, and yet I have eight – count them, eight – TCE sites in my district. These are housing developments where there are wells that are contaminated with TCE. It is rather insidious; it goes through the water system. It affects a well in a development that is miles away from any manufacturing facility. These wells need to be monitored on a quarterly basis. The carbon filters and the water filters are changed on a monthly basis by the very employees in the

DEP that will be furloughed if we do not find a resolution to this immediately.

So, Mr. Speaker, I encourage everyone to vote for the Petri motion. I believe it is prudent, I believe it is responsible to the residents of our State, and I believe it is responsible to the employees of our Department of Environmental Protection.

Thank you, Mr. Speaker.

The SPEAKER. Representative Quigley.

Mr. QUIGLEY. Thank you, Mr. Speaker.

I rise to support the Petri motion to revert to the prior printer's number. As the prime sponsor for the Growing Greener II legislation that was passed in our last session, I worked closely with our then chairman, Bill Adolph, to craft a plan that would have initially funded this HSCA fund, Hazardous Sites Cleanup Fund, in perpetuity by using the existing tipping fees at our landfills. Unfortunately, that original proposal, Green PA, did not survive through the process and we were unable to find that dedicated funding source for a long-term solution to the HSCA fund. So now we find ourselves 2 1/2 years later where we knew we would find ourselves in a problem with this funding. The Senate has come up with a plan that they have outlined where we take moneys from the legislative accounts for the short-term solution and then go back to the capital stock and franchise tax to carry this funding out for the long term.

As I said when we first brought up that Green PA plan, we had some dissension even within our own caucus on this side. Some of my good friends, my one good friend from Butler County, he was for me before; he turned against me in the final vote. We were able to work through those things in a bipartisan fashion at that time. The bill was passed, as I said, with me as the prime sponsor, and the bill signing actually took place in Montgomery County, although it took place in my good friend, Mike Gerber's district.

### MOTION FOR PREVIOUS QUESTION

Mr. EACHUS. Mr. Speaker?

The SPEAKER. For what purpose does Representative Eachus rise?

Mr. EACHUS. Mr. Speaker, I would like to move the previous question.

The SPEAKER. What question does the gentleman wish to move?

Mr. EACHUS. I would like to move this vote right here on the board, sir, to a vote right this second.

The SPEAKER. The gentleman, Representative Eachus, moves the previous question that the motion to revert to a prior printer's number be immediately considered. Those members who second the motion will stand and remain standing until their names are recorded. Twenty seconds are required for the motion.

James, Williams, Gergely, Gerber, Cohen, Eachus, Dermody, Bennington, Wheatley, Josephs, Kirkland, Leach, Walko, Kortz, Daley, Mundy, Harhai, Haluska, Casorio, Oliver, Frankel, Vitali.

The motion for the previous question has been made and properly seconded. For the information of the members, an "aye" vote is a vote to end debate and to take an immediate vote on the question.

On the question,

Will the House agree to the motion?

(Members proceeded to vote.)

Mr. S. SMITH. Mr. Speaker, could you clarify exactly what the members are being asked, that if they move the previous question, then we would proceed to vote on the motion; that this vote before us—

The SPEAKER. That is correct.

Mr. S. SMITH. —is not actually the vote on the motion. This is a motion to—

The SPEAKER. To move the previous question would be—

Mr. S. SMITH. This is a motion to shut off debate?

The SPEAKER. That is correct.

Mr. S. SMITH. Okay.

On the question recurring,

Will the House agree to the motion?

The following roll call was recorded:

### YEAS—97

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

### NAYS—105

Adolph	Gabig	McIlhattan	Raymond
Argall	Geist	Mensch	Reed
Baker	Gillespie	Metcalfe	Reichley
Barrar	Gingrich	Micozzie	Roae
Bastian	Godshall	Millard	Rock
Bear	Grell	Miller	Rohrer
Benninghoff	Harhart	Milne	Ross
Beyer	Harper	Moul	Rubley
Boback	Harris	Moyer	Samuelson
Boyd	Helm	Murt	Saylor
Brooks	Hennessey	Mustio	Scavello
Cappelli	Hershey	Nailor	Schroder
Causar	Hess	Nickol	Seip
Civera	Hickernell	O'Neill	Smith, S.
Clymer	Hutchinson	Pallone	Sonney
Cox	Kauffman	Payne	Stairs
Creighton	Keller, M.	Peifer	Steil
Cutler	Kenney	Perry	Stern
Dally	Killion	Perzel	Stevenson

Denlinger	King	Petri	Swanger
DiGirolamo	Mackereth	Phillips	Taylor, J.
Ellis	Maher	Pickett	True
Evans, J.	Major	Pyle	Turzai
Everett	Mantz	Quigley	Vereb
Fairchild	Marshall	Quinn	Vulakovich
Fleck	Marsico	Rapp	Watson
Freeman			

NOT VOTING—0

EXCUSED—1

DeLuca

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

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

The SPEAKER. The Chair recognizes Representative Quigley.

Mr. QUIGLEY. Thank you, Mr. Speaker.

And let me see if I can just figure out where I was in my speech. I think it was 1981, I had just gotten out of high school. No, no; that is a joke. Mr. Speaker, no; sorry.

As I was saying before we had the procedural move there, we had cooperated in a bipartisan fashion back in 2005. The bill-signing ceremony, as I said, took place in my good friend, Mike Gerber's district. We thought we had found an opportunity to find that permanent solution for the Hazardous Sites Cleanup Fund, and unfortunately, we find ourselves back here 2 years later where we are right now, trying to find the solution at this late hour.

The fact of the matter is that this plan that the Senate has put forward is a sound plan. It is something that we can take care of in the short term. We can fund these projects that need funded in our various districts as my good friend, Representative Vereb, talked about, the TCE problem in his district. We have had contaminated wells in my district that we are working on. The township that has this problem needs additional funding, and they need it now. We need those employees to be working and not furloughed so that we can in fact, we can, in fact, work this plan out.

So again, I would just urge everybody to take a vote. Thank you, Mr. Speaker.

### PARLIAMENTARY INQUIRY

The SPEAKER. For what purpose does the gentleman, Representative Wheatley, rise?

Mr. WHEATLEY. A point of information, Mr. Speaker.

The SPEAKER. A point of inquiry? The gentleman will state his point of parliamentary inquiry.

Mr. WHEATLEY. Mr. Speaker, since evidently we are discussing such an important issue and because members want to have full debate and full conversation about this and because we know that we are in a time crunch, what is the procedure, or what is the request, in order to suspend the rules to go past the 11 o'clock hour?

The SPEAKER. The gentleman would make a motion to suspend rule 15.

### MOTION TO SUSPEND RULE 15

Mr. WHEATLEY. Mr. Speaker, I would like to make a motion to suspend rule 15 so that we are able to debate this fully and we are able to – since we are already on this conversation and on this topic, let us finish it so that we can get this business done.

The SPEAKER. It has been moved by the gentleman, Representative Wheatley, that rule 15 be suspended, which is the rule providing that the House not go past 11 o'clock. This requires an affirmative vote of three-fourths of the members elected to the House.

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

The SPEAKER. Representative DeWeese.

Mr. DeWEESE. Thirty seconds, Mr. Speaker.

If my honorable colleagues who have argued so passionately tonight really want to save those jobs, if my honorable colleagues on the Republican side really want to save the environment, I would ask that we go for another hour or so. I think we can do it in an hour. I want my Republican colleagues to do it for Al Gore; do it for Al Gore. One more hour. Come on; let us go.

I agree with the gentleman from Allegheny County, Mr. Wheatley, this is a good rule and we go by that rule 99 percent of the time, but if they are serious about HSCA, if they are serious about hazardous sites, those jobs and the environment, we can go for another hour or so tonight.

Thank you, Mr. Speaker.

### PARLIAMENTARY INQUIRY

Mr. S. SMITH. Mr. Speaker?

The SPEAKER. Representative Smith.

Mr. S. SMITH. A point of parliamentary inquiry.

I guess it is really to clarify what this motion— If we were to suspend rule 15, it is just suspended and we could be here for 10 hours, through the middle of the night. I guess my question is, Mr. Speaker, is it even possible to suspend the rule and then at the same time have a double motion by thereby reenacting a subsequent 1-hour rule, making it midnight? I mean, it seems to me we are being asked to kind of buy a pig in a poke here.

The SPEAKER. The gentleman would be in order to make that motion after the motion before the House is dispensed with.

Mr. S. SMITH. Mr. Speaker, I did not make a motion. I was asking a question: What is this that we are being asked to vote on? To just simply suspend rule 15, which means at that point in time we will have agreed that the 11 o'clock hour rule is gone, and therefore, unless another rule change is adopted immediately, we could be in session through the middle of the night. Is that correct?

The SPEAKER. The gentleman is correct.

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

The SPEAKER. The maker of the motion and the leaders are the only ones permitted to speak.

Mr. S. SMITH. Mr. Speaker? Mr. Speaker?

The SPEAKER. Mr. Smith.

The House will come to order.

Mr. S. SMITH. Then, Mr. Speaker, I would like to speak on the motion before us.

Mr. Speaker, while I certainly understand the interest of the members to get something done and we think that we were getting things done in the right way, I also— And I understand the dynamics of the 11 o'clock, the rule 15, the 11 o'clock hour, Mr. Speaker. I guess, Mr. Speaker, what concerns me is, while the majority leader suggested that we would only be here for maybe another hour and we would complete this order of business—

The SPEAKER. The gentleman will suspend; the gentleman will suspend.

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

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

### **ADJOURNMENT**

The SPEAKER. It has been moved by Representative Harkins from Erie County that this House do now adjourn until Tuesday, December 11, 2007, 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 11 p.m., e.s.t., the House adjourned.