

COMMONWEALTH OF PENNSYLVANIA

LEGISLATIVE JOURNAL

TUESDAY, JUNE 3, 2008

SESSION OF 2008

192D OF THE GENERAL ASSEMBLY

No. 36

HOUSE OF REPRESENTATIVES

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

THE SPEAKER (DENNIS M. O'BRIEN) PRESIDING

PRAYER

The SPEAKER. The prayer will be offered by Pastor Joyce Seip, aunt of Representative Seip.

PASTOR JOYCE SEIP, Guest Chaplain of the House of Representatives, offered the following prayer:

Let us pray:

O Creator, sustainer God, as we are gathered here this morning in this place, we are humbled by the tasks and the work at hand. We are humbled before the awesomeness of Your creation and humbler still that we have been entrusted with power and responsibility for the caretaking of this great Commonwealth and its people.

And so we begin this day by looking to You, our creator and sustainer, for guidance and blessing, for inspiration and awareness, for wisdom, for patience and focus, for a spirit of cooperation and right priorities, and steadfastness of purpose.

We give thanks to You, O living God, for our families and homes that we hold so dear, for we each know the difficulties of balancing the very public lives that we lead, the pressures and the heavy demands on our time, and thus our families and relationships. Grant us the peace of mind and quiet to entrust them to Your care on this day.

O eternal God, we ask You to make us mindful of Your gift of time, for each of us is given the exact same amount of time. We cannot control that but we can control how we choose to use it. Make us wise and discerning stewards of our gift of time. Keep us focused on our goals. Keep our sight on service to this great Commonwealth and to its public.

O wise and providential God, we pray for the President of the United States, for the Governor of this great Commonwealth, for the members who make up this House of legislation, for their staff and aides, and all of those in positions of authority that they may be high in purpose and wise in council.

We pray briefly to remember all those in service to our country in these times of turbulence and oppression, those who serve in faraway and distant lands as well as those who stand ready in bases around this country. Those who protect and covet our very freedoms, bless them and keep them and grant to all of us a just and lasting peace.

Watch over us, O God, as we turn our attention now to the matters set before us this day and the days to come. Grant us the courage of our conviction, the patience of deliberations, the spirit of cooperation, the commitment of service to the public and to the welfare of this great Commonwealth. 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 Monday, June 2, 2008, will be postponed until printed. The Chair hears no objection.

GUESTS INTRODUCED

The SPEAKER. The Chair would like to recognize, as the guest of Representative Brennan, Lt. Col. Bruce Brinker from the Pennsylvania Civil Air Patrol and former Whitehall Township Commissioner. He is in the rear of the House. Would you please stand and be recognized.

The Chair would also like to recognize, as the guests of Representative Craig Dally and Representative Grucela, Kathy Heller, retired teacher of 35 years in the Nazareth Area School District; Maury Heller, a retired electronic technician and member of Nazareth Area School Board; and Peg Heller, who is Maury's mom. They are seated to the left of the Speaker. Would you please stand and be recognized.

NATIONAL AMERICAN MISS PENNSYLVANIA TEEN INTRODUCED

The SPEAKER. The Chair would like to recognize Representative Jerry Stern for the purpose of an introduction. Representative Stern.

Mr. STERN. Thank you, Mr. Speaker.

We are pleased to have with us here today Miss Krystal Edwards, who is the 2007-2008 National American Miss Pennsylvania Teen.

Krystal is a sophomore at Juniata College and is pursuing a degree in early childhood, elementary, and special education with a secondary emphasis in science.

The National American Miss pageants are dedicated to celebrating America's greatness and encouraging its future leaders.

Krystal was involved in pageantry for a total of 4 years with the Miss USA, National American Miss, Miss International, and Miss American Coed pageant systems.

During her reign, she volunteered for organizations including Big Brothers Big Sisters, Relay for Life, Special Olympics, and the American Red Cross, among others, as well as assisting to raise money for the Humane Society and St. Jude's Children's Research Hospital.

At this time, could we please give a hearty round of applause and welcome Miss Krystal Edwards, the 2007-2008 National American Miss Pennsylvania Teen.

Also joining us today is Krystal's mother, Kathy – Kathy, would you please stand – and her cousin, Ashley. Welcome.

Thank you, Mr. Speaker.

GUESTS INTRODUCED

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

Mr. SEIP. Unanimous consent, Mr. Speaker.

The SPEAKER. The gentleman is recognized under the provision of unanimous consent.

Mr. SEIP. Thank you, Mr. Speaker.

Mr. Speaker, I just wanted to thank my aunt, Pastor Joyce Seip, for giving the opening prayer today, and I would also ask my colleagues to welcome my dad, Eugene Seip, and Doris McLane, as my guests here today in the hall of the House. They are seated in the back.

CONDOLENCE RESOLUTION

The SPEAKER. The Chair is about to take up a condolence resolution. The Chair will ask all members to take their seats. The Sergeants at Arms will close the doors of the House.

The Chair recognizes Representative Bev Mackereth.

Mrs. MACKERETH. Today I come before you to ask for your support of a resolution marking the life and memory of Luke Runyan.

My first time running for office, I still remember knocking on the Runyan's door and seeing the little boy running around the room. I then remember hearing that this little boy had grown up, and while still a senior in high school, he had decided to serve his country and had joined the Army.

Luke was deployed to Iraq in January of last year as part of the troop surge. Specialist Runyan saw the ugly side of war, having lost friends in the heat of battle. He also knew his job and took great pride in the work that he and his brothers in arms were doing for the Iraqi people. When his 3-year tour of duty came to an end, it was no surprise that he reenlisted. It was also not a shock that he was promoted to squad leader. According to Luke Runyan's father, Mark, his son had no fear of combat; he knew the dangers and the rewards.

Taking leave last Christmas meant seeing his family, including his wife and infant child. It also meant leaving behind his men, all but briefly. Runyan returned to Iraq after the holidays. Less than 2 months later he and his men were ambushed by enemy forces in Diyala Province while coming to the aid of another squad. U.S. Army Spc. Luke Runyan was one of two soldiers killed that day, Sunday, February 17, 2008.

Luke Runyan was posthumously promoted to the rank of corporal and awarded the Bronze Star with valor for distinguishing himself in the line of duty.

With us today on the House floor is the family of Corporal Runyan, including his parents and his brother. Would the family please stand and be recognized.

While our hearts are heavy because of their loss, they beat with pride as we remember one who made the ultimate sacrifice for his country, giving his life so that we might have ours.

Again, please join me in a round of applause to honor Cpl. Luke Runyan.

Thank you, Mr. Speaker, and I ask the members for support of this condolence resolution.

The SPEAKER. Members and guests will rise as a sign of respect for our fallen hero, Cpl. Luke Runyan.

(Whereupon, the members of the House and all visitors stood in a moment of silence in solemn respect to the memory of Cpl. Luke S. Runyan.)

The SPEAKER. Members and guests may be seated. The doors of the House will remain closed.

CONDOLENCE RESOLUTION

The SPEAKER. The Chair recognizes Representative Moul. Mr. MOUL. Thank you, Mr. Speaker.

Sixty-five years ago next week a tragedy occurred a half a world away that claimed the lives of 40 U.S. servicemen, including 6 from Pennsylvania.

Just before dawn on Monday, June 14, 1943, a Boeing B-17C carrying 41 U.S. servicemen and crew crashed just minutes after takeoff at Bakers Creek near Mackay, Queensland, Australia, killing all but 1 of those on board.

The World War II servicemen had been on a brief break from the war and were on their way back to the war zone in New Guinea when the plane crashed. It was the worst aviation disaster in the Southwest Pacific Theater during World War II.

The crash was classified by the U.S. government and was virtually forgotten after the war ended. The families of the victims received little information about the circumstances surrounding the deaths of their loved ones until 2000, when Robert Cutler of Orrtanna, Pennsylvania, discovered his father's World War II diary and began reading his account of the incident. He learned that the elder Cutler had been the officer of the day, whose duties involved loading the 41 soldiers on the plane for that fateful flight. He recounted that he was the last to see the men alive.

Robert Cutler took his father's diary and used the information contained in it to contact the families of the deceased servicemen and to raise awareness about the tragedy.

GUESTS INTRODUCED

Mr. MOUL. At this time I would like to take the opportunity to introduce Robert Cutler; his wife, Sarah; Judith Otto, a member of the Bakers Creek Board; and Michael Applebee, whose great-uncle, Sgt. Donald B. Kyper, died in the Bakers Creek crash, seated to my left. Please stand and be recognized.

Pennsylvania had the largest contingent of troops on that plane, including Sergeant Kyper, Pvt. James Finney, Sgt. Alfred H. Frezza, Pfc. Frank S. Penksa, Sgt. Anthony Rudnick, and Cpl. Raymond H. Smith.

It is fitting that we now take steps to honor them and remember them for their service. I am proposing HR 514 to designate June 14, 2008, as "Bakers Creek Memorial Day" in Pennsylvania. I respectfully ask for your support.

Thank you.

The SPEAKER. Members and guests will please rise as a sign of respect for our fallen heroes.

(Whereupon, the members of the House and all visitors stood in a moment of silence in solemn respect to the memories of Sgt. Donald B. Kyper, Pfc. James E. Finney, Sgt. Alfred H. Frezza, Pfc. Frank S. Penksa, Sgt. Anthony Rudnick, and Cpl. Raymond H. Smith.)

The SPEAKER. Members and guests may be seated.
The Sergeants at Arms will open the doors of the House.

ANNOUNCEMENT BY MR. SIPTROTH

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

Mr. SIPTROTH. Thank you, Mr. Speaker.

Mr. Speaker, yesterday I made an announcement regarding the upcoming Veterans Affairs and Emergency Preparedness hearing. I inadvertently indicated that it was on Wednesday. I would like to correct that for the record and make sure that the individual members know that that hearing is being held on Thursday, 10 a.m., in room G-50.

Thank you very much, Mr. Speaker.

GUESTS INTRODUCED

The SPEAKER. The Chair would like to recognize, as the guest pages of Representative Ron Marsico, Alyssa Burlew and Elizabeth Bashore, who are students at Covenant Christian Academy. Would you please stand and be recognized.

DEMOCRATIC CAUCUS

The SPEAKER. The Chair recognizes Representative Cohen.
Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, I have a series of announcements.

First, there will be an immediate caucus upon the call of the recess.

RULES AND APPROPRIATIONS COMMITTEE MEETINGS

Mr. COHEN. At 1:30 there will be a Rules Committee meeting.

At 1:45 there will be an Appropriations Committee meeting, and at 2 o'clock we should be back on the floor.

I am advised by staff that I have to tell you that the Rules and the Appropriations Committee meetings will be in the majority caucus room as they have traditionally been.

The SPEAKER. There will be a Rules Committee meeting at 1:30 and an Appropriations Committee meeting at 1:45, both in the majority caucus room.

REPUBLICAN CAUCUS

The SPEAKER. Representative Major.

Miss MAJOR. Thank you, Mr. Speaker.

I would like to announce a Republican caucus immediately at the call of the recess; that is a Republican caucus immediately at the call of the recess. Thank you.

The SPEAKER. The Chair thanks the lady.

Are there any other announcements?

RECESS

The SPEAKER. This House will stand in recess until 2 p.m., unless sooner recalled by the Speaker.

AFTER RECESS

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

LEAVES OF ABSENCE

The SPEAKER. The Chair recognizes the majority whip, who requests that Representative LEACH of Montgomery County be placed on leave for the day. The Chair sees no objection. The leave will be granted.

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

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

Cappelli	Harper	Myers	Staback
Carroll	Harris	Nailor	Stairs
Casorio	Helm	Nickol	Steil
Causer	Hennessey	O'Brien, M.	Stern
Civera	Hershey	O'Neill	Stevenson
Clymer	Hess	Oliver	Sturla
Cohen	Hickernell	Pallone	Surra
Conklin	Hornaman	Parker	Swanger
Costa	Hutchinson	Pashinski	Tangretti
Cox	James	Payne	Taylor, J.
Creighton	Josephs	Payton	Taylor, R.
Cruz	Kauffman	Peifer	Thomas
Curry	Keller, M.K.	Perry	True
Cutler	Keller, W.	Perzel	Turzai
Daley	Kenney	Petrarca	Vereb
Dally	Kessler	Petri	Vitali
DeLuca	Killion	Petrone	Vulakovich
Denlinger	King	Phillips	Wagner
DePasquale	Kirkland	Pickett	Walko
Dermody	Kortz	Preston	Wansacz
DeWeese	Kotik	Pyle	Waters
DiGirolamo	Kula	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

ADDITIONS—0

NOT VOTING—0

EXCUSED—1

Leach

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

REMARKS SUBMITTED FOR THE RECORD

Mr. D. O'BRIEN submitted the following remarks for the Legislative Journal:

The Speaker would like to congratulate Bridget Nolan from St. Hubert's High School for Girls in Northwest Philadelphia. Bridget, a 2008 graduate of St. Hubert's, is the recipient of the Speaker's Certificate for Good Citizenship at her school. On behalf of an appreciative Commonwealth, I would like to wish Bridget the best of luck and success in all future endeavors.

BILL REPORTED FROM COMMITTEE

HB 2571, PN 3823

By Rep. DALEY

An Act providing for municipal service grants and for powers and duties of the Department of Community and Economic Development; and making an appropriation.

COMMERCE.

BILL REREFERRED

The SPEAKER. The Chair moves, at the request of the majority leader, that HB 2571, PN 3823, be rereferred to the Committee on Local Government.

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

BILL REREPORTED FROM COMMITTEE

HB 1989, PN 3783

By Rep. D. EVANS

An Act amending Title 35 (Health and Safety) of the Pennsylvania Consolidated Statutes, in Commonwealth services, providing for the Pennsylvania Flood Grant and Assistance Program.

APPROPRIATIONS.

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

BILLS REREPORTED FROM COMMITTEE

HB 2302, PN 3404

By Rep. D. EVANS

An Act providing for assistance to agencies promoting tourism; authorizing the Department of Community and Economic Development to make grants and provide assistance to properly designated tourism promotion agencies and regional marketing partnerships; conferring powers and imposing duties on the governing bodies of certain political subdivisions; and repealing the Tourist Promotion Law.

APPROPRIATIONS.

HB 2313, PN 3348

By Rep. D. EVANS

A Supplement to the act of April 1, 1863 (P.L.213, No.227), entitled "An act to accept the grant of Public Lands, by the United States, to the several states, for the endowment of Agricultural Colleges," making appropriations for carrying the same into effect; and providing for a basis for payments of such appropriations, for a method of accounting for the funds appropriated and for certain fiscal information disclosure.

APPROPRIATIONS.

HB 2314, PN 3349

By Rep. D. EVANS

An Act making an appropriation to the Fox Chase Institute for Cancer Research, Philadelphia, for the operation and maintenance of the cancer research program.

APPROPRIATIONS.

HB 2315, PN 3350

By Rep. D. EVANS

A Supplement to the act of July 28, 1966 (3rd Sp.Sess., P.L.87, No.3), entitled "An act providing for the establishment and operation of the University of Pittsburgh as an instrumentality of the Commonwealth to serve as a State-related university in the higher education system of the Commonwealth; providing for change of name; providing for the composition of the board of trustees; terms of trustees, and the power and duties of such trustees; authorizing appropriations in amounts to be fixed annually by the General Assembly; providing for the auditing of accounts of expenditures from said appropriations; providing for public support

and capital improvements; authorizing the issuance of bonds exempt from taxation within the Commonwealth; requiring the chancellor to make an annual report of the operations of the University of Pittsburgh," making appropriations for carrying the same into effect; providing for a basis for payments of such appropriations, for a method of accounting for the funds appropriated and for certain fiscal information disclosure.

APPROPRIATIONS.

HB 2316, PN 3351 By Rep. D. EVANS

An Act making appropriations to the Wistar Institute, Philadelphia, for operation and maintenance expenses and for AIDS research.

APPROPRIATIONS.

HB 2317, PN 3352 By Rep. D. EVANS

A Supplement to the act of November 30, 1965 (P.L.843, No.355), known as the Temple University—Commonwealth Act, making appropriations for carrying the same into effect; providing for a basis for payments of such appropriations; and providing a method of accounting for the funds appropriated and for certain fiscal information disclosure.

APPROPRIATIONS.

HB 2318, PN 3353 By Rep. D. EVANS

An Act making an appropriation to the Central Penn Oncology Group.

APPROPRIATIONS.

HB 2319, PN 3354 By Rep. D. EVANS

An Act making an appropriation to Lancaster Cleft Palate for outpatient-inpatient treatment.

APPROPRIATIONS.

HB 2320, PN 3355 By Rep. D. EVANS

A Supplement to the act of July 7, 1972 (P.L.743, No.176), known as the Lincoln University—Commonwealth Act, making an appropriation for carrying the same into effect; providing for a basis for payments of the appropriation; and providing a method of accounting for the funds appropriated and for certain fiscal information disclosure.

APPROPRIATIONS.

HB 2321, PN 3356 By Rep. D. EVANS

An Act making an appropriation to the Burn Foundation, Philadelphia, for outpatient and inpatient treatment.

APPROPRIATIONS.

HB 2322, PN 3357 By Rep. D. EVANS

An Act making an appropriation to The Children's Institute, Pittsburgh, for treatment and rehabilitation of certain persons with disabling diseases.

APPROPRIATIONS.

HB 2323, PN 3358 By Rep. D. EVANS

An Act making an appropriation to the Trustees of Drexel University, Philadelphia.

APPROPRIATIONS.

HB 2324, PN 3359 By Rep. D. EVANS

An Act making an appropriation to The Children's Hospital of Philadelphia for comprehensive patient care and general maintenance and operation of the hospital.

APPROPRIATIONS.

HB 2325, PN 3360 By Rep. D. EVANS

An Act making an appropriation to the Beacon Lodge Camp.

APPROPRIATIONS.

HB 2327, PN 3362 By Rep. D. EVANS

An Act making appropriations to the Carnegie Museums of Pittsburgh for operations and maintenance expenses and the purchase of apparatus, supplies and equipment.

APPROPRIATIONS.

HB 2329, PN 3364 By Rep. D. EVANS

An Act making an appropriation to the Franklin Institute Science Museum for maintenance expenses.

APPROPRIATIONS.

HB 2330, PN 3365 By Rep. D. EVANS

An Act making an appropriation to the Academy of Natural Sciences for maintenance expenses.

APPROPRIATIONS.

HB 2332, PN 3367 By Rep. D. EVANS

An Act making an appropriation to the African-American Museum in Philadelphia for operating expenses.

APPROPRIATIONS.

HB 2333, PN 3368 By Rep. D. EVANS

An Act making an appropriation to the Everhart Museum in Scranton for operating expenses.

APPROPRIATIONS.

HB 2334, PN 3369 By Rep. D. EVANS

An Act making an appropriation to the Philadelphia College of Osteopathic Medicine, Philadelphia.

APPROPRIATIONS.

HB 2335, PN 3370 By Rep. D. EVANS

An Act making an appropriation to the Mercer Museum in Doylestown, Pennsylvania, for operating expenses.

APPROPRIATIONS.

HB 2336, PN 3371 By Rep. D. EVANS

An Act making an appropriation to the Whitaker Center for Science and the Arts in Harrisburg, Pennsylvania, for operating expenses.

APPROPRIATIONS.

HB 2337, PN 3372 By Rep. D. EVANS

An Act making an appropriation to the Pennsylvania College of Optometry, Philadelphia.

APPROPRIATIONS.

HB 2338, PN 3373 By Rep. D. EVANS

An Act making an appropriation to the University of the Arts, Philadelphia, for instruction and student aid.

APPROPRIATIONS.

HB 2339, PN 3374 By Rep. D. EVANS

An Act making appropriations to the Trustees of the Berean Training and Industrial School at Philadelphia for operation and maintenance expenses.

APPROPRIATIONS.

HB 2340, PN 3375 By Rep. D. EVANS

An Act making an appropriation to the Johnson Technical Institute of Scranton for operation and maintenance expenses.

APPROPRIATIONS.

HB 2341, PN 3376 By Rep. D. EVANS

An Act making an appropriation to the Williamson Free School of Mechanical Trades in Delaware County for operation and maintenance expenses.

APPROPRIATIONS.

HB 2342, PN 3377 By Rep. D. EVANS

An Act making an appropriation to the Lake Erie College of Osteopathic Medicine, Erie.

APPROPRIATIONS.

HB 2428, PN 3604 By Rep. D. EVANS

An Act regulating the amount of property insurance coverage required by certain lenders.

APPROPRIATIONS.

HB 2496, PN 3687 By Rep. D. EVANS

An Act 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.

APPROPRIATIONS.

SB 1159, PN 1548

By Rep. D. EVANS

An Act designating Long Pond Road in Tunkhannock Township, Monroe County, from the intersection with SR 115 eastward to the intersection with Stony Hollow Road, as Dr. Joseph Mattioli and Dr. Rose Mattioli Drive.

APPROPRIATIONS.

The SPEAKER. These bills will be placed on the active calendar.

**BILL REPORTED FROM COMMITTEE,
CONSIDERED FIRST TIME, AND
RECOMMITTED TO COMMITTEE ON RULES**

HB 328, PN 379

By Rep. GEORGE

An Act establishing the Adopt-a-River Program; providing for powers and duties of the Department of Conservation and Natural Resources; and making an appropriation.

ENVIRONMENTAL RESOURCES AND ENERGY.

**BILL ON CONCURRENCE
REPORTED FROM COMMITTEE**

HB 1281, PN 3767

By Rep. DeWEESE

An Act amending the act of April 28, 1978 (P.L.87, No.41), known as the Pennsylvania Appalachian Trail Act, further providing for actions by municipalities and their powers and duties; and making editorial changes.

RULES.

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

**REPORT OF COMMITTEE
OF CONFERENCE PRESENTED**

Mr. BELFANTI presented the report of the committee of conference on **SB 246, PN 2099**.

**REAL ID ESSAY CONTEST WINNERS
PRESENTED**

The SPEAKER. The Chair recognizes Representative Thomas for an introduction.

The Chair requests that Representative Thomas and Representative Preston come to the rostrum.

Representative Thomas.

Mr. THOMAS. Thank you, Mr. Speaker.

Good afternoon to you, to the majority leader, minority leader, distinguished members of each caucus leadership, and to my fellow colleagues.

It is my honor and pleasure this afternoon to acknowledge and to lift up some young people who have made excellence the hallmark of their education.

Mr. Speaker, between January and last month, the House Intergovernmental Affairs Committee held hearings throughout the Commonwealth of Pennsylvania on the Federal

REAL ID Act of 2005. We held hearings in Philadelphia, Harrisburg, Pittsburgh, Scranton, and Erie, Pennsylvania.

While we were in Pittsburgh, Pennsylvania, some young people from the Wilkesburg High School came to the hearing, and they not only came to the hearing but they participated in the hearing. They got involved in the conversation around the REAL ID Act, and I want to thank Representative Cohen and Representative Brooks, who chair the REAL ID Act task force of the Intergovernmental Affairs Committee.

Mr. Speaker, these young people stood up and made some real good comments with respect to how Pennsylvania should respond to this Federal unfunded mandate. And so, Mr. Speaker, the committee decided to issue a challenge to the young people from Wilkesburg High School, and that challenge was to go back, take everything that you have heard, and take a position for or against the REAL ID Act, and that once students took a position, we would decide on two students who really gave it their best in determining whether we should support or oppose the REAL ID Act of 2005.

I asked my colleague, Representative Joseph Preston, to join me because Wilkesburg High School is in his district, and I know that he is proud of the contribution made by these young people. So I would like, before we ask the Wilkesburg High School class, the teachers, and the two young people that we have selected for this essay contest to stand up, I would like to ask Representative Preston, is there anything that he would like to say?

Well, Mr. Speaker, we are proud, and I ask each and every one of my colleagues to join me in acknowledging Ms. Shirley Standford and Mr. Yusef Thompson, who are teachers from the Wilkesburg High School. I would like to ask them to stand. They worked with these young people in writing these papers on the REAL ID Act, and we want to thank them for their contribution.

We want to thank the 10th, 11th, and 12th graders from Wilkesburg High School, who are with them in the rear of the House. We would like to ask them to stand up and give them a big round of applause.

And last but not least, we want to ask you to join us in acknowledging Lamar Haden and Godfrey McCray, who were the two students who wrote stellar papers on the REAL ID Act of 2005. Messrs. Lamar Haden and Godfrey McCray.

These young men, one just told me that he will be looking forward to attending George Mason University, and the other one is close to looking at Lincoln University, as to where he will pursue his educational career.

And so, Mr. Speaker, even though Wilkesburg High School and these young people are not from my district, like you and many of my colleagues in the Pennsylvania House, it does not make a difference where young people come from. What does make the difference is that young people across Pennsylvania choose excellence as the hallmark of their education and these young people have done that, and I thank each and every one of you.

In closing, I would like to ask members of the House Intergovernmental Affairs Committee, Representative Preston, if they would like, in the rear of the House, we will be making a special presentation to these two young people.

Thank you, and God bless you.

CALENDAR

BILLS ON SECOND CONSIDERATION

The House proceeded to second consideration of **HB 2400, PN 3761**, entitled:

An Act providing for the criteria for independent contractors in the construction industry; and imposing penalties.

On the question,

Will the House agree to the bill on second consideration?

Mr. **LENTZ** offered the following amendment No. **A07258**:

Amend Sec. 2, page 2, line 7, by inserting after "BENEFITS," including overtime pay,

Amend Sec. 3, page 2, line 21, by inserting after "ANY" real

Amend Sec. 3, page 3, by inserting between lines 2 and 3 "Minimum Wage Act." The act of January 17, 1968 (P.L.11, No.5), known as The Minimum Wage Act of 1968.

Amend Sec. 3, page 3, by inserting between lines 4 and 5 "The Workers' Compensation Act." The act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act.

"Unemployment Compensation Law." The act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment Compensation Law.

"Wage Payment and Collection Law." The act of July 14, 1961 (P.L.637, No.329), known as the Wage Payment and Collection Law.

Amend Sec. 4, page 3, line 25, by striking out "THIS ACT," and inserting

the Minimum Wage Act, the Wage Payment and Collection Law, the Unemployment Compensation Law and the Workers' Compensation Act,

Amend Sec. 4, page 3, lines 29 and 30, by striking out "CAN DEMONSTRATE BY SUBSTANTIAL CREDIBLE EVIDENCE THAT THE INDIVIDUAL IS" and inserting

has been and will continue to be

Amend Sec. 4, page 4, line 27, by inserting after "INCLUDES" income and losses from

Amend Sec. 4, page 5, line 8, by inserting after "ARRANGEMENT"

with a person other than the employer

Amend Sec. 4, page 5, lines 27 through 30, by striking out "ACT OF JUNE 2, 1915" in line 27, all of lines 28 through 30 and inserting Unemployment Compensation Law or the Workers' Compensation Act.

Amend Sec. 5, page 6, lines 4 through 13, by striking out all of said lines and inserting

(a) Offense defined.—An employer, or officer or agent of an employer, commits a violation of this act if the employer, officer or agent fails to properly classify the individual as an employee with the intent of evading the requirements of the Minimum Wage Act, the Wage Payment and Collection Law, the Unemployment Compensation Law or the Workers' Compensation Act and shall be subject to the penalties, remedies or actions contained in this act.

Amend Sec. 6, page 6, line 27, by striking out all of said line and inserting

(a) Knowing violation.—

(1) An employer, or officer or agent

Amend Sec. 6, page 7, lines 5 through 22, by striking out all of said lines and inserting

(i) be sentenced to pay a fine of not more than \$15,000 or imprisonment for not more than three and one-half years, or both, for a first offense; and

(ii) be sentenced to pay a fine of not more than \$30,000 or imprisonment for not more than seven years, or both, for a subsequent offense.

(2) An employer, or officer or agent of the employer, that, after being sentenced under paragraph (1)(i), knowingly violates section 5(a) may be subject to a stop-work order, as determined by the secretary pursuant to section 8.

(b) Summary offense.—An employer, or officer or agent of the employer, that negligently fails to properly classify an individual as an employee under section 5(a) commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not more than \$1,000. Evidence of a prior conviction under this subsection shall be admissible as evidence of knowledge under subsection (a).

Amend Sec. 7, page 7, lines 24 through 29, by striking out all of lines 24 through 28 and "conviction for a violation of this act, the" in line 29 and inserting

(a) Debarment and order to show cause.—If the secretary receives information indicating that an employer, or officer or agent of the employer, has knowingly and intentionally violated this act, or has been convicted of a violation of this act, the secretary shall issue an order to show cause why the individual should not be found in violation of this act and subject to debarment. An individual served with an order to show cause shall have a period of 20 days from the date the order is served to file an answer in writing. If the individual fails to file a timely and adequate answer to the order to show cause, the secretary shall issue an immediate debarment or immediately assess penalties as provided in this section, or both. The

Amend Sec. 7, page 8, line 20, by inserting after "KNOWINGLY"

and intentionally

Amend Sec. 8, page 9, line 1, by inserting after "KNOWINGLY" and intentionally

Amend Sec. 14, page 11, line 16, by inserting after "implement" and administer

Amend Bill, page 11, by inserting between lines 24 and 25 Section 16. Applicability.

This act shall not be construed to bring an individual within the scope of the Unemployment Compensation Law or the Workers' Compensation Act if the individual is excluded from the scope of the appropriate statute.

Section 17. Severability.

The provisions of this act are severable. If any provision of this act or its application to any individual or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

Section 18. Construction of law.

Nothing contained in this act shall be construed to impair or affect in any manner the ability of the department to carry out the powers and duties prescribed by the laws of this Commonwealth or to adopt measures to improve the enforcement of other laws of this Commonwealth.

Amend Sec. 16, page 11, line 25, by striking out "16" and inserting

19

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

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

Mr. LENTZ. Thank you, Mr. Speaker.

This bill came out of the Labor Committee, and at that time, during the committee hearing, there were some concerns raised about the language which imposed criminal penalties on individuals and employers that misclassified employees. Those concerns were raised specifically with regard to what the standard of proof was – the burden of proof – and also what the

required mental state was in order to be found guilty of an offense under this act.

So this amendment clarifies both the burden of proof and the required mental state. It imposes criminal penalties for intentional acts and a summary offense for a negligent act and adds that if you are convicted of a summary offense, the only available penalty is a fine. However, on subsequent offenses, the fact that you had a summary conviction would be admissible as evidence to demonstrate knowledge and intent.

It also clarifies some other areas of the bill, but those are the two major areas with regard to intent and the burden of proof. The burden of proof for a criminal offense would be as in all other criminal cases, beyond a reasonable doubt, and I would ask for the support of the members for this amendment.

The SPEAKER. Representative Maher.

Mr. MAHER. Thank you, Mr. Speaker.

May I ask that the gentleman offering the amendment respond to some inquiries?

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

Mr. MAHER. Thank you, Mr. Speaker.

As I understand the bill before giving effect to this amendment, the bill would establish a standard for testing whether an individual was a contractor or an employee. Is that right?

Mr. LENTZ. You are talking about the amendment? The amendment does not deal with the standard for a contractor or employee. The amendment deals with the areas that I outlined in my comments.

Mr. MAHER. I am sorry; I am having trouble hearing you, Mr. Speaker.

Mr. LENTZ. I will repeat it.

The SPEAKER. If the gentleman will suspend.

Members will please take their seats. It is entirely too loud in the chamber. Members cannot hear the debate. Members will take their seats. Conferences in the center aisles and the side aisles will adjourn to the anteroom.

Mr. LENTZ. The answer is, the amendment does not deal with the criteria or standards that you refer to. The amendment deals with the areas that I outlined in my comments, those being the requisite mental state required for a conviction of a criminal offense as well as clarifying the burden of proof and other areas with regard to offenses defined.

Mr. MAHER. Thank you, Mr. Speaker.

In contemplating this amendment, did you consider that if the bill were to become law, a business in Pennsylvania would need to call certain people employees or contractors when they are dealing with our Commonwealth's Department of Revenue and with the IRS (Internal Revenue Service), but now it would be illegal for them to have that same categorization when another department looks at them. Have you considered that?

Mr. LENTZ. I did not consider that in fashioning this amendment, because this amendment, as I said earlier, does not deal with the criteria for defining or categorizing. The amendment deals with the mental state required and the burden of proof.

Mr. MAHER. Well, in terms of that mental state, that is what I am getting at. Let us assume a business, in good faith, hires an individual to undertake some task. The key question is whether they are hiring that individual as an employee or hiring that individual as a contractor. And if I understand your amendment,

if the Secretary of Labor and Industry concludes that this individual who might be called a contractor should be called an employee, that the business can be shut down through this process. Right?

Mr. LENTZ. The amendment reads that— I assume you are referring to the debarment paragraph, and the amendment does not refer to good-faith efforts. The amendment specifically states that if the Secretary receives information indicating that an employer or officer or agent of the employer has knowingly and intentionally violated this act, then they may proceed with the debarment proceedings. So it does not refer to good faith; it does not refer to accident; it does not refer to negligence. It refers to a knowing and intentional attempt on the part of the offender to evade the obligations of an employer.

Mr. MAHER. Well, let me offer a very specific case.

An individual is a sole proprietor who subcontracts with other individuals. If, pursuant to Pennsylvania law for tax purposes, for revenue law, and the Internal Revenue Code, that employer knowingly, knowingly and intentionally complies with Pennsylvania law and characterizes this relationship as a contractor, by knowingly adhering to Pennsylvania law involving one department, they could lose their business from this other department. I am asking, how do you reconcile those things? What do we tell this employer which law is he to obey and which law is he to break, because this is setting up a situation where businesses can be just shut down by an order of the State even if they are acting, knowingly and intentionally following the law, as otherwise laid down by the State?

Mr. LENTZ. Well, rather than respond to your hypothetical, I will refer you to the plain language of the statute, which says that "An employer, or officer or agent of an employer, commits a violation of this act if the employer, officer or agent fails to properly classify the individual as an employee with the intent of evading the requirements of the Minimum Wage Act, the Wage Payment and Collection Law, the Unemployment Compensation Law or the Workers' Compensation Act and shall be subject to the penalties...."

Now, you have indicated that the employee in your scenario intended to comply with the IRS. That would not be acting with an intention to evade the other obligations that are listed in this statute. In addition, if the person under your scenario was a legitimate independent contractor, they would have no harm or nothing to worry about from this statute, which, again, the language is quite clear.

Mr. MAHER. Thank you, Mr. Speaker. That concludes my interrogation. If I might offer comments on the amendment?

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

Mr. MAHER. Thank you, Mr. Speaker.

This amendment establishes a process where sole proprietor businesses, the mom-and-pop businesses who are the backbone of this State, can be shut down for hiring other Pennsylvanians in a way that obeys the law on one page of the Pennsylvania law book but consequently puts them out of sorts on another page of a Pennsylvania law book.

We often talk about making this State a good environment for those who wish to create jobs, create opportunities for our families, create opportunities for growth and prosperity, but what are small businesses to do if they have to be breaking the law no matter what choice they make?

Now, not every business will face this problem if this were to become law, but plenty of them would. The Pennsylvania Department of Revenue follows the IRS standards for

determining whether someone is an employee or a contractor. All sorts of harm can come to a business if they mischaracterize employer/contractor in terms of the Federal ERISA (Employment Retirement Income Security Act) laws, the Federal laws that deal with pensions, that deal with health care. So employers have got plenty of good reason to be very careful about their definition. But this amendment creates an opportunity that those very same businesses, while trying to obey Pennsylvania law for the Department of Revenue and Federal law when it comes to benefits, Social Security, so on and so forth, will soon discover that no matter which fork in the road they choose, they are breaking the law.

It does not make much sense to me, I hope it does not make much sense to you, and please join me in opposing this amendment. Thank you.

The SPEAKER. Representative Turzai.

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

I just want one clarification from the author of the amendment, if he would stand for interrogation, and then I will ask to speak.

The SPEAKER. Representative Lentz indicates he will stand for interrogation. Representative Turzai is in order and may proceed.

Mr. TURZAI. Sir, your original bill is applicable to workers' compensation and unemployment compensation? Is that correct? The original bill applies to workers' compensation and unemployment compensation, and then you are expanding it with this amendment, its application?

Mr. LENTZ. Yes; the amendment specifically separates that.

Mr. TURZAI. Okay. And you are expanding it to now also apply to employers under the Minimum Wage Act and under the Wage Payment and Collection Law as well, right?

Mr. LENTZ. Yes.

Mr. TURZAI. Thank you very much. That is all I have.

Mr. Speaker, if I could speak on the amendment?

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

Mr. TURZAI. Thank you.

This amendment takes a draconian bill and expands its application. What it is saying is that we are – and I was a former prosecutor – is that we are going to take the criminal laws of our Commonwealth and interject them into not only workers' compensation and unemployment compensation, but we are also going to interject criminal penalties and a stop-work order, an autocratic stop-work order, into wage payment and collection law and into minimum wage.

Criminal penalties are supposed to be for people that are out there doing bad things to people and their property and their person. This amendment is telling us that regular business transactions that occur on a day-to-day basis are now going to be subject to significant criminal penalties. This is out of line.

In addition, it is going to take a stop-work order, a provision that allows the Department of Labor, the Labor Secretary, with an iron fist, to shut down a business within 72 hours. These kinds of draconian penalties, and for what, because somebody might misclassify an independent contractor from an employee? There are cases dealing with this issue on a fact-specific basis throughout our common law. Why would we, in any way, expand this or, in the first place, apply it to wage payment, to minimum wage, and to workers' comp and unemployment comp for that matter?

In addition, the stop-work order to shut down an economically viable entity that is providing employment and

wages to families so that they can take care of their families instead of being on government dependence, and we are just going to allow the Secretary of Labor to be able to shut them down. We are also now going to allow, under the gentleman's amendment, to be able to disbar them or to debar them from State contracts. So we are taking a horrendous measure and making it worse.

You know, I am going to ask a question and put it on the floor – it is rhetorical, but I think each one of you needs to ask this: Do you really care about family-sustaining jobs? Do you really care about economic activity in this State? Do you really want to make sure that people with an entrepreneurial spirit, who want to work in your yards cutting down trees or who want to make sure that they can do changes to your home, are now going to have to leave this State and find other places to utilize their entrepreneurial activity?

This is about Stalinist-type tactics, Mr. Speaker. Let us be honest. What we are saying here is that, under this amendment and the bill, that they are going to dictate exactly the form of economic activity in the State, and if it does not occur in the form that the author of this legislation wants, then forget it, you ought not have it in this State. If you care for family-sustaining jobs, vote this amendment down. They do not care about people who want to take care of their kids. Thank you.

The SPEAKER. Representative Boyd.

Mr. BOYD. Thank you, Mr. Speaker.

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

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

Mr. BOYD. Thank you, Mr. Speaker.

Mr. Speaker, on page 3 of your amendment, under the debarment section?

Mr. LENTZ. Yes.

Mr. BOYD. I want to make sure I clearly understand the methodology behind this process.

If somebody, according to the language, knowingly and intentionally violates the act, they can have a debarment and they have a period of time to respond to the department, and if they do not, they are automatically shut down. Is that correct? Is that the intention of the way this is drafted?

Mr. LENTZ. That is correct.

Mr. BOYD. So in essence, if someone from the department goes to an employer and says, we believe that you violated this act, they are assumed to have violated the act until they show that, in fact, they have not.

Mr. LENTZ. If the department begins the process of debarment, they would put them on notice that they have evidence, as it indicates, that either they provide evidence that the employer has knowingly and intentionally violated the act or they have been convicted of the offense. Of course, if they have been convicted, that is going to be pretty tough to rebut.

Mr. BOYD. Yes.

Mr. LENTZ. So in the case where they go and say, we have evidence that you knowingly and intentionally violated the act; you have 20 days to convince us otherwise, then that would start that process. It would not necessarily be a presumption; it would be a conclusion they had reached, which is what brought them to the site in the first place.

Mr. BOYD. So quoting the language, it says, "...the secretary shall issue an order to show cause why the individual should not be found in violation of this act...."

Mr. LENTZ. That is right.

Mr. BOYD. And then "subject to debarment." So they can shut them down— In other words, my question is, are they shut down immediately until they show cause that they are not in violation, or do they continue to operate until they show cause?

Mr. LENTZ. Only if they fail to file a response, they can do it immediately.

Mr. BOYD. Okay. I guess the point I was trying to get at with you, Mr. Speaker, is, it seems to me that the way the language is drafted, they could be shut down immediately, during that 20-day period of time, before they show whether or not they are in violation of the act.

Mr. LENTZ. No; it says, "If the individual fails to file a timely and adequate answer to the order to show cause" – "timely and adequate"; "timely" would refer to the time period – "the secretary shall issue an immediate debarment or immediately assess penalties as provided...." So if they are a no-show, if they do not respond, then at that point, when the 20 days is up, they would—

Mr. BOYD. Yes, sir, I understand the no-show part. What I am getting at is a little bit further up in the language it says, "...should not be found in violation of this act and subject to debarment." I mean, it seems to me that the debarment is coinciding with the order at that point in time, referring to lines 7 and 8.

Mr. LENTZ. No; it is saying, the full sentence is, "...shall issue an order to show cause why the individual should not be found in violation of this act and subject to debarment."

Mr. BOYD. When does the debarment start then?

Mr. LENTZ. As described in the balance of the paragraph, it says that if they do not file a timely answer, which would be 20 days, then they could be subject to debarment.

Mr. BOYD. All right, Mr. Speaker. I appreciate the answer; I am not sure that I totally agree with it.

One more question: The way this is drafted, it appears to me that we assume that the employer is guilty, and he has to show cause or show an order that he is not. In other words, if the department even hears— Somebody makes an anonymous phone call and says, hey, such and such an employer has misclassified employees, they can show up and issue an order, and the built-in implication is that, in fact, the person is guilty until they show that they are not. Is that a correct statement?

Mr. LENTZ. I would say no, it is not a correct statement, because what the issue to show cause does is it puts them on notice to demonstrate if they are not in violation. So if they went there that day and said, hey, we got a phone call; we are shutting you down, that would be one thing. Under this act, when they receive the information— And one of the scenarios is where they have been convicted, actually gone through and had a conviction. But on the other scenario, where they received notice and a description of evidence, they then go and let the employer know, hey, these are the facts we have; you are on notice; rebut the facts. At that point, if they cannot rebut the facts, then they would be factually guilty, and the debarment would be appropriate.

Mr. BOYD. Thank you, Mr. Speaker.

Regarding that, if, in fact, they are found— I understand the conviction side of things, so I do not need to debate that.

Mr. LENTZ. Right.

Mr. BOYD. But if there is a presumption that there is a violation, if they do not respond in 20 days, then they are assumed to be guilty, and in fact, they would then be prosecuted under criminal penalties. Is that a correct statement, with the rest of the act?

Mr. LENTZ. Prosecution is at the discretion of the prosecuting authority, so not every civil debarment would result in a prosecution. If there was sufficient evidence to pursue a criminal case, that probably would occur, but it is not going to happen in every case.

But just to get back to the presumption, there is no language in this debarment paragraph referring to a presumption, and therefore, there is no presumption. There is only empowering the Department of Labor and Industry, when they receive sufficient facts, to put an employer on notice that they received this information, and unless it is rebutted, then action will be taken. So it is not written as a presumption; it is not fashioned as a presumption.

Mr. BOYD. Okay. So if I am an employer and I receive this notification and I do not respond in 20 days, I am shut down by an order by the Department of Labor.

Mr. LENTZ. That is right.

Mr. BOYD. How long am I shut down? Let us say that I am never prosecuted; am I shut down ad infinitum? When can I go back and do business? When am I found to be not in violation of the act? When am I back in compliance?

Mr. LENTZ. Well, first of all, there is an "or" in the "shall" sentence: "...the secretary shall issue an immediate debarment or immediately assess penalties as provided in this section, or both." So they could do something short of debarment. That is the first instance.

As to the duration of the debarment, I would assume it would be at the discretion of the Department of Labor and Industry when they feel that the employer is back in compliance.

Mr. BOYD. So at the discretion of the department, in this case, I could be shut down and never prosecuted under this piece of legislation. It is quite possible that the department could have, in their mind, sufficient reason to shut me down and issue the order. I do not respond, and they turn it over to the prosecuting— I am assuming it would have to go to the D.A. because it is a criminal offense, but if the D.A.'s office determines that there is not enough evidence to prosecute, I am still shut down; I cannot operate.

Mr. LENTZ. Well, you are assuming that there is no significance to waiving your right to respond in 20 days. In most civil proceedings, if you do not answer the charges or the complaint, yeah, you are barred from responding later. But this allows them, within 20 days, to give their answer. So if you would voluntarily waive that and do not respond, then yeah, you will have given up a significant right to respond to the factual allegations.

Mr. BOYD. But this will be a notification from the Department of Labor. It is not necessarily a subpoena coming from the district attorney's office or anything like that.

Mr. LENTZ. Well, it is an issuance of a rule to show cause, which has the same practical impact, or should.

Mr. BOYD. I understand what you are saying, but as a nonlawyer and as a businessperson receiving official notifications from the Department of Labor for a number of issues, they do not necessarily have the same significance as perhaps a subpoena would have or some sort of a notification

from the district attorney, some specific legal action. So my point is that—

Mr. LENTZ. Well, I would just interrupt you. I would say that when this becomes law, it will have equal significance for just the reasons you are pointing out. A person is going to want to respond, because it does carry that penalty.

Mr. BOYD. So let us take this line of thinking a bit further.

Let us assume that I do respond in 20 days and the department believes there is a reason that I should be shut down, and they shut me down. At that point, they turn that evidence over to the district attorney, who would then have to prosecute the case. Do you foresee, under this language, that the D.A. would prosecute every situation?

Mr. LENTZ. No; the D.A. prosecutes at their discretion, so there would be no requirement that they take every case.

Mr. BOYD. So it is conceivable, even if I do answer the issue, that I could be shut down by the Department of Labor, have a D.A. who is not inclined to prosecute the case, and I am out of business. How long does that process take until the D.A. decides to do an investigation and actually brings a case to trial? You are basically putting me, potentially somebody who is innocent, who would not be prosecuted as a criminal under this, and putting them out of business. Is that not the case?

Mr. LENTZ. You are saying innocent. Innocent under a criminal standard would be beyond a reasonable doubt, right? We all know of the difference between sometimes people not being convicted under a criminal standard but being found liable under a civil standard, right? So most people would not complain about the fact that they were never prosecuted.

But in your case, yeah, that is possible; you could face the civil remedies and never be prosecuted. But that would not equal exoneration or innocence; that would only mean that the district attorney, for whatever reason, whether resources or the quality of the evidence or whatever, had declined, in their discretion, to pursue a prosecution.

Mr. BOYD. So I will not say the intent, but the net outcome of this specific portion of your amendment is to empower the Department of Labor to shut down an industry, regardless of whether or not they are prosecuted criminally under the criminal-penalty section, which I think most members on both sides of the aisle would say is pretty significant and should be enough of a deterrent to keep somebody from violating this act in the first place. But this will empower the Department of Labor to shut a business down for extended periods of time and ultimately put them out of business under suspicion that, in fact, they violated this act without ever having been prosecuted for it.

Mr. LENTZ. You are using the words "empower" and "suspicion," et cetera. The statute says what it says; it says that if they have evidence of intentional conduct, of intentional violation of the law, which is a pretty significant level of evidence, to show that people intentionally took an action to avoid their obligations as employers. If, after giving the employer the opportunity to rebut that evidence, they still conclude that the employer intentionally violated the law, then yes, we are empowering them to take a step necessary to make this law have some effect, short of a criminal prosecution. There are both civil remedies and criminal remedies.

Mr. BOYD. I hear you, and I understand. My question then goes back to, can the department shut a business down when they are never convicted of violating this act?

Mr. LENTZ. The answer is yes, according to the language in there—

Mr. BOYD. Okay.

Mr. LENTZ. —but you are mixing the criminal element and the civil element. So yes, the answer is yes, the department has power to act against employers that violate the act intentionally. They already have that kind of power, under the Workers' Compensation Act. They already have that power in a number of areas. So this is not a new or extreme power, and it is based on intentional conduct, evidence of intentional conduct, and it is based upon an opportunity, or a 20-day opportunity, of the employer to individually and specifically rebut the allegations, which in most cases, where they are not doing anything wrong, is going to be a relatively easy thing for them to do.

Mr. BOYD. Thank you, Mr. Speaker.

Mr. Speaker, if I may speak on the bill, please?

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

Mr. BOYD. Mr. Speaker, I appreciate the sponsor of the amendment's answers to my questions. Frankly, I do not accept the premise that what we are doing here needs to be done. In essence, what we are doing is we are providing a bureaucrat, a bureaucrat in Harrisburg, a nonelected official who works with no accountability to the people, who works for the Department of Labor, to issue a stop-work order, in essence shutting down an employer, really based on, in essence, a complaint, requiring them, assuming that they are guilty and requiring them to show why they are not guilty within 20 days. And even after that fact, if the department determines that there is enough evidence that they should stay shut down, they can be closed literally forever and never be prosecuted under the act.

Mr. Speaker, this language was actually something that the Labor Committee discussed at length about this piece of legislation. It was actually in some original drafts, and, Mr. Speaker, it was specifically agreed by parties on both sides of the aisle to remove that language because of the fact that the penalty section of this bill was so draconian.

I am not sure why the sponsor is trying to put this back in at this point in time, but clearly going to jail for 3 years for a criminal conviction is more than enough opportunity to deter people from violating this act. To empower a Harrisburg bureaucrat to shut down our Pennsylvania businesses is antijob, it is anti— Not just is it antijob, it is antibusiness, and really, in my opinion, it is antieconomic growth. To me, what we are going to be doing here is we are going to have another nail in the coffin of why manufacturers or why builders, why developers, are not going to want to continue to do business in Pennsylvania. In my opinion, Mr. Speaker, I agree with Representative Turzai who said this amendment is taking a draconian piece of legislation and, unfortunately, is making it worse.

For that reason, Mr. Speaker, I urge the members to oppose the Lentz amendment. Thank you.

The SPEAKER. Representative Surra.

Mr. SURRA. Thank you, Mr. Speaker.

Mr. Speaker, I rise in support of the Lentz amendment, and I think we need to be honest on this House floor and we need to clear up some of the statements and some of the allegations that have been bantered about in recent minutes.

Let us be clear: This legislation and the whole idea of this bill is to stop businesses from doing things that are already illegal. They are currently illegal. And the argument is one of fairness, fairness not only to the workers but also to the thousands of businesses who are trying to do it the right way, to the thousands of small businesses who are out there every day

in the construction arena paying their workers' comp for their employees, paying the unemployment compensation for employees, paying their Social Security, their Medicare tax, and everything else.

I cannot believe that people are standing on this House floor and defending businesses that are skirting the system, breaking the law. It is not fair to the thousands of businesses that are doing it the right way, and it really is not fair to the workers who are being used under the auspices as an independent contractor just so they do not have to pay their workers' comp, just so they do not have to pay their unemployment comp. It is not fair. When those people fall off a ladder and break their leg or break their back, their family goes hungry, and we, the taxpayer, end up supporting them. This is not fair.

We passed workers' compensation laws a long time ago. We passed unemployment compensation laws a long time ago to protect our workers and to protect our businesses. The concept that we are bringing criminal law into the labor arena is absolutely laughable. It was Governor Ridge and this General Assembly who passed into law, years ago, a very tough Workers' Compensation Act which has criminal penalties – criminal penalties – for businesses or injured workers who are breaking the law, which are much, much stricter than what is in this legislation, Mr. Speaker.

So to bring criminal penalties into this arena like it is something that we have never done before is just not true. When we do this, we have to bring in the wage payment law, we have to bring in the minimum wage and the overtime portions of the law, because that is how workers that are working legally, that is how employees who are working legally for an employer get paid. That is the whole reason we need to do this, Mr. Speaker, because there are employers that are paying people as if they are an independent contractor, and we will get into that argument later.

But for the sake of the argument of the Lentz amendment, Mr. Speaker, we need to bring those things into this debate and into this law because that is what they are skirting. All the protections that we have for our workers and all the things that are not fair that honest, hardworking companies, honest, hardworking employers, that they have to pay workers' comp and unemployment comp every day at every workplace, it is not fair, Mr. Speaker. We should not be protecting people that, as the amendment states, intentionally violate the law.

It was also brought up, Mr. Speaker, that we are going to let some department shut down a company. We do that now. Did you ever hear of the Department of Labor shutting down a worksite? Did you ever hear of the Department of Environmental Protection shutting down a landfill or shutting down some kind of an operation because they are violating the law? This is not new stuff, Mr. Speaker. It is not new, and the reason we have to do this is because there are companies that are circumventing the law.

We should not – should not – be protecting deadbeat companies, Mr. Speaker, and I plan on voting for the Lentz amendment, and I wish you would, too.

The SPEAKER. Representative Dally.

Mr. DALLY. Thank you, Mr. Speaker.

Would the maker of the amendment please stand for brief interrogation?

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

Mr. DALLY. Thank you, Mr. Speaker.

Mr. Speaker, under the amendment, on page 3, line 2, it says, "Debarment and order to show cause." Am I reading this amendment correctly that it is the Secretary that receives the information from a complaint that is filed of an individual or an employer?

Mr. LENTZ. That is correct.

Mr. DALLY. Okay. Am I also reading the amendment correctly, Mr. Speaker, that it is the Secretary then that imposes the punishment for that alleged act?

Mr. LENTZ. Yes. The answer is yes.

Mr. DALLY. Okay. Thank you, Mr. Speaker.

And also, under the language in paragraph (a), lines 2 through 13 on page 19, or 3 of the bill – I am sorry; page 3 of the bill – does this language require or determine that the individual or employer is determined to be guilty and in the process then, should he file an answer, must prove his innocence?

Mr. LENTZ. No.

Mr. DALLY. Okay. What does that paragraph do then?

Mr. LENTZ. The paragraph beginning at line 10 states, "If the individual fails to file a timely and adequate answer to the order to show cause, the secretary shall issue an immediate debarment or immediately assess penalties as provided in this section, or both."

Mr. DALLY. Thank you.

Mr. LENTZ. It does not refer to guilt or innocence; it refers to a rule to show cause, which the time period is referred to – a period of 20 days – in the prior paragraph.

Mr. DALLY. So, Mr. Speaker, if the Secretary should receive information indicating that an employer or official or agent of the employer has knowingly and intentionally violated this act, a rule to show cause is then issued and then the employer has to prove that he or she did not violate the act. Is that not true, Mr. Speaker?

Mr. LENTZ. They have to present evidence rebutting the allegations that were presented to the Secretary.

Mr. DALLY. I am sorry, Mr. Speaker. I could not hear the response.

Mr. LENTZ. They have to present evidence rebutting the allegations that were presented to the Secretary at a rule-to-show-cause hearing.

Mr. DALLY. Mr. Speaker? Mr. Speaker?

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

Mr. DALLY. I cannot hear the responses to—

The SPEAKER. The gentleman is correct. The noise level on the floor is entirely too loud. The Sergeants at Arms will clear the aisles. Members will take their seats. Important conversations will adjourn to the anteroom.

Mr. DALLY. All right, Mr. Speaker, I will repeat my question. My question was that if the Secretary receives information indicating that an employer or officer or agent of the employer has knowingly and intentionally violated this act or has been convicted of a violation of this act, the Secretary issues an order to show cause. Then the individual served with the order has to file an answer determining, or convincing the Secretary that he is innocent of the charge. My question to the maker of the amendment is, does that not shift the burden? In other words, that he is guilty and has to prove his innocence?

Mr. LENTZ. No, because you keep using the phrase "guilt." This is not in the criminal context, the debarment.

The debarment can result from a criminal conviction, but the action of debarment is as described in the paragraph. It is a rule to show cause, which is a civil proceeding.

And I should clarify that in the bill itself, the debarment refers only to debarment from public projects and indicates it would last for a period up to 3 years, as determined by the Secretary.

Mr. DALLY. But, Mr. Speaker, is it not true that this individual, if they fail to answer, is then debarred from participation in these public contracts for the 3-year period?

Mr. LENTZ. That is an option available to the Secretary. It is not mandatory that the Secretary debar. The Secretary could take other, lesser actions, such as a fine.

Mr. DALLY. Mr. Speaker, just some comments on the amendment, and then I would like to make a motion.

The SPEAKER. The gentleman is in order.

Mr. DALLY. Mr. Speaker, I believe that the language contained on page 3, paragraph (a), lines 2 through 13, there are some due-process issues involved with this language, and there are three reasons why I believe that to be the case.

Under our administrative procedures code, that code requires that a hearing be held before any action is taken. In this instance, there is no provision for a hearing. This process guarantees due process for the accused person, and this amendment abrogates due process and this procedure.

Secondly, the *Lyness* decision, which was a 1992 decision, set the benchmark for procedural due process in Pennsylvania. And in this instance, you cannot be both the prosecutor and the adjudicator. The way the language in this amendment reads, the Secretary of Labor and Industry not only is the prosecutor of the case, but also decides it. That is in direct violation of the *Lyness* decision in 1992.

Finally, it reversed the presumption. In the instance as contained in this amendment, the employer or the person accused is guilty and must prove their innocence, once again a violation of due process.

CONSTITUTIONAL POINT OF ORDER

Mr. DALLY. So based upon those three criteria, Mr. Speaker, I would like to make a motion that this amendment, 7258, is unconstitutional.

The SPEAKER. The gentleman, Representative Dally, raises the point of order that amendment A07258 to HB 2400 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 that point, the Chair recognizes the gentleman, Representative Dally.

Mr. DALLY. I already stated the reasons for the basis. Basically, it is a violation of due process. It violates the administrative procedures code; it is a violation of the *Lyness* decision, because the Secretary is both the prosecutor and the adjudicator of the matter; and it also reverses the presumption.

Thank you, Mr. Speaker. I say that the amendment is unconstitutional.

The SPEAKER. The Chair will remind the members, the issue of constitutionality is debatable by each member, but is limited to one time, with the exception of the legislative leaders, majority and minority leaders.

Representative Cohen.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, I rise in support of the constitutionality of the Lentz amendment. The fact that an agency is both a prosecutor and a judge does not mean that individuals within the agency are both prosecutors and judges. In the Ethics Commission, for instance, the Ethics Commission has its own prosecutor and the Ethics Commission is the judge. But there are different people within the Ethics Commission who are prosecutors and different people who are judges. The members of the commission serve as judges. The prosecutors are represented by the staff. Courts have held that is okay, as long as you have different people performing the different functions.

I am sure that Mr. Lentz's amendment will lead to a similar result. Different people within the Department of Labor and Industry will function as prosecutors. Different people will judge the merits of the allegations. The Department of Labor and Industry, of course, is not a criminal prosecuting agency; it can only levy civil fines, just as the Ethics Commission only levies civil fines.

I believe this is a constitutional amendment. Mr. Dally's objections to it are overstated, and the case law he cites is not of great relevance. I would urge a "yes" vote for the constitutionality of the Lentz amendment.

The SPEAKER. For what purpose does Representative Dally rise?

Mr. DALLY. Point of order, Mr. Speaker. I made the motion on constitutionality; that means I cannot speak after I make the motion?

The SPEAKER. You were the first person I recognized on the motion of constitutionality, after you made the motion.

Mr. DALLY. I thought I made the motion on constitutionality. I did not realize that I then—

The SPEAKER. And then the Chair recognized you on the motion.

Representative Maher seems to ride to the rescue. The Chair recognizes Representative Maher on the point of order of constitutionality.

Mr. MAHER. Thank you, Mr. Speaker.

Perhaps I and everyone else missed the gentleman's remarks. I would like to interrogate the maker of the motion on constitutionality.

The SPEAKER. Will the gentleman repeat that?

Mr. MAHER. I would like to interrogate the maker of the motion on constitutionality.

The SPEAKER. The gentleman is in order.

Mr. MAHER. Thank you, Mr. Speaker.

Mr. Speaker, could you help me understand – since I am not an attorney – understand the issue at stake with this amendment with respect to constitutionality.

Mr. DALLY. Thank you, Mr. Speaker.

In essence, what my colleague from Philadelphia just stated about not being the prosecutor and the adjudicator, that is exactly what this amendment says. It says the Secretary shall issue the order. The Secretary shall issue an immediate debarment. It does not say an employee of the Secretary. It does not say the Department of Labor and Industry. It says the Secretary. That is one in the same person.

Under the *Lyness* decision, which is right on point, that is found to be unconstitutional. The *Lyness* decision said "Pennsylvania law requires that the procedural due process requirements of the United States and Pennsylvania Constitutions mandate that any commingling of adjudicatory and prosecutorial functions, which creates the 'appearance of bias' and where there are no procedural safeguards, or 'walls of division' implemented to ensure a fair and impartial hearing process, is a violation of procedural due process, without a showing of 'actual prejudice.' "

What this amendment does – and thank you for your insightful question – what this amendment does is it empowers the Secretary to do all of these things, so he or she is both the prosecutor and the adjudicator. It also shifts the burden, where someone has to prove they are innocent instead of proving that they are not.

Mr. MAHER. So, Mr. Speaker, this *Lyness* decision you are referring to, that is a decision— Do I understand that is a decision that the Pennsylvania Supreme Court said that an individual cannot serve both as the prosecutor and the judge or anything at all that would suggest that they are commingled? Did I understand that right?

Mr. DALLY. That is correct, Mr. Speaker, and really the remedy to correct the defect in this amendment would just simply be if the department receives information, but the amendment reads, if the Secretary receives information. It also reads that the Secretary shall issue an immediate debarment, and that is directly in violation of the precedent set forth by the Pennsylvania Supreme Court in the *Lyness* decision in 1992.

Mr. MAHER. So if this amendment were to go forth despite this constitutional concern, our acting Secretary of Labor and Industry would be in a position where she would need to make a decision that she was either going to obey the statute or respect the Constitution? So if she were to follow the statute, she would be breaking the law, and if she were to be ignoring the statute, she would be embracing the Constitution. Am I correct? We are asking our Secretaries that instead of leading and enacting the legislation that we provide, we are putting them into an impossible position where they are breaking the law one way or the other.

Mr. DALLY. Well, I think that was the purpose for the motion of constitutionality, Mr. Speaker, to prevent the Secretary from doing something that would be unconstitutional. If this language remains as it is and the Secretary acts in accordance with this language, I think that the department is subject to the *Lyness* decision, and what happens from that point would be that it is unconstitutional, the action of the department.

Mr. MAHER. And just one last question: When was this *Lyness* decision issued, more or less?

Mr. DALLY. 1992.

Mr. MAHER. 1992. So this is settled law in Pennsylvania – 16 years.

Mr. DALLY. It is well-settled law in the Commonwealth, Mr. Speaker.

Mr. MAHER. Thank you, Mr. Speaker.

That concludes my interrogation. If I may speak briefly on the constitutionality question?

The SPEAKER. The gentleman is in order.

Mr. MAHER. You know, I do not think you have to really get to the *Lyness* decision so much as just probably your fourth grade civics course or even a little bit of "Perry Mason" to understand that the prosecutor and the judge should not be

the same person. That is not supposed to happen in America; that is not supposed to happen in Pennsylvania. It seems to me it is clearly unconstitutional, and consequently, if you actually like the underlying bill, you probably want to strip away this unconstitutional provision, lest you impair the entire legislation.

So I would ask that you join the gentleman who so clearly explained to us, even us nonlawyers, what the problem is and why this is unconstitutional. It clearly is. Let us vote accordingly.

Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes Representative Lentz on the issue of constitutionality.

Mr. LENTZ. Thank you, Mr. Speaker.

I will refer the members to the definition section.

The SPEAKER. The gentleman will suspend. The noise level again is entirely too loud.

Mr. LENTZ. In the first instance, I would refer the members to the definitional section of the bill itself, which of course is not contained in the amendment. In the definitional section, "Secretary" is defined as, "The Secretary of Labor and Industry of the Commonwealth or the secretary's authorized representative." So by referring to the Secretary in the debarment paragraph, that could entail multiple people. It is not, as has been described by previous speakers, the case of the judge being the prosecutor.

In addition, a reference to a rule to show cause implies a hearing. When that employer, who has been cited for possible violation, intentional violation of the act is put on notice of the rule to show cause, they then have an opportunity for a hearing, which is by definition due process – the opportunity to present witnesses and facts on your behalf.

So unlike the description that was previously presented, there is no situation here where the prosecutor is also the judge, and there is no denial of due process because the purpose of a rule to show cause is to provide due process and an opportunity for the employer to rebut the allegations.

Thank you.

The SPEAKER. Does Representative Mustio seek recognition? The gentleman waives off.

Those who believe the amendment is constitutional will vote "aye"; those believing the amendment is unconstitutional will vote "nay."

On the question recurring,

Will the House sustain the constitutionality of the amendment?

The following roll call was recorded:

YEAS—114

Barrar	Frankel	Markosek	Shapiro
Belfanti	Freeman	Marshall	Shimkus
Bennington	Galloway	McCall	Siptroth
Beyer	George	McGeehan	Smith, K.
Biancucci	Gerber	McI. Smith	Smith, M.
Bishop	Gergely	Melio	Solobay
Blackwell	Gibbons	Micozzie	Staback
Brennan	Godshall	Moyer	Stairs
Buxton	Goodman	Mundy	Sturla
Caltagirone	Grucela	Myers	Surra
Cappelli	Haluska	O'Brien, M.	Tangretti
Carroll	Hanna	Oliver	Taylor, J.
Casorio	Harhai	Pallone	Taylor, R.

Cohen	Harkins	Parker	Thomas
Conklin	Hornaman	Pashinski	Vitali
Costa	James	Payton	Wagner
Cruz	Josephs	Petrarca	Walko
Curry	Keller, W.	Petri	Wansacz
Daley	Kessler	Petrone	Waters
DeLuca	King	Preston	Wheatley
DePasquale	Kirkland	Ramaley	White
Dermody	Kotik	Raymond	Williams
DeWeese	Kula	Readshaw	Wojnarowski
DiGirolamo	Lentz	Roebuck	Yewcic
Donatucci	Levdansky	Sabatina	Youngblood
Eachus	Longiotti	Sainato	Yudichak
Evans, D.	Mahoney	Samuelson	
Evans, J.	Manderino	Santoni	O'Brien, D., Speaker
Fabrizio	Mann	Seip	

NAYS—88

Adolph	Geist	Marsico	Rapp
Argall	Gillespie	McIlhattan	Reed
Baker	Gingrich	Mensch	Reichley
Bastian	Grell	Metcalfe	Roae
Bear	Harhart	Millard	Rock
Benninghoff	Harper	Miller	Rohrer
Boback	Harris	Milne	Ross
Boyd	Helm	Moul	Rublely
Brooks	Hennessey	Murt	Saylor
Causar	Hershey	Mustio	Scavello
Civera	Hess	Nailor	Schroder
Clymer	Hickernell	Nickol	Smith, S.
Cox	Hutchinson	O'Neill	Sonney
Creighton	Kauffman	Payne	Steil
Cutler	Keller, M.K.	Peifer	Stern
Dally	Kenney	Perry	Stevenson
Denlinger	Killion	Perzel	Swanger
Ellis	Kortz	Phillips	True
Everett	Mackereth	Pickett	Turzai
Fairchild	Maher	Pyle	Vereb
Fleck	Major	Quigley	Vulakovich
Gabig	Mantz	Quinn	Watson

NOT VOTING—0

EXCUSED—1

Leach

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

On the question recurring,

Will the House agree to the amendment?

The SPEAKER. Is there any member seeking recognition on the amendment before the Chair recognizes the prime sponsor of the amendment? Is there any member seeking recognition?

The Chair recognizes Representative Adolph.

Mr. ADOLPH. Thank you, Mr. Speaker.

Would the sponsor of the amendment stand for interrogation?

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

Mr. ADOLPH. Thank you, Mr. Speaker.

Mr. Speaker, the way I am reading this amendment is that you are adding to the HB 2400 the Minimum Wage Act and the Wage Payment and Collection Law. Is that correct?

Mr. LENTZ. Those will be added as categories of violation, or obligations of being violated.

Mr. ADOLPH. Okay. And if you are in violation of the Minimum Wage Act – if we flip over to page 2, line 22 to, say, 32 – if you are in violation of the Minimum Wage Act, you would be sentenced to pay a fine of not more than \$15,000 or imprisonment for not more than 3 1/2 years, or both.

Mr. LENTZ. That is not actually accurate. If you refer to the previous paragraph, it says if you misclassified, intentionally misclassified an employee as an independent contractor in order to avoid paying the minimum wage, then you would be guilty of an offense, but if you simply were paying people below the minimum wage but not committing the act of misclassifying them, then you would not fall under the description of this act.

So it is not creating a penalty for violation of the Minimum Wage Act, it is creating a penalty for misclassifying employees for, among other purposes, avoiding paying minimum wage or complying with wage payment and collection or complying with the Workers' Compensation Act.

Mr. ADOLPH. Okay. Thank you for the explanation.

So if you have a person who comes in and works on a construction job, because we are only talking about construction jobs here. Is that correct?

Mr. LENTZ. That is correct.

Mr. ADOLPH. So you have a person who comes in on the weekends, and this employer pays this person \$6 an hour, and the person works 8 hours on Saturday and 8 hours on Sunday, you pay them \$6 an hour. You write them a check for a couple hundred dollars but it is below minimum wage, and he has got compensation of a couple hundred dollars and that employer did not withhold any taxes or anything of that nature and sends a 1099 at the end of the year. He should have been a part-time employee, and obviously he should have been paying him minimum wage. For that couple hundred dollar payment—I support the payment of minimum wage, always did. In that circumstance, would that employer be subject to those penalties?

Mr. LENTZ. Not unless the evidence indicated that they had misclassified that employee as an independent contractor for the purpose of avoiding paying the minimum wage. If that individual, not employee, complied with the other criteria of this act then there would be no violation and no penalties. So based on the facts you are giving me, I would say no.

Mr. ADOLPH. You would say no.

Mr. LENTZ. That is right.

Mr. ADOLPH. Okay. I appreciate the clarification. I am a prime sponsor, one of the cosponsors of this legislation. Quite frankly, I did not realize the penalties that were involved for violations of this. A lot of this stuff is sometimes done to avoid unemployment compensation. Sometimes these employees have other jobs and they are working a second shift and so forth and so on. The government is getting the taxes and so forth.

The Minimum Wage Act is something that I am going to have to pay close attention to because I do not know where it is going to go. I do not know how you prove that, whether he put him on as a subcontractor intentionally to avoid minimum wage. I think they are trying to avoid all types of costs, workers' compensation, unemployment compensation.

The gentleman, what he is trying to accomplish here, I think, is right on. I just do not know if these punishments fit the crime. I think monetary penalties and so forth, I just do not know regarding the jail sentences. And I did not know the difference

between felonies and summaries and all that type of stuff, but a lot of this stuff is going to come down very harshly on some of these guys.

The SPEAKER. If the gentleman will suspend. Has the gentleman finished his interrogation?

Mr. ADOLPH. Yes.

The SPEAKER. The gentleman is in order and may speak on the amendment.

Mr. ADOLPH. I am also done on my comment. Thank you.

The SPEAKER. Is there any member seeking recognition on the amendment before the Chair recognizes the prime sponsor? Is there any member seeking recognition?

The Chair recognizes Representative Lentz for the second time.

Mr. LENTZ. Thank you, Mr. Speaker.

I would ask all my colleagues to support this amendment. There have been a lot of adjectives thrown out today in discussing this law – Stalinist, antiworker, and many other allegations.

I would just say that each member here is aware, in their districts, of a fact pattern for which this law is necessary. And remember, as with all criminal activity, whether it is criminal activity committed in conjunction with a business venture or criminal activity of the street-crime variety, we are punishing, in this case, intentional unlawful conduct with the severe penalties that the Representative just referred to, the previous speaker referred to.

If we are to stop this type of practice, the type of practice that many people read about in the Slippery Rock area, where an individual was employing hundreds and hundreds of illegal aliens and categorizing each individual alien as an independent contractor. Or the case in a commercial construction project where there are 100 people working on a roof and each one of the individuals swinging a hammer on the roof is characterized as an independent contractor.

This is all done to the great detriment of our Commonwealth. There are no specific figures available in Pennsylvania, but in other States that have done studies, millions and millions and millions of dollars in revenue are lost by those States because this practice goes undetected and unpunished.

In projects where people are making a lot of money and increasing the amount of money they make by engaging in this illegal criminal activity, the only way to get their attention, to stop this practice, is to have significant penalties, and that is the reason for the dollar amounts and the threat, in the case of a repeat or an intentional act, of prison.

So if you are interested in helping working people in Pennsylvania by ending the practice of bringing workers in from out of State; by ending the practice of paying people below minimum wage, regardless of how many hours they work; by ending the practice of having workers not protected by workers' compensation or unemployment compensation; if you are interested in protecting the individual worker – which is, by the way, not a very Stalinistic value – I would suggest that you vote for this amendment and support the bill when it comes to the floor. Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—120

Barrar	Freeman	McCall	Shapiro
Belfanti	Galloway	McGeehan	Shimkus
Bennington	George	McI. Smith	Sipthoth
Beyer	Gerber	Melio	Smith, K.
Biancucci	Gergely	Micozzie	Smith, M.
Bishop	Gibbons	Moyer	Solobay
Blackwell	Godshall	Mundy	Staback
Brennan	Goodman	Murt	Stairs
Buxton	Grucela	Mustio	Sturla
Caltagirone	Haluska	Myers	Surra
Cappelli	Harhai	O'Brien, M.	Tangretti
Carroll	Harkins	Oliver	Taylor, J.
Casorio	Hornaman	Pallone	Taylor, R.
Civera	James	Parker	Thomas
Cohen	Josephs	Pashinski	Vereb
Conklin	Keller, W.	Payton	Vitali
Costa	Kenney	Perzel	Wagner
Cruz	Kessler	Petrarca	Walko
Curry	King	Petri	Wansacz
Daley	Kirkland	Petrone	Waters
DeLuca	Kortz	Preston	Wheatley
DePasquale	Kotik	Ramaley	White
Dermody	Kula	Raymond	Williams
DeWeese	Lentz	Readshaw	Wojnaroski
DiGirolamo	Levdansky	Roebuck	Yewcic
Donatucci	Longietti	Sabatina	Youngblood
Eachus	Mahoney	Sainato	Yudichak
Evans, D.	Manderino	Samuelson	
Evans, J.	Mann	Santoni	O'Brien, D., Speaker
Fabrizio	Markosek	Seip	
Frankel	Marshall		

NAYS—82

Adolph	Geist	Marsico	Reed
Argall	Gillespie	McIlhattan	Reichley
Baker	Gingrich	Mensch	Roae
Bastian	Grell	Metcalfe	Rock
Bear	Hanna	Millard	Rohrer
Benninghoff	Harhart	Miller	Ross
Boback	Harper	Milne	Rubley
Boyd	Harris	Moul	Saylor
Brooks	Helm	Nailor	Scavello
Causser	Hennessey	Nickol	Schroder
Clymer	Hershey	O'Neill	Smith, S.
Cox	Hess	Payne	Sonney
Creighton	Hickernell	Peifer	Steil
Cutler	Hutchinson	Perry	Stern
Dally	Kauffman	Phillips	Stevenson
Denlinger	Keller, M.K.	Pickett	Swanger
Ellis	Killion	Pyle	True
Everett	Mackereth	Quigley	Turzai
Fairchild	Maher	Quinn	Vulakovich
Fleck	Major	Rapp	Watson
Gabig	Mantz		

NOT VOTING—0

EXCUSED—1

Leach

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

On the question,

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

Mr. MAHER offered the following amendment No. A07225:

Amend Sec. 4, page 3, lines 25 through 30; page 4, lines 1 through 30; page 5, lines 1 through 22, by striking out all of said lines on said pages and inserting

(a) Employee or independent contractor determination.—An individual engaging in or performing services in the commercial or residential building construction industry for remuneration shall be determined to be an employee or independent contractor in accordance with 26 CFR §§ 31.3121(d)-1 (relating to who are employees), 31.3306(i)-1 (relating to who are employees) and 31.3401(c)-1 (relating to employee), consistent with IRS Rev. Rul. 87-41.

Amend Sec. 4, page 5, line 23, by striking out "(C)" and inserting (b)

Amend Sec. 4, page 6, line 1, by striking out "(D)" and inserting (c)

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, notionally, is really very simple. That is, every employer in Pennsylvania and, in fact, every employer in the nation is already obligated to classify their employees and contractors based upon a well-honed Federal standard, which is recognized by our own Pennsylvania Department of Revenue when it comes to settling questions as to whether or not an individual should be an employee or a contractor.

Given that the current standard has been in place for 21 years, and understanding that Pennsylvanians, individually, should not be forced to suffer the confusion of being viewed as a contractor if you close one eye and an employee if you close the other eye, and if both eyes are open, you are in trouble, because you cannot really be both at the same time.

One way to help that be the case, if what we are really interested in is a classification of employees and having it applied consistently, thoughtfully, honestly by Pennsylvania businesses, we ought to do the decent thing and allow them to know that if they apply diligence and respect for the law, that they will be compliant with the law, whether they are dealing with the Department of Revenue or Department of Labor and Industry or they are dealing with Pennsylvania or they are dealing with the IRS, because otherwise, we risk putting our individuals who work for a living in Pennsylvania, you could be risking things like their pension programs, where there are Federal tests to determine whether or not pensions are federally qualified that deal on statistics, based upon whether or not someone is an employee or a contractor.

And if somebody is a contractor under one law and an employee under another, those things get pretty complicated pretty quickly. Let us allow businesses and individuals a fighting chance of obeying the law when they go about it thoughtfully and diligently. Let us have one standard that applies, in terms of the relationship between those who hire folks and the folks that are hired.

That one standard would apply, no matter which department in Pennsylvania is evaluating the situation, and that standard, we are fortunate enough to have one that our neighboring States recognize and is recognized across this country. It is part of making Pennsylvania a friendly place for businesses to thrive,

which creates an opportunity for individuals to find good employment.

So please join me in supporting this notionally simple amendment to establish, as a standard – for determining employee versus contractor, for the purposes of this statute – exactly the same standard that already exists for our Department of Revenue and already exists when it comes to determining their pensions, when it comes to determining their health care, when it comes to determining Social Security, when it comes to determining all these other aspects that are so connected to the question about whether someone is an employee or a contractor. Let us not inflict confusion and suffering on individuals, and let us keep it simple.

Thank you, Mr. Speaker.

The SPEAKER. Representative Eachus.

Mr. EACHUS. Thank you, Mr. Speaker.

I rise to oppose the Maher amendment. Mr. Speaker, I really believe that what the people do is they send us here, elected to represent them, to set policy. What the gentleman's amendment does is allow for Federal regulators to set regulatory standards that could inevitably change what we are doing today by acting on behalf of this legislation and the will of the people. If regulators change the bar next year, then we may have to come back and revisit this.

I just do not think that the gentleman or this body should allow for Federal bureaucrats to change the very intent of this legislation. I really believe that my prerogative as a legislator and those of us who were sent here – the 203 of us, to represent our communities – have the right to set this policy, and he leaves it in the hands of faceless, nameless bureaucrats, and for that, I oppose it today.

The SPEAKER. Representative Lentz.

Mr. LENTZ. Thank you, Mr. Speaker.

This, as was described by the last speaker, this takes away the definitions that we have set forth in the bill, which include a presumption of employee status, and replaces it by reference to a Federal regulation – not a Federal statute, but a Federal regulation – a Federal regulation which we have no part in creating, which the Congress has no part in creating. There was some reference earlier to bureaucrats in a negative light; well, this is a regulation created by bureaucrats, and it is a regulation that is subject to change.

It also is not a definitive definition. The IRS regulation that is referred to in this amendment is only a guideline, something to be considered when making a determination of employee or independent contractor status. Well, we cannot, I would argue, pass a law that just makes a suggestion of facts you can consider. That would be an enforcement nightmare for the Department of Labor and for the State. So it is a bad practice for us to define by reference to a Federal reg, the changing of which we have no control over. It may, in fact, be unconstitutional for us to transfer that power to a Federal regulator who will never set foot in this chamber.

And it also creates an absolutely unenforceable statute by listing a few suggested criteria that are often considered by judges in determining cases but are not binding on any particular fact-finder. So I would urge the members to vote "no" on this amendment.

The SPEAKER. Representative McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, not to belabor the argument, but the two previous speakers were right on target. I think the

Maher amendment is deficient in that it does, in fact, link the definition to a Federal regulatory document, and the problem that we all have is with that linkage to the CFR (Code of Federal Regulations), the definition could be subject to the whim of those Federal registers.

There is no congressional oversight. There is no deliberative action that would be taken on these changes. It, technically, is unconstitutional for us to even consider that or enact that into our law, but I will not make that argument at this point in time.

So I would just simply ask, because of the lack of oversight, because we would allow a Federal regulatory agency to pass law or the enforcement of law on the Commonwealth of Pennsylvania, I would ask that we defeat the Maher amendment.

The SPEAKER. Is there any member seeking recognition before the Chair recognizes the prime sponsor of the amendment? Any member seeking recognition?

The Chair recognizes Representative Maher for the second time.

Mr. MAHER. Thank you, Mr. Speaker.

To assist with the specific understanding of the importance of this amendment, I would like to ask the learned gentleman who is sponsoring the bill to respond to some questions, if he is willing to.

The SPEAKER. The gentleman indicates he is not standing for interrogation.

Mr. MAHER. I am disappointed, Mr. Speaker, but I am sad to say I am not surprised, because what we were hearing just the last couple of minutes is really at odds with reality. Let me offer a few examples: If you have someone who comes in from time to time and maybe cleans your district office, you may not have a written contract with that person, but under Federal law and under Pennsylvania Department of Revenue law, it would be pretty clear, in most cases, that the person who stops in periodically and cleans your office is a contractor.

Under this bill, unless you adopt my amendment, that individual will now be an employee. So those of you who have district offices and have an individual come by and clean every couple of weeks, you all now have employees, if this becomes law without this amendment.

Consider this very closely, Mr. Speaker, because this is not an exaggeration. You will all individually have employees. The State – the House of Representatives – will not have those individuals as employees, perhaps, but you will. Now, there are certain rights that are attached to someone who is characterized as an employee, and you will be bringing upon yourself that you are now the employer. You are not hiring an independent contractor any longer; you are an employer.

Consider another case: Let us say you might get interested in politics, and let us say you might get involved in a political campaign of some sort, and let us say you might actually hire somebody to work on a political campaign. Now, if the person you hire to work on a political campaign is not subject to a written agreement, under this bill, if you reject my amendment, that person will now be your employee; they will be your employee. You will be subject to unemployment compensation, workers' compensation responsibilities for someone you might ordinarily have thought was a consultant or a casual contracting relationship.

Let us go further though. Let us assume you have an agreement in writing with that consultant you hired for your campaign, and they are building you some stage and you have

an event, and they happen to have some people that work with them. Now, up until now, you might not much care what the real relationship is between the person you hired under a contract to take care of this project and the individuals who are helping them.

POINT OF ORDER

Mr. SURRA. Mr. Speaker? Point of order, Mr. Speaker.

The SPEAKER. The gentleman will state his point of order.

Mr. SURRA. I am confused as we are talking about part-time cleaning ladies and people working political campaigns. It is my understanding that the legislation deals with construction. Is that right, Mr. Speaker?

The SPEAKER. The gentleman is correct. The Chair will remind all members, the comments are limited to the issue contained in the amendment.

Mr. MAHER. Thank you, Mr. Speaker.

Well, let us think about the homeowners in your districts. Now, let us say that you have a homeowner who decides that it is time to tear down a porch that is on the back of their home, and they hire someone to come and take down this porch. Now, you might have a written agreement for that or you might not. But with this bill, if you do not adopt the amendment, suddenly, the person taking down that back porch is going to be an employee of the homeowner.

Suddenly, when that back-porch job is done, the homeowner could be exposed for obligations for unemployment compensation for 6 months, 9 months, some period of time. Now, when those folks call your offices to complain that they are now personally on the hook for unemployment compensation for some guy they hired to take down the porch off the back of their house, do not tell him you did not have a choice, because the choice is right here before you.

Consider a case where someone decides to have a new sidewalk put in front of their home or a new walkway up to their front door. They hire someone who has got a good reputation in the community to come in and float some concrete and put in that walk. Now, if that individual works with others, maybe the guy who drives the truck to deliver the concrete, he is suddenly not a contractor because this bill, without the amendment that is before us, would say no contractor can have subcontractors, which means that, suddenly, you have not one employee, you now have two employees.

You have the fellow who is doing your walk and the fellow he hired to bring over the concrete. Now, up to now, the employment relationship between the guy driving the truck and the guy doing the walk was maybe not your concern. Maybe that is why you hired a contractor to begin with, so they could take care of it all. You just know you want to have that front walk fixed. If this bill becomes law without my amendment, you are now going to have to say, what is your relationship between you and the guy driving the truck? And if it is a subcontractor, you are going to have to make a choice. You are either going to be on the hook for unemployment compensation when the job is done, or you are going to have to have say, I am sorry, I will not deal with you; you are a sole proprietor. I cannot deal with sole proprietors anymore because the Pennsylvania Legislature said that if you are an individual doing this kind of thing, you are a second-class citizen, because you cannot hire subcontractors.

Now, if you are a corporation, if you are an LLC (limited liability company), if you are an LLP (limited liability partnership), if you are a partnership, if you are any other type of business, you can hire a subcontractor and not be vexed by this new law. But unless you adopt this amendment, individuals who are doing these kinds of jobs are going to be put at a serious disadvantage.

The families that hire them will have legal liabilities that you will need to explain when you get the phone call for someone saying they are on the hook for \$15,000 of unemployment compensation because someone did their front walk and it turned out the guy driving the truck was a subcontractor. And under this new law, therefore, they cannot be a contractor if they hire a contractor. How does that make any sense?

Now, imagine another little home-repair project, construction. It is time to put a new roof on the house. The old shingles have got to go. You hire somebody to take off the old shingles, put up new shingles, but what else is involved with that? What else is involved with that is disposing of the old shingles. Now, if you are a regular homeowner, chances are you are going to go hire a roofer to take care of the job, but if you do not adopt my amendment, if that roofer subcontracts with somebody to haul the stuff away or to deliver the shingles to the site or to raise them up to the roof, suddenly, they are no longer a contractor because, under this bill, anyone who hires a subcontractor is an employee.

So now you have more employees. You have got a roofer; you have got the guy who delivered the shingles; you have got the guy who lifted the shingles up to the roof; you have got the guy who brought over the dumpster to remove them. Now, how many employees do you suppose a typical homeowner in your district really wants to have? How many unemployment forms do they want to fill out? How many workers' compensation forms do they want to fill out?

Now, some may say that is not the point of this, but that is certainly the way it is written. In fact, this business about being prohibited from having a subcontractor is exactly at odds with the Federal standard, the standard used by the Department of Revenue, the standard used in surrounding States. As a result, you will be creating a condition, without this amendment, that sole proprietors in Pennsylvania will simply not be able to obey the law because they will be in violation of it one way or the other.

Hiring subcontractors is actually considered evidence. The freedom to hire a subcontractor is considered evidence of being an independent contractor when it comes to taxes, when it comes to ERISA, when it comes to health insurance law, pension law, all these other laws. But for some reason, with this bill, unless we repair it – which we can do right now – that same evidence of being an independent contractor will now be deemed to be a fatal flaw and guarantee that an individual is actually an employee. Well, that just does not make a lot of sense.

Let me offer up another example: Pennsylvania – many municipalities and the State itself – often likes to pursue MBE (minority business enterprise) and WBE (women's business enterprise) targets. If a sole proprietor is competing for this sort of work as an MBE or WBE, participation is often accomplished through subcontracting. This bill, unless we repair it, will say that no firm that subcontracts with an MBE, no sole proprietor who contracts with a WBE can be a contractor; they would be employees.

Well, what do you suppose the Commonwealth is going to do if somebody submits a proposal for a construction job or a municipality does and the proprietor says, well, I want to participate, I want to have involvement of MBE and WBE contractors? Is Pennsylvania going to say, welcome aboard, you are my new employee?

They are going to say, I am sorry, we will not deal with you. We will not deal with you because we are not looking to hire an employee, we are look for an independent contractor, and if you cannot be an independent contractor while involving MBE and WBE as subcontracts, then just get lost. We do not want to see you.

Now, think about that. Is that desirable? Is it desirable to say sole proprietors cannot hire, subcontract MBE and WBE participation? Why? Who is being served by that? Who?

Now, if we adopt this amendment, we can get back to the standard definition of what is a contractor and what is an employee and all of these sorts of undesirable consequences I have been hoping to illustrate can be put aside.

But when you get a call from someone who is trying to do work with a municipality, a school district, an authority, or the Commonwealth itself and says, I am a proprietor and I cannot do work for Pennsylvania with MBE and WBE subcontractors because according to the law you just wrote, I am not a contractor then and the State is not looking to hire me as an employee, because if I am an employee, well, then I guess I am in the pension system and I guess I am in the health-care system and on and on and on.

I suppose the only solace I have is that this notion of ensuring that sole proprietors of Pennsylvania can be discriminated against legally and that those who wish to advance MBE and WBE goals can be discriminated against legally – the only solace I have is it is not too late to fix it. The repair is right up there on the board.

Do what makes sense. Vote that Pennsylvania should have the same standard, no matter what department you are dealing with; vote that Pennsylvania should have the same standard as all the surrounding States; vote that Pennsylvania should have the same standard as the Federal government; and vote to allow common sense to not get lost. Please vote for this amendment.

Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS-92

Adolph	Gabig	McIlhattan	Reed
Argall	Geist	Mensch	Reichley
Baker	Gillespie	Metcalfe	Roae
Barrar	Gingrich	Millard	Rock
Bastian	Grell	Miller	Rohrer
Bear	Harhart	Milne	Ross
Benninghoff	Harper	Moul	Rublely
Boback	Harris	Murt	Saylor
Boyd	Helm	Mustio	Scavello
Brooks	Hennessey	Nailor	Schroder
Causer	Hershey	Nickol	Smith, S.
Civera	Hess	O'Neill	Sonney
Clymer	Hickernell	Payne	Stairs
Cox	Hutchinson	Peifer	Steil
Creighton	Kauffman	Perry	Stern
Cutler	Keller, M.K.	Perzel	Stevenson

Dally	Kenney	Petri	Swanger
Denlinger	Killion	Phillips	Taylor, J.
Ellis	Mackereth	Pickett	True
Evans, J.	Maher	Pyle	Turzai
Everett	Major	Quigley	Vereb
Fairchild	Mantz	Quinn	Vulakovich
Fleck	Marsico	Rapp	Watson

NAYS-110

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

NOT VOTING-0

EXCUSED-1

Leach

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. MAHER offered the following amendment No. A07226:

LRB Awaiting Notification of Amendment to be Affected
REGULAR SESSION 2007 - 2008
House Bill 2400 P.N. 3838 Amendment 2008 A07226

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 rather similar to the prior one so I will not belabor the point, but I do find it astonishing that so many in this chamber could vote against allowing MBE firms to

subcontract, to vote against allowing WBE firms to subcontract—

The SPEAKER. The gentleman—

Mr. MAHER. I am speaking on the amendment, sir.

The SPEAKER. Will the gentleman approach the rostrum.

Mr. MAHER. Mr. Speaker, you recognized me to speak on the amendment. I am speaking on the amendment, and I will be brief.

The SPEAKER. The Chair is having difficulty finding the amendment. If the gentleman will approach the rostrum.

AMENDMENT WITHDRAWN

Mr. MAHER. Mr. Speaker, I will withdraw the amendment. Thank you very much.

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. The Chair recognizes Representative Boyd. The Chair is informed that the gentleman wishes to withdraw all the amendments with the exception of A07257.

On the question recurring,

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

Mr. **BOYD** offered the following amendment No. **A07257**:

Amend Title, page 1, lines 1 through 3, by striking out all of said lines and inserting
Providing for independent construction contractors and for criteria; and imposing penalties.

Amend Bill, page 1, lines 6 through 14; pages 2 through 10, lines 1 through 30; page 11, lines 1 through 27, by striking out all of said lines on said pages and inserting

Section 1. Short title.

This act shall be known and may be cited as the Pennsylvania Independent Contractor Clarification Act.

Section 2. Legislative intent.

The General Assembly finds that employers who improperly classify employees as independent contractors in order to evade their responsibilities as an employer with respect to the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, and the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment Compensation Law, puts employers who comply with these laws at a competitive disadvantage. In order to restrict such actions, the General Assembly sees the need to enact clear statutory guidelines to define the difference between an "independent contractor" and an "employee" for the purposes of both laws, and the General Assembly sees the need to create criminal penalties for employers that knowingly misclassify employees as "independent contractors." The General Assembly also recognizes the need for a voluntary independent contractor registry to create a system of certification that will provide employers with a reasonable level of confidence as to the status of individuals they hire as independent contractors.

Section 3. Definitions.

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

"Department." The Department of Labor and Industry of the Commonwealth.

"Employer." The term is synonymous with master and includes natural persons, partnerships, joint-stock companies, corporations for profit, corporations not for profit, municipal corporations, the Commonwealth and all governmental agencies established by the Commonwealth.

"Secretary." The Secretary of Labor and Industry of the Commonwealth or the secretary's authorized representative.

"Unemployment Compensation Law." The act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment Compensation Law.

"Workers' Compensation Act." The act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act.

Section 4. Independent contractor criteria.

(a) General rule.—For the purposes of the Unemployment Compensation Law and the Workers' Compensation Act, an individual who performs services for remuneration is not an employee, and shall be deemed to be an independent contractor, only if:

(1) The individual has been and is free from control or direction over the performance of such services both under contract of service and in fact.

(2) As to such services, such individual is customarily engaged in an independently established trade, occupation, profession or business.

(3) The individual has a written contract to perform such services.

(b) Criteria.—An individual is customarily engaged in an independently established trade, occupation, profession or business with respect to services the individual performs only if:

(1) the individual possesses the essential tools, equipment and other assets necessary to perform the services independent of the person for whom the services are performed, or reimburses that person at fair market value for the use of tools, equipment or other assets.

(2) The individual's arrangement with the person for whom the services are performed is such that the individual may realize a profit or suffer a loss as a result of performing the services.

(3) The individual performs the services through a business in which the individual has a proprietary interest.

(4) The individual maintains a business location that is separate from the location of the person for whom services are being performed.

(5) The individual:

(i) previously performed the same or similar services for another person in accordance with paragraphs (1), (2), (3) and (4) and while free from direction or control over the performance of the services, both under contract of service and in fact; or

(ii) holds himself or herself out to the other persons as available and able, and in fact is available and able to perform the same or similar services in accordance with paragraphs (1), (2), (3) and (4) and while free from direction or control over performance of the services.

Section 5. Improper classification of employees.

(a) Offense defined.—An employer, or an officer or agent of an employer, commits a violation of this act if the employer, officer or agent fails to properly classify, without a reasonable basis, the individual as an employee for the purpose of the Workers' Compensation Act or the Unemployment Compensation Law. For the purposes of this subsection, the term "reasonable basis" means reliance on the results of a previous Internal Revenue Service or Department of Revenue audit or ruling on that employer which determined that individuals in question, or similar individuals, were not employees. The term also includes situations where the employer can demonstrate that it made a good faith effort to properly classify individuals by relying on advice actively solicited from a certified public accountant, an attorney or the department on the status of individuals in question.

(b) Violation.—

(1) An employer, or an officer or agent of the employer, who knowingly or recklessly violates subsection (a) commits a felony of the third degree and shall, upon conviction, be sentenced to:

(i) pay a fine of not more than \$15,000 or imprisonment for not more than three and one-half years, or both, for a first offense;

(ii) pay a fine of not more than \$30,000 or imprisonment for not more than seven years, or both, for a subsequent offense; and

(iii) may be subject to a stop-work order as determined by a court of competent jurisdiction pursuant to section 7.

(2) An employer, or an officer or agent of an employer, who knowingly or recklessly violates any other provision of this act commits a misdemeanor of the second degree and shall, upon conviction, be sentenced to imprisonment for a term of not more than two years, or to pay a fine of up to \$5,000, or both.

(c) Enforcement.—When the secretary finds that an employer has knowingly violated a provision of this act, the secretary may refer the matter to the Office of Attorney General for investigation and prosecution. Nothing in this act shall be deemed to limit the authority of the Attorney General to investigate and prosecute violations of this act.

(d) Separate offenses.—Each individual who is not properly classified as an employee shall constitute a separate offense.

(e) Conspiracy.—Any person that is not included in the term "employer" as defined in section 3, but who contracts with an employer with whom the person has knowledge, intends to misclassify an employee in violation of this act shall be subject to the same penalties, remedies and other actions as an employer found to be in violation of this act.

Section 6. Civil actions and remedies.

(a) Debarment.—If the secretary determines, after notice and hearing, that an employer, or an officer or agent of the employer, has knowingly or recklessly failed to properly classify multiple individuals as employees, the secretary may notify all public bodies in this Commonwealth of the name of the employer, and no contract shall be awarded to the employer or to any firm, corporation or partnership in which the employer has an interest until a period of up to three years, as determined by the secretary, has elapsed from the date of the notice.

(b) Administrative penalties.—As an alternative to, or in addition to, any other sanctions provided by law for a violation of this act, when the secretary finds that an employer has violated this act, the secretary is authorized to assess and collect administrative penalties up to a maximum of \$2,500 for the first violation and up to a maximum of \$5,000 for each subsequent violation. When determining the amount of the penalty imposed because of a violation, the secretary shall consider factors which include the history of previous violations by the employer, the seriousness of the violation, the good faith of the employer and the size of the employer's business.

Section 7. Stop-work orders.

If the secretary determines, after notice and hearing, that an employer, or officer or agent of the employer, has knowingly failed to properly classify multiple individuals as employees, the secretary may petition a court of competent jurisdiction to issue an injunction requiring the cessation of that employer's business operation at a worksite. The injunction shall be granted or denied in accordance with the Pennsylvania Rules of Civil Procedure governing a party's entitlement to equitable relief.

Section 8. Procedure.

(a) Hearings.—Actions taken under sections 6 and 7 are subject to the right of notice and adjudication and the right of appeal in accordance with the provisions of 2 Pa.C.S. (relating to administrative law and procedure).

(b) Subpoena powers.—The department has the power to subpoena witnesses, administer oaths, examine witnesses and take

testimony or compel the production of documents. Upon application of an attorney for the Commonwealth, the department may issue a subpoena to compel the production of documents, computer records and information related to compliance with this act.

Section 9. Commonwealth Court.

The secretary may seek enforcement of any order or subpoena in the Commonwealth Court.

Section 10. Certain agreement prohibited.

No person shall require or request that an individual enter into an agreement or sign a document which results in the misclassification of the individual as an independent contractor or otherwise does not accurately reflect the relationship with the employer.

Section 11. Retaliation for action prohibited.

It shall be unlawful for an employer or any other party to discriminate in any manner or take adverse action against any person in retaliation for exercising rights protected under this act. Rights protected under this act include, but are not limited to, the right to file a complaint or inform any person about an employer's noncompliance with this act and the right to inform any person of the person's potential rights and to assist the person in asserting those rights. Any person who in good faith alleges noncompliance with this act shall be afforded the rights provided by this act, notwithstanding the person's failure to prevail on the merits. Taking adverse action against a person within 90 days of the person's exercise of rights protected under this act shall raise a rebuttable presumption of having done so in retaliation for the exercise of those rights.

Section 12. Use of assessments and penalty funds.

Any assessments and penalties collected pursuant to this act shall be applied toward implementation, enforcement and administration costs incurred by the department under this act. However, the secretary may transfer an agreed to amount of moneys collected to the Attorney General to assist the secretary's enforcement of this act.

Section 13. Independent Contractor Voluntary Certification Program.

(a) Establishment.—The department shall establish through regulation a voluntary program for certification of independent contractors and a public registry of such independent contractors. The department shall establish procedures for certification, renewal of certification and decertification of individuals on the registry.

(b) Certification requirements.—The department shall establish a certification process that includes an application which requires an individual to provide information to demonstrate operation as an independent contractor. The application shall require information that demonstrates that the individual meets the criteria established in section 4 to include information indicating that the individual:

(1) Maintains a business location that is separate from the location of the person or entity for which services are being performed with the individual's own office, and operates with owned or leased equipment, provided that an office may be maintained in the individual's residence.

(2) Is licensed to perform the specific kind and quality of work required by the contracts specified in this subsection by all State and appropriate local licensing authorities.

(3) Operates under contracts which are in writing and which detail the terms of payment for work performed and the scope of work to be performed.

(4) Incurs the main expenses related to the work.

(5) Is responsible for the satisfactory completion of the work and is liable for a failure to complete the work.

(6) Receives compensation, as a business and not as an individual, for work performed on a per-job basis, realizes a profit or loss from such work, and realizes a profit or loss under contracts to perform work.

(7) Succeeds or fails in business based on the relationship of business receipts to expenditures.

(8) Makes services available to other businesses, governmental agencies in the Commonwealth or to the general public through business advertising, solicitation or other

marketing efforts reasonably calculated to obtain new contracts to provide similar services.

(9) Performs the services through a business in which the individual has a principal proprietary interest.

(10) Is a United States citizen or is authorized under Federal law to work in the United States, as defined under section 274A of the Immigration and Nationality Act (66 Stat. 163, 8 U.S.C. § 1324a).

(11) Has applied for a Federal employer identification number, or has filed business or self-employment income tax returns with the Pennsylvania Department of Revenue or the Internal Revenue Service based on work or services in the previous year.

(12) Maintains general liability insurance that is appropriate for the individual's trade or business.

(c) Registry.—The registry established by the department shall be posted on the Internet website and shall contain name, address and business name of certified independent contractors. Information obtained by the department from applications submitted by individuals shall not be made available to the public.

(d) Active maintenance of registry.—The department shall, as personnel availability dictates:

(1) Randomly audit independent contractors on the registry, including onsite visits, to confirm their status.

(2) Conduct personal interviews and/or onsite visits, with applicants as personnel availability permits, to confirm information given on applications.

(e) Fees.—The department may establish a schedule of fees which it reasonably believes will defray the costs of administering the registry.

(f) Presumption of independent contractor status.—An employer that contracts for services with an individual certified by the department under this section shall have an affirmative defense to allegations of violations of this act, and there shall be a rebuttable presumption that such individual is not an employee for purposes of the Workers' Compensation Act and that such services do not constitute "employment" as defined in section 4(1)(2)(B) and the Unemployment Compensation Law.

(g) Penalty.—A person, including, but not limited to, an employer, commits a violation of this act subject to the penalties in section 5(b) if the person does any of the following:

(1) Is an employer under this act that knowingly, and with intent to defraud, forces an employee to file an application under this section to misrepresent a true relationship.

(2) Is an individual who knowingly, and with intent to defraud, files an application under this section for certification or recertification that contains false information.

(h) Appeals of departmental determinations on certification, certification renewal and decertification.—Appeals of determinations made by the department on certifications, certification renewals and decertifications shall be made to the secretary in accordance with 2 Pa.C.S. (relating to administrative law and procedure).

Section 14. Applicability.

This act does not apply to an individual:

(1) who is exempt from the Unemployment Compensation Law or the Workers' Compensation Act; or

(2) when the individual is performing services that are excluded from the definition of "employment" for the purposes of the Unemployment Compensation Law or the Workers' Compensation Act.

Section 15. Rules and regulations.

The department shall promulgate proposed regulations for implementation of section 13 within 180 days, and may promulgate other regulations that are necessary to administer this act.

Section 40. Effective date.

This act shall take effect as follows:

(1) The following provisions shall take effect immediately:

(i) Sections 1, 2, 3, 13 and 15.

(ii) This section.

(2) The remainder of this act shall take effect on the effective date of the final form regulation promulgation under section 13.

On the question,

Will the House agree to the amendment?

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

Mr. BOYD. Thank you, Mr. Speaker.

Mr. Speaker, amendment A07257 is a gut-and-replace amendment. It actually would replace the entire content of the legislation.

HB 2400 is actually a piece of legislation that there was a lot of conversation about in our Labor Committee. There was a lot of good dialogue with respect to the chairmen, both chairmen, Representative Belfanti and Representative DiGirolamo. The bill was held over in committee, an opportunity to try and dialogue on the bill and develop some compromise language, working with both the business community, small and large employers, and also labor and the Department of Labor with the administration to try and come up with compromise language. Unfortunately, Mr. Speaker, after a lot of discussion and debate, some of those negotiations broke down and HB 2400, as it has been referred out, did come out with some Republican support, but I would not say that it was a broadly bipartisan-supported compromise piece of legislation.

The context of the amendment, 7257, embodies many of the items that we had discussed in those meetings, and ultimately, the opportunity to vote on this gut-and-replace amendment was to try and develop some compromise language.

As the language that is in front of you would be voted, it is supported by a number of organizations – the chamber, NFIB (National Federation of Independent Business), the Insurance Federation, the realtors, and some others. Unfortunately, we were not able to garner any support from the labor industry at all. In fact, there are some memos out opposing the legislation. So because of that, Mr. Speaker, the attempt of this was to make this compromise legislation, to make it, in fact, kind of a middle of the road.

AMENDMENT WITHDRAWN

Mr. BOYD. Because it appears that there is not any support from the other side of the aisle, I will be withdrawing this amendment but would like to ask that as this process moves forward, that we continue to work with the members on both sides of the aisle to try and develop a compromise piece of legislation.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

Are there any other members wishing to offer amendments?

The Chair is informed that all other amendments are withdrawn.

Is there any member seeking recognition to offer an amendment at this time?

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.)

* * *

The House proceeded to second consideration of **SB 999, PN 1216**, entitled:

An Act designating a portion of State Route 26 in Centre County as the Marine Sergeant David "DJ" Emery, Jr. Highway.

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

Mr. **CONKLIN** offered the following amendment No. **A07143**:

Amend Title, page 1, line 2, by removing the period after "Highway" and inserting
; and designating the bridge on State Route 322 joining Clearfield and Centre Counties as the Veterans' Memorial Bridge.

Amend Bill, page 2, by inserting between lines 10 and 11 Section 2. Veterans' Memorial Bridge.

(a) Designation.—The bridge joining Clearfield and Centre Counties on State Route 322 is designated and shall be known as the Veterans' Memorial Bridge.

(b) Signs.—The Department of Transportation shall erect and maintain appropriate signs which shall display the name of the bridge designated in subsection (a) at each end of the bridge and at the sides of the bridge so that persons traveling on State Route 322 can see the designation referred to in subsection (a).

Amend Sec. 2, page 2, line 11, by striking out "2" and inserting
3

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

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

Mr. **CONKLIN**. Thank you, Mr. Speaker.

This is simply an amendment that we had passed through the House unanimously a year ago on a bill to name a veterans bridge in our district to honor those men and women that have gone before us. We have been unable to move that in the Senate, so what I am doing today is adding an amendment to this bill, just simply to move through an amendment on a bill that we had already passed unanimously.

Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—202

Adolph	Freeman	Markosek	Rohrer
Argall	Gabig	Marshall	Ross
Baker	Galloway	Marsico	Rubley

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

NAYS—0

NOT VOTING—0

EXCUSED—1

Leach

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

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

Bill as amended was agreed to.

(Bill as amended will be reprinted.)

BILL ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 2503, PN 3834**, entitled:

An Act amending Title 12 (Commerce and Trade) of the Pennsylvania Consolidated Statutes, further providing for definitions; and providing for loans from the Pennsylvania Industrial Development Authority.

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

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

(Bill analysis was read.)

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

The following roll call was recorded:

YEAS—202

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

NAYS—0

NOT VOTING—0

EXCUSED—1

Leach

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

Ordered, That the clerk present the same to the Senate for concurrence.

SUPPLEMENTAL CALENDAR B

**BILL ON CONCURRENCE
IN SENATE AMENDMENTS**

The House proceeded to consideration of concurrence in Senate amendments to **HB 1281, PN 3767**, entitled:

An Act amending the act of April 28, 1978 (P.L.87, No.41), known as the Pennsylvania Appalachian Trail Act, further providing for actions by municipalities and their powers and duties; and making editorial changes.

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

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

The following roll call was recorded:

YEAS—190

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

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

NAYS—12

Benninghoff	Creighton	Metcalfe	Roae
Brooks	Denlinger	Perry	Rohrer
Cox	Hutchinson	Rapp	Swanger

NOT VOTING—0

EXCUSED—1

Leach

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

Ordered, That the clerk inform the Senate accordingly.

BILL 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 1281, PN 3767

An Act amending the act of April 28, 1978 (P.L.87, No.41), known as the Pennsylvania Appalachian Trail Act, further providing for actions by municipalities and their powers and duties; and making editorial changes.

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

CALENDAR CONTINUED**RESOLUTIONS PURSUANT TO RULE 35**

Mr. MOUL called up **HR 514, PN 2878**, entitled:

A Resolution designating June 14, 2008, as "Bakers Creek Memorial Day" in Pennsylvania.

On the question,
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—202

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

NAYS—0

NOT VOTING—0

EXCUSED—1

Leach

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

* * *

Mr. ADOLPH called up **HR 657, PN 3462**, entitled:

A Resolution designating June 7, 2008, as "Alex's Lemonade Stand Day" in Pennsylvania and encouraging all citizens to contribute to the Alex's Lemonade Stand Foundation and other pediatric cancer research programs.

On the question,
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—202

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

NAYS—0

NOT VOTING—0

EXCUSED—1

Leach

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

* * *

Mr. WOJNAROSKI called up **HR 716, PN 3643**, entitled:

A Resolution recognizing the week of June 8 through 14, 2008, as "Charcot-Marie-Tooth Association Awareness Week" in Pennsylvania.

On the question,
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—202

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

NAYS—0

NOT VOTING—0

EXCUSED—1

Leach

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

* * *

Ms. WAGNER called up **HR 749, PN 3732**, entitled:

A Resolution honoring Ms. Teri Owens for her tireless work to improve the lives of all Pennsylvanians, especially those who have disabilities.

On the question,
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—202

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

Donatucci	Lentz	Quinn	Wheatley
Eachus	Levdansky	Ramaley	White
Ellis	Longiatti	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

NAYS—0

NOT VOTING—0

EXCUSED—1

Leach

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

* * *

Mr. PAYTON called up **HR 761, PN 3786**, entitled:

A Resolution recognizing June 10, 2008, as "Patient Advocate Day" in Pennsylvania.

On the question,
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—202

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

Dally	Kessler	Petri	Vitali
DeLuca	Killion	Petrone	Vulakovich
Denlinger	King	Phillips	Wagner
DePasquale	Kirkland	Pickett	Walko
Dermody	Kortz	Preston	Wansacz
DeWeese	Kotik	Pyle	Waters
DiGirolamo	Kula	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

NAYS-0

NOT VOTING-0

EXCUSED-1

Leach

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

* * *

Mr. MOUL called up **HR 764, PN 3789**, entitled:

A Resolution recognizing May 15 through June 15, 2008, as "Tourette Syndrome Awareness Month" in Pennsylvania.

On the question,
Will the House adopt the resolution?

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

Mr. MOUL. Thank you, Mr. Speaker.

I just wanted to bring Tourette's syndrome to everyone's attention. There are over 3,000 children stricken with this disease in the Commonwealth of Pennsylvania. We need to do what is right to take care of these children, and I would appreciate your affirmative vote on this.

Thank you.

The SPEAKER. Representative Murt.

Mr. MURT. Mr. Speaker, I want to commend my colleague from Adams County, Representative Moul, for offering HR 764, which recognizes May 15 through June 15 as "Tourette Syndrome Awareness Month."

Mr. Speaker, most of us are aware that Tourette's syndrome is a developmental disability that begins before a child reaches 18 years of age and affects children and adults of all races and ethnicities. Individuals are affected by tics – involuntary rapid, sudden movements or vocalizations that occur repeatedly in the same way. An estimated 200,000 people in the United States and well over 3,000 Pennsylvanians have been diagnosed with this neurobiological genetic condition, which has no cure.

Understanding this illness will help guarantee hope for acceptance and a better future for people with Tourette's syndrome.

I ask for an affirmative vote, Mr. Speaker. Thank you.

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

The following roll call was recorded:

YEAS-202

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

NAYS-0

NOT VOTING-0

EXCUSED-1

Leach

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

* * *

Mr. SOLOBAY called up **HR 766, PN 3810**, entitled:

A Resolution recognizing June 28 through 29, 2008, as "American Radio Relay League Field Day" in Pennsylvania.

On the question,
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—202

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

NAYS—0

NOT VOTING—0

EXCUSED—1

Leach

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

* * *

Mrs. MACKERETH called up **HR 760, PN 3771**, entitled:

A Resolution honoring the life and extending condolences for the supreme sacrifice made by Specialist Luke S. Runyan who lost his life in service to our country in Iraq on February 17, 2008.

On the question,
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—202

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

NAYS—0

NOT VOTING—0

EXCUSED—1

Leach

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

SENATE MESSAGE

RECESS RESOLUTION FOR CONCURRENCE

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

In the Senate,
June 2, 2008

RESOLVED, (the House of Representatives concurring), Pursuant to Article II, Section 14 of the Pennsylvania Constitution, that when the Regular Session of the Senate recesses this week, it reconvene on Monday, June 9, 2008, unless sooner recalled by the President Pro Tempore of the Senate; and be it further

RESOLVED, Pursuant to Article II, Section 14 of the Pennsylvania Constitution, that when the Regular Session of the House of Representatives recesses this week, it reconvene on Monday, June 9, 2008, unless sooner recalled by the Speaker of the House of Representatives.

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

On the question,
Will the House concur in the resolution of the Senate?
Resolution was concurred in.
Ordered, That the clerk inform the Senate accordingly.

RESOLUTION

Mr. DeWEESE called up **HR 629, PN 3379**, entitled:

A Resolution recognizing the lack of due process in the 1876-1878 trials of several alleged members of the Molly Maguires and memorializing the Governor to issue an order acknowledging the same.

On the question,
Will the House adopt the resolution?

RESOLUTION TABLED

The SPEAKER. The Chair recognizes the majority leader, who moves that HR 629 be removed from the active calendar and placed on the tabled bill calendar.

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

RESOLUTION REMOVED FROM TABLE

The SPEAKER. The Chair recognizes the majority leader, who moves that HR 629 be removed from the tabled bill calendar and placed on the active calendar.

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

BILLS REMOVED FROM TABLE

The SPEAKER. The Chair recognizes the majority leader, who moves that the following bills be removed from the tabled bill calendar:

HB 676;
HB 2158;
HB 2306;
HB 2483;
HB 2511; and
HB 1634.

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

BILLS RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader, who moves that the following bills be recommended to the Committee on Appropriations:

HB 676;
HB 2158;
HB 2306;
HB 2483;
HB 2511; and
HB 1634.

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

BILLS REMOVED FROM TABLE

The SPEAKER. The Chair recognizes the majority leader, who moves that the following bills be removed from the tabled bill calendar and placed on the active calendar:

HB 2454;
HB 2455;
HB 2456;
HB 2457;
HB 2458;
HB 2459;
HB 2460; and
HB 2461.

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

COMMUNICATION

The SPEAKER. The Speaker acknowledges the receipt of the following communication, which the clerk will read.

The following communication was read:

A communication dated May 30, 2008, from the Public Employee Retirement Commission regarding amendment No. 06966 to HB 2084, PN 3689, providing an actuarial impact statement on the amendment.

(Copy of communication is on file with the Journal clerk.)

HOUSE SCHEDULE

DEMOCRATIC CAUCUS

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

Mr. DeWEESE. Thank you, Mr. Speaker.

Just a matter of scheduling. The Democrats will go immediately to caucus and focus on the smoking ban conference report, and we will report to the floor at 9:30 tomorrow morning. We must be prepared to vote on a variety of issues at 9:30. The annual Burgess McCormac charity event is tomorrow afternoon, and we want to make certain that our business activity commences at 9:30 promptly.

So that is an announcement from the Democratic side of the aisle. Our initial focus and our complete focus for the caucus today will be on the smoking ban legislation that has just been reported from the conference committee. Thank you.

The SPEAKER. The Chair thanks the gentleman.

Are there any other announcements?

REPUBLICAN CAUCUS

The SPEAKER. Representative Major.

Miss MAJOR. Thank you, Mr. Speaker.

I would like to announce a Republican caucus immediately at the call of the recess. Thank you.

The SPEAKER. The Chair thanks the lady.

Are there any other announcements? Any further business?

BILLS AND RESOLUTIONS PASSED OVER

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

ADJOURNMENT

The SPEAKER. The Chair recognizes Representative Fleck from Huntingdon County, who moves this House do now adjourn until Wednesday, June 4, 2008, at 9:30 a.m., e.d.t., unless sooner recalled by the Speaker.

On the question,
Will the House agree to the motion?
Motion was agreed to, and at 4:34 p.m., e.d.t., the House adjourned.