

# COMMONWEALTH OF PENNSYLVANIA

## LEGISLATIVE JOURNAL

TUESDAY, JUNE 24, 2008

SESSION OF 2008

192D OF THE GENERAL ASSEMBLY

No. 45

### HOUSE OF REPRESENTATIVES

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

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

#### PRAYER

HON. BOB BASTIAN, member of the House of Representatives, offered the following prayer:

May we pray:

Lord, You anoint us to be Your holy people in this world, yet we have not always been faithful to You. We have not always loved and accepted one another. We have not always reached out to those who are poor or hungry or lost. Forgive us and fill us with Your light that we may delight in Your goodness and serve You with joy.

May we as legislators be faithful and remember those constituents who are poor, hungry, and lost. May we see the light, and when we vote, we need to always remember those in this great Commonwealth who are less fortunate than we are.

Recently in a message to prisoners, I spoke of hope, hope to be free someday to enjoy the blessings that we too often take for granted. Continue, Lord, to speak to those incarcerated men and women to touch their hearts.

This week, Lord, when we finalize the budget, help us to control our tongue and do what the prophet, Micah, said, to be just, to show constant love, and to live in humble fellowship with our God.

And finally, Lord, keep Your Almighty hand of protection on those who serve our country in harm's way and return them to their loved ones soon.

We ask these things in Your holy name. Amen.

#### PLEDGE OF ALLEGIANCE

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

#### ANNOUNCEMENT BY SPEAKER

The SPEAKER. The Chair gives permission of the Judiciary Committee to continue to meet.

### JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, approval of the Journal of Monday, June 23, 2008, will be postponed until printed. The Chair hears no objection.

The House will be temporarily at ease.

#### GUESTS INTRODUCED

The SPEAKER. The Chair would like to introduce John Boddington, who will serve as a guest page for Representative Ron Miller. John will be a junior at Dallastown High School. Would you please stand and be recognized.

The Chair would like to welcome Caleb Bowers, who is a constituent of Representative Kauffman. Caleb attends Wyoming Seminary in Wilkes-Barre. He is in front of the Speaker. Would you please stand and be recognized.

#### BIERNAT FAMILY INTRODUCED

The SPEAKER. The Chair would like to recognize Representative Grucela for an introduction.

Mr. GRUCELA. Thank you, Mr. Speaker.

Mr. Speaker, I am honored to have some members from the district here, a family. We have Joe, Kathy, Megan, Jenny, Kristen, and Betsy Biernat, and they are from the district. They are visiting here in Harrisburg, and they are located to the left of the Speaker. If the Biernat family would stand up, and we welcome you to the House of Representatives.

#### WEAVER FAMILY INTRODUCED

Mr. GRUCELA. Also, Mr. Speaker, we have a very special guest here, a big fan of PCN (Pennsylvania Cable Network). Andy Weaver is here with his dad, Tom. Andy graduated from Nazareth Area High School and recently from Johnstown School. Andy used to e-mail many of us besides myself. Representative Craig Dally, Representative Bob Freeman, and Representative Todd Eachus have all been recipients of Andy's e-mail as he watched PCN and watched our proceedings. He is a big fan and considers himself the number one fan of the State legislature. He has been watching us for 9 years, starting back to when he was in middle school. He said he never misses a broadcast, and I am very happy to have Andy here today with his dad, and they are to the left of the Speaker. So if you will give a warm welcome to Andy and his father, Tom.

Thank you, Mr. Speaker.

**KEENAN MICHAEL PRESENTED**

The SPEAKER. The Chair would invite Representative Everett to the podium for a presentation.

Mr. EVERETT. Colleagues in the House, today I not only have the pleasure of recognizing a young man from the 84th District, which I represent, but also a young man who is from my alma mater of Montoursville High School. There are many days when one of us has the opportunity of introducing a State champion from our district, but it is not often that we get to introduce somebody who won two State championships in 1 day and at the same time broke a 20-year-old State record in track and field.

Ladies and gentlemen, today I have the pleasure of introducing to you Mr. Keenan Michael, who at Shippensburg this year won both the PIAA Class AA 110- and 300-meter hurdle championships. In doing so, Keenan set his own personal best with a 14-flat and eclipsed a 20-year-old PIAA record held by an NFL (National Football League) wide receiver. The record that Keenan broke in the 110s was previously set by a name that most of you will recognize, Qadry "The Missile" Ismail, brother of Raghieb "The Rocket" Ismail, and for those of you who do not remember "The Missile" – I know that everybody from the Wilkes-Barre area probably does – he had the previous record of 14.4 that was set back in 1988 when he ran for Wilkes-Barre Meyers, and then he went on to play at Syracuse and then the NFL for a few years. And shortly after Keenan won the 110s, he went on to win the 300 hurdles with his best time, 38.17.

And for Keenan, these records and these achievements came after having fallen down in the 110s the year before and finishing eighth, and he rededicated himself to go back to Shippensburg the next year. He switched and started running on college hurdles, instead of on high school hurdles, like they use at Shippensburg in the championships. And he also decided to go out for football this year and worked with the football team, lifted weights, got in shape. His good friend, Chad Jacobson, our quarterback from home, convinced him to come out and work out in the summer, and he ended up playing football and became Chad's favorite target and became a part of our football team.

So I would like to ask you to— He also had quite an indoor season. I will not go into all the records he broke during his indoor season before his outdoor season, but I would like you to help me recognize Keenan, and we also have his mother, Jackie is here; his father, Curt, and his Aunt Nickie are here. So I would like you to – if you could stand up – and I would like you to all help me welcome and recognize them for his achievements of two State championships and a PIAA record.

Thank you.

**GUESTS INTRODUCED**

The SPEAKER. Please welcome, as a guest of Representative Mario Scavella, Kyle Mahaney. Kyle is a homeschooled student residing in Stroudsburg, Pennsylvania. He has recently been researching his family tree and found out that he is a descendant of Representative John Cessna, who served as Speaker of the House in 1850 and 1863. Also, please welcome Kyle's parents, Lance and Patricia Mahaney. They are

seated in the gallery. Would you all please stand and be recognized.

The Chair would like to recognize, as guests of Representative Argall, the following constituents who are seated in the rear of the House, Suzanne and Jeffrey Miller from Blandon, Pennsylvania, in Berks County. The Millers won a day at the Capitol as part of the Literacy Council of Reading-Berks, Inc.'s 7th Annual Corporate Spelling Bee and Silent Auction Fundraiser. Would you please stand and be recognized.

The Chair would like to recognize, as the guest of Representative Karen Boback, Eric Phillips, who is serving as a guest page today. Eric is a junior at Tunkhannock Area High School and is accompanied today by his mother, Karen Phillips; brother, Alex Phillips; and family friend, Bob Zampetti, who are located in the gallery. Would you please stand and be recognized.

The Chair would like to recognize Elana Richman, who is the guest of Representative Vitali and is seated in the balcony. Elana is an intern with the Sierra Club and is shadowing Representative Vitali today. Would you please stand and be recognized.

Joining us today, as the guests of Representatives Dave Hickernell, Katie True, and Tom Creighton, are the Joyful Redhatters from Mount Joy. They are seated in the House gallery. Please join me in welcoming them today. Would you please stand.

Here today, serving as a guest page at the request of Representative Dan Moul, is Eric Caldwell. Eric will be a senior this fall at the Bermudian Springs High School with a special interest in political science. Welcome to the hall of the House. Would you please stand and be recognized.

**LEAVES OF ABSENCE**

The SPEAKER. The Chair turns to requests for leaves of absence and recognizes the majority whip, who requests that Representative CURRY of Montgomery County and Representative PETRONE of Allegheny County be placed on leave for the day. The Chair hears no objection. These leaves will be granted.

The Chair recognizes the minority whip, who requests that Representative ADOLPH of Delaware County and Representative PYLE of Armstrong County be placed on leave for the day. The Chair hears no objection. These leaves will also be granted.

Members will report to the floor.

**MASTER ROLL CALL**

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

The following roll call was recorded:

**PRESENT—198**

Argall	Gabig	Mantz	Rohrer
Baker	Galloway	Markosek	Ross
Barrar	Geist	Marshall	Sabatina
Bastian	George	Marsico	Sainato
Bear	Gerber	McCall	Samuelson

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

## ADDITIONS—0

## NOT VOTING—0

## EXCUSED—5

Adolph	Petrone	Pyle	Rubley
Curry			

## LEAVES ADDED—6

Barrar	Everett	Mustio	Raymond
Civera	Harper		

## LEAVES CANCELED—1

Adolph

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

## BILLS REPORTED FROM COMMITTEES, CONSIDERED FIRST TIME, AND RECOMMITTED TO COMMITTEE ON RULES

**HB 2183, PN 4024** (Amended) By Rep. MUNDY

An Act amending the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act, defining "general complaint," "immediate jeopardy" and "priority complaint"; and providing for complaint investigations.

AGING AND OLDER ADULT SERVICES.

**HB 2569, PN 4026** (Amended) By Rep. FREEMAN

An Act establishing a grant program for municipal fire and emergency services organizations; and providing for grant funding.

LOCAL GOVERNMENT.

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

**SB 1028, PN 1328** By Rep. FREEMAN

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

LOCAL GOVERNMENT.

## RESOLUTION REPORTED FROM COMMITTEE

**HR 763, PN 3788** By Rep. GEORGE

A Resolution directing the Legislative Budget and Finance Committee to review the Commonwealth's program for beneficial use of sewage sludge by land application.

ENVIRONMENTAL RESOURCES AND ENERGY.

The SPEAKER. The resolution will be placed on the active calendar.

## BILL REREPORTED FROM COMMITTEE

**HB 2182, PN 4025** (Amended) By Rep. MUNDY

An Act amending the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, further providing for onsite complaint investigations and plans of correction.

AGING AND OLDER ADULT SERVICES.

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

## GUESTS INTRODUCED

The SPEAKER. The Chair would like to recognize Megan Ray, who is an intern in Representative Santoni's district office. Also, Representative Santoni's two daughters, Emma and Leah, are here. Would you please join the Chair in welcoming

them to the floor of the House. They are seated in the balcony. Would you please stand and be recognized.

The Chair would like to welcome guest pages of the majority leader, Representative DeWeese – Nick, Thomas, and Tyler Ames. They are the sons of Mike and Hope Ames. They are in the gallery. Would you please stand and be recognized.

The Chair would like to recognize, as the guests of Representative Caltagirone, Rae Andring, the wife of Judiciary Committee chief counsel, Bill Andring, and Reuben. Reuben has come to the Judiciary Committee meeting today as a member of a unique class of docked-tail dogs. Reuben is a certified therapy dog with Therapy Dogs International. He provides emotional therapy to those he visits, whether it happens to be seniors in nursing homes or children who have been adjudicated in the court system and attend special schools. Senior citizens take to him right away because he gives them so much attention when no one else does, and children who are behaviorally challenged are less inclined to be hostile when he is around them.

Reuben is one of the few Rottweilers certified to be a therapy dog. So much has been written and talked about Rotties being dangerous dogs. Bringing his credentials to the House may change some of those attitudes. Would you please stand and be recognized. I understand Reuben is standing.

## CALENDAR

### RESOLUTION PURSUANT TO RULE 35

Mr. CONKLIN called up **HR 791, PN 3967**, entitled:

A Resolution memorializing Dr. James Naismith.

On the question,  
Will the House adopt the resolution?

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

Mr. CONKLIN. I would like to thank the Speaker for giving me a few moments.

It is very rare on the House floor you get to honor somebody such as James Naismith. For those of you who may not know who James Naismith was, James Naismith was the gentleman that in Springfield, Massachusetts, invented the game of basketball.

## GUESTS INTRODUCED

Mr. CONKLIN. And I would be remiss if I did not also inform you that we are very fortunate today to have some guests. We have my mother, Shirley Conklin, in the gallery; my aunt, Deborah Womer; Ty Womer; and my sister, Cindy Bowman, up in the gallery, but most importantly, if I could have two other individuals stand before I finish. We have a gentleman by the name of Stewart Naismith and Peggy Naismith off to the left of the Speaker, if they could please stand for a moment and be recognized.

The gentleman you just saw stand I am very proud to say is my uncle, Stewart Naismith. Stewart Naismith's grandfather was the inventor of basketball, James Naismith. So it is with

great pride today that we honor James Naismith along with his son, Stewart, for giving us the wonderful game of basketball.

Thank you, Uncle.

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

The following roll call was recorded:

### YEAS—198

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

### NAYS—0

### NOT VOTING—0

### EXCUSED—5

Adolph	Petrone	Pyle	Rubley
Curry			

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

### BILL ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 2499, PN 3961**, entitled:

An Act regulating massage therapy; establishing the State Board of Massage Therapy; providing for funds, for licensure, for disciplinary action, for remedies, for penalties and for preemption.

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—193

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

Eachus	Lentz	Raymond	Williams
Evans, D.	Levdansky	Readshaw	Wojnaroski
Evans, J.	Longietti	Reed	Yewcic
Everett	Mackereth	Reichley	Youngblood
Fabrizio	Maher	Roae	Yudichak
Fairchild	Mahoney	Rock	
Fleck	Major	Roebuck	O'Brien, D.,
Frankel	Manderino	Rohrer	Speaker
Freeman	Mann	Ross	

#### NAYS—5

Ellis	Metcalfe	Moul	Perry
Hutchinson			

#### NOT VOTING—0

#### EXCUSED—5

Adolph	Petrone	Pyle	Rubley
Curry			

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.

### STATEMENT BY MR. McCALL

The SPEAKER. The Chair recognizes Representative McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, just for some brief remarks to say thank you to a lot of people. The House just passed the massage therapy bill. It is a bill that I have introduced for the last 16 years in the House of Representatives.

I want to thank a lot of people, starting with Mike Sturla and Stan Saylor for their diligence and work in getting this bill to the floor of the House of Representatives. Another person who is not with us anymore but really did a lot of work to work out the details between the physical therapists and the chiropractors was Representative Tom Gannon, who was the chairman of the committee last session, but tirelessly worked through public hearings in consultation with the physical therapists and the chiropractors to bring this bill to agreement.

It has been 16 long years. Certainly, Kent Culley with the physical therapists has to be thanked as well. Nikki Jones on my staff, Bob Mustin, I really want to thank all of them for their tireless efforts that after 16 years we finally passed a bill in the House of Representatives that will ultimately professionalize massage therapy in Pennsylvania, and for that, I am grateful and thank all of the members for their tireless work.

### BILL ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 1525, PN 4002**, entitled:

An Act amending the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code, further providing for definitions, for comprehensive plans, for compliance by counties, for impact fees, for ordinance provisions and for transportation capital improvement plans.

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—198

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

#### NAYS—0

#### NOT VOTING—0

#### EXCUSED—5

Adolph Curry	Petrone	Pyle	Rubley
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The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

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

#### BILLS REPORTED FROM COMMITTEE, CONSIDERED FIRST TIME, AND RECOMMITTED TO COMMITTEE ON RULES

##### HB 664, PN 4027 (Amended) By Rep. LEVDANSKY

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, creating a sales and use tax exemption for biomass products used for home heating purposes and agricultural products sold by the original producer for the production of fuel; and further providing for the procedure for claiming special tax provisions and for proof of eligibility.

FINANCE.

##### HB 905, PN 4028 (Amended) By Rep. LEVDANSKY

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

FINANCE.

##### HB 2474, PN 3636 By Rep. LEVDANSKY

An Act providing for earned income tax credit notification.

FINANCE.

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

##### SB 1093, PN 2038 By Rep. LEVDANSKY

An Act amending the act of May 29, 1956 (1955 P.L.1804, No.600), entitled, as amended, "An act providing for the establishment of police pension funds or pension annuities in certain boroughs, towns and townships; authorizing the establishment of police pension funds or pension annuities by regional police departments; providing for the regulation and maintenance of police pension funds or pension annuities; providing for an actuary; continuance of existing funds or transfer thereof to funds herein established; prescribing rights of beneficiaries; contributions by members; providing for expenses of administration; continuation of existing authority to provide annuity contracts; credit for military service; refunds; exempting allowances from judicial process; and repealing certain acts," further providing for applicability of certain benefit provisions for certain beneficiaries; and making a related repeal.

FINANCE.

##### SB 1297, PN 2232 (Amended) By Rep. LEVDANSKY

An Act amending the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, further providing for the expiration of provisions relating to prudent investments; providing for investment

policy, for annual investment report, for segregation of duties and for audit of securities deposited with State Treasurer; in disposition of abandoned and unclaimed property, further providing for judicial action upon determination; and making a related repeal.

#### FINANCE.

The SPEAKER. The House will be at ease.

The House will come to order.

#### RESOLUTIONS PURSUANT TO RULE 35

Mr. RAMALEY called up **HR 769, PN 3840**, entitled:

A Resolution recognizing the Pennsylvania American Legion Keystone Boys State (KBS) program to be held during the week of June 22 through 28, 2008, at Shippensburg University for its contributions to the development of the citizenship skills and understanding of promising young Pennsylvanians and to strengthening the future of our American form of government.

On the question,  
Will the House adopt the resolution?

The following roll call was recorded:

#### YEAS—198

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

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

NAYS—0

NOT VOTING—0

EXCUSED—5

Adolph	Petrone	Pyle	Rubley
Curry			

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

\* \* \*

Mr. EVERETT called up **HR 812, PN 4009**, entitled:

A Resolution recognizing July 2008 as "Take a Swing Against Breast Cancer Month" in Pennsylvania.

On the question,  
Will the House adopt the resolution?

The following roll call was recorded:

#### YEAS—198

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

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

NAYS—0

NOT VOTING—0

EXCUSED—5

Adolph	Petrone	Pyle	Rubley
Curry			

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

\* \* \*

Mr. FAIRCHILD called up **HR 813, PN 4010**, entitled:

A Resolution designating the week of June 20 through 28, 2008, as "Civil Air Patrol Cadet Week" in Pennsylvania.

On the question,  
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—198

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

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

NAYS—0

NOT VOTING—0

EXCUSED—5

Adolph	Petrone	Pyle	Rubley
Curry			

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

\* \* \*

Mr. SHAPIRO called up **HR 815, PN 4014**, entitled:

A Resolution designating the month of September 2008 as "Prostate Cancer Awareness Month" in Pennsylvania.

On the question,  
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—198

Argall	Gabig	Mantz	Rohrer
Baker	Galloway	Markosek	Ross
Barrar	Geist	Marshall	Sabatina
Bastian	George	Marsico	Sainato
Bear	Gerber	McCall	Samuelson
Belfanti	Gergely	McGeehan	Santoni
Benninghoff	Gibbons	McI. Smith	Saylor
Bennington	Gillespie	McIlhatten	Scavello
Beyer	Gingrich	Melio	Schroder
Biancucci	Godshall	Mensch	Seip
Bishop	Goodman	Metcalfe	Shapiro
Blackwell	Grell	Micozzie	Shimkus
Boback	Grucela	Millard	Siptroth
Boyd	Haluska	Miller	Smith, K.
Brennan	Hanna	Milne	Smith, M.
Brooks	Harhai	Moul	Smith, S.
Buxton	Harhart	Moyer	Solobay
Caltagirone	Harkins	Mundy	Sonney
Cappelli	Harper	Murt	Staback
Carroll	Harris	Mustio	Stairs
Casorio	Helm	Myers	Steil
Causar	Hennessey	Nailor	Stern

Civera	Hershey	Nickol	Stevenson
Clymer	Hess	O'Brien, M.	Sturla
Cohen	Hickernell	O'Neill	Surra
Conklin	Hornaman	Oliver	Swanger
Costa	Hutchinson	Pallone	Tangretti
Cox	James	Parker	Taylor, J.
Creighton	Josephs	Pashinski	Taylor, R.
Cruz	Kauffman	Payne	Thomas
Cutler	Keller, M.K.	Payton	True
Daley	Keller, W.	Peifer	Turzai
Dally	Kenney	Perry	Vereb
DeLuca	Kessler	Perzel	Vitali
Denlinger	Killion	Petrarca	Vulakovich
DePasquale	King	Petri	Wagner
Dermody	Kirkland	Phillips	Walko
DeWeese	Kortz	Pickett	Wansacz
DiGirolamo	Kotik	Preston	Waters
Donatucci	Kula	Quigley	Watson
Eachus	Leach	Quinn	Wheatley
Ellis	Lentz	Ramaley	White
Evans, D.	Levdansky	Rapp	Williams
Evans, J.	Longietti	Raymond	Wojnarowski
Everett	Mackereth	Readshaw	Yewcic
Fabrizio	Maher	Reed	Youngblood
Fairchild	Mahoney	Reichley	Yudichak
Fleck	Major	Roae	
Frankel	Manderino	Rock	O'Brien, D.,
Freeman	Mann	Roebuck	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—5

Adolph	Petrone	Pyle	Rubley
Curry			

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

The SPEAKER. The House will be at ease.

The House will come to order.

## BILL ON SECOND CONSIDERATION

The House proceeded to second consideration of **HB 2458, PN 3620**, entitled:

An Act making appropriations from the restricted revenue accounts within the State Gaming Fund and from the State Gaming Fund to the Pennsylvania Gaming Control Board, the Department of Revenue, the Pennsylvania State Police and the Attorney General for the fiscal year beginning July 1, 2008, to June 30, 2009, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2008.

On the question recurring,

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

The SPEAKER. If the Chair can have the attention of the members. For the information of the members, when we last considered this bill, there were three amendments – the Reichley amendment A07262, the Civera amendment A07263, and the Reichley amendment A07267. The Reichley

amendment is drawn to the Civera amendment. So they will be taken in that order.

## AMENDMENT A07262 RECONSIDERED

The SPEAKER. The Chair is in receipt of a reconsideration motion. It has been moved by Representatives Evans and McCall that the vote by which amendment A07262 was passed to HB 2458, PN 3620, on the 4th day of June be reconsidered.

On the question recurring,

Will the House agree to the motion?

The SPEAKER. On that motion, the Chair recognizes Representative Evans.

Mr. D. EVANS. Thank you, Mr. Speaker.

Mr. Speaker, I am asking members of this body, particularly on the Reichley amendment, for a reconsideration, and the reason I am asking for a reconsideration, as I attempted to explain at that particular time, is that this would be an unfair burden put upon these casinos, the new industry, in terms of the fairness around the question of assessment. So I have asked that we bring this up for reconsideration so that we do not have that unnecessary burden on those that have started now to those that will start later.

Increasing this assessment will also break the State commitment to the licensing of certain inconsistencies with regard to expenses, which the State withdraws from their accounts.

So I would ask that we would vote for reconsideration, Mr. Speaker.

The SPEAKER. Representative Reichley.

Mr. REICHLEY. Thank you, Mr. Speaker.

If I could have the attention of the members because I think this is an important point for everyone to grasp just what the Evans motion for reconsideration would entail.

When this amendment 7262 was passed, I believe it was last week, we put it in very clear fiscal terms that under existing law, existing law, the language of the Gaming Act passed in 2004 stated that an assessment will be placed against all existing facilities to pay for the operating expenses of the board. That is what my amendment would, in fact, ask us to do. Now, this has been criticized by those facilities that may be operating at this time as somehow being unfair, and I want to make sure the members understand just exactly what the effect of reconsideration would produce.

If this amendment is reconsidered and theoretically defeated, you are then endorsing a \$25 million loan from the Property Tax Relief Reserve Fund to go and essentially bail out the seven existing casino operations, and this money would be utilized to pay the operating expenses of the Gaming Board in this fiscal year, the same Gaming Board which recently was revealed to be paying \$60,000 of what my friend referred to as "hush money" to the departing executive director to ensure that she did not talk about any of the allegations of impropriety by the Gaming Board in the issuance of two different licenses.

Now, before anybody jumps to any assertion that somehow I am taking the side of one particular gaming facility or another, I think it should be noted that I was a "no" vote when gaming legislation came before the legislature. So I am not doing this at the behest of one particular facility or another, but I am doing it

for the fiscal propriety of what we are looking at in the budget this year.

This amendment would not have any impact upon the General Fund. The legislation as offered by the gentleman from Philadelphia does not affect the General Fund. Essentially, what you are doing is a go-past-home card for free or a free pass to the seven existing facilities to say no, no, no, you do not have to abide by current law, you do not have to abide by the act which we put forth in 2004 and amended in 2006. We are going to now allow the existing facilities that are making millions of dollars to get off the hook for the coming fiscal year, and I think, really, the seven existing facilities should be looking at the operations of the Gaming Board and questioning if the level expenditure of \$62 million is something that is warranted.

Mr. Speaker, may I have some order? I am sorry; may I have some order?

### **THE SPEAKER PRO TEMPORE (MICHAEL P. McGEEHAN) PRESIDING**

The SPEAKER pro tempore. The House will come to order. The gentleman deserves to be heard.

Mr. REICHLEY. Now, just to put in full context, some of you may have been provided a letter signed by seven, seven of the either chairmen or presidents of the gaming facilities, and they have stated that overall and since 2006, our casinos have spent billions of dollars in capital investment, hired thousands of employees, contributed over \$600 million to property tax reform, over \$210 million to the horse racing industry, and approximately \$90 million to other economic development projects. Those are the facts and the numbers cited by the seven existing facilities, and you are now telling me and the rest of the people in Pennsylvania that you want to let these facilities off for free, you want to have that money taken out of the Property Tax Relief Reserve Fund, which people are counting on this August to give them that \$160 or so, or maybe less, of property tax relief? Now, you tell me what is right about letting those facilities off the hook and not having to pay anything to operate the Gaming Board, which is the regulatory body overseeing that, and instead having it taken out of property tax relief.

The letter provided by the seven presidents said that it was understood and anticipated that if the operators opened early, they would somehow not bear the burden of this, but look carefully at the language, "understood and anticipated." That does not mean that that is the law. The law says the operating facilities pay the expenses, pay through an assessment, and this assessment would go up to the worldly sum from 1.5 percent to either 2 or 3 percent of gross terminal revenue. This is not something that is going to break the bank of these facilities; it is not going to bankrupt these facilities.

And I urge the members to vote "no" on the motion for reconsideration so that you can look straightforward at your constituents and say, I voted on your behalf. I did not get led around the nose by the existing facilities, I did not get led around the nose by my leadership. I voted for you, my constituents, to ensure that you got property tax relief.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

### **LEAVE OF ABSENCE CANCELED**

The SPEAKER pro tempore. The Chair notes the presence of the gentleman from Delaware, Representative Adolph, and directs the clerk add him to the master roll.

### **CONSIDERATION OF HB 2458 CONTINUED**

The SPEAKER pro tempore. On the motion to reconsider the vote, the Chair recognizes the gentleman, Representative Mustio.

Mr. MUSTIO. Thank you, Mr. Speaker.

I would like to interrogate the maker of the amendment. Is that possible, the amendment, not the motion?

Mr. Speaker, I am in support of the motion to reconsider, and I wanted to ask the member some questions based on his comments, or is it proper to wait when we bring the bill up again itself?

The SPEAKER pro tempore. Does the sponsor agree to be interrogated?

Mr. D. EVANS. Yes, Mr. Speaker.

Mr. MUSTIO. No, not the sponsor—

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

Mr. MUSTIO. Mr. Speaker, perhaps— Let me reclarify it. Is it proper for me to interrogate Representative Reichley on his comments – I am in support of the motion to reconsider – or should I wait until the bill is up for a vote again?

The SPEAKER pro tempore. It is proper as long as your comments and questions are directed to the motion to reconsider.

Mr. MUSTIO. Then I think it is probably proper that I wait. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the motion to reconsider the vote, the Chair recognizes the gentleman, Representative Clymer.

Mr. CLYMER. Thank you, Mr. Speaker.

Mr. Speaker, I also rise to ask for a "no" vote on reconsideration of amendment A07262.

Mr. Speaker, the prior speaker really outlined very intensely and in a very commonsense way why we should oppose reconsideration, this motion, that the casinos that are now operating should be paying the assessment that they had agreed to.

And in addition to all the things that the prior speaker had mentioned, I would like to add the fact that we also know that in order to continue their record profits, record gambling that is taking place at these seven casinos that are now up and running, that they carved out for themselves a 50-percent smoking area, which, while it will be injurious to the health of their employees, it certainly will allow more people to gamble away their money—

The SPEAKER pro tempore. Will the gentleman suspend.

The Chair reminds the gentleman to confine his remarks to the question of reconsideration.

Mr. CLYMER. Yes, and I appreciate the Speaker for reminding me.

Mr. Speaker, for those reasons that have been previously outlined, I, too, come and ask the members not to support this, to oppose the motion for reconsideration. The dollars that have

to be paid to those four agencies, the \$62 million, that assessment had been agreed to. The casinos are making record profits. They will continue to make record profits. They should pay their fair share, the amounts that they stipulated early on that they would freely give of those dollars that they were earning in order to make certain that the Department of Revenue and the Pennsylvania Gaming Control Board, State Police, and Attorney General offices would be fully funded, which is so important for the total operations of the existing casinos.

So, Mr. Speaker, I conclude my remarks and again ask the members respectfully to oppose the motion for reconsideration. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Does the gentleman from Allegheny, Representative Maher, seek recognition?

On the question of reconsideration, the Chair recognizes the gentleman, Mr. Maher.

Mr. MAHER. Thank you, Mr. Speaker.

If I could interrogate the maker of the motion, please?

The SPEAKER pro tempore. Does the gentleman agree to be interrogated?

Mr. D. EVANS. Yes, Mr. Speaker.

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

Mr. MAHER. Thank you, Mr. Speaker.

I seem to remember yesterday afternoon there being some interest on another question for a motion to reconsider, and I seem to recall, if I am not mistaken, that you did not think that allowing people to record their votes, ensure that they are recorded correctly, was such a great idea last night. Can you answer me what it is about today that causes you to think this is a good idea now when it was, in your opinion, a bad idea last night?

Mr. D. EVANS. Mr. Speaker, I do not understand that question.

Mr. MAHER. Well, Mr. Speaker, I am just trying to understand why it is you think you want to have another vote on this when you apparently thought having another vote procedurally was a bad answer yesterday. Why is it a good answer today?

Mr. D. EVANS. You know, Mr. Speaker, I never thought it was a bad idea.

Mr. MAHER. Well, you voted against it yesterday. Why are you asking for it today?

Mr. D. EVANS. Mr. Speaker, I am not sure what the gentleman is talking about.

Mr. MAHER. Last evening—

Mr. D. EVANS. What does this have to do with the motion of reconsideration on the Reichley amendment?

Mr. MAHER. It is specifically about the concept of the motion to reconsider.

Now, over the years here, it has often been extended as a courtesy, a motion to reconsider, so that folks can record their votes and make sure that the history, the Journal, of our proceedings fairly reflects the way people intended to vote on whatever the question is, and often that is extended as a courtesy.

Now, yesterday evening there was a motion to reconsider for that purpose that not only did you vote against but my understanding is that you were trying to inspire others to oppose. So if this courtesy of allowing a motion to reconsider is

now by the board last evening, why do you think we should reembrace it today?

Mr. D. EVANS. It is a different day, Mr. Speaker.

Mr. MAHER. It is a different day. Now, what is so different today than yesterday?

The SPEAKER pro tempore. The gentleman will suspend.

Mr. D. EVANS. It is Tuesday.

The SPEAKER pro tempore. The gentleman will suspend.

The Chair will remind the gentleman from Allegheny to confine his remarks to the reconsideration at hand and no prior reconsiderations.

Mr. MAHER. Well, thank you, Mr. Speaker.

I do think that I can speak on the motion to reconsider in the context of the history of this chamber. I do not think that is out of order, and I will conclude my interrogation of the gentleman offering this amendment, and I am glad he is aware that today is Tuesday. That much we are apparently able to agree upon.

But I do find it a bit disingenuous, to say the least—

The SPEAKER pro tempore. Has the gentleman concluded his interrogation?

Mr. MAHER. I said I had and I was speaking on the motion, sir.

The SPEAKER pro tempore. The gentleman is in order.

Mr. MAHER. Thank you.

I do think it is a bit disingenuous for all the strident efforts opposing the opportunity for members of this chamber to make sure their votes were recorded as they intended on a motion to reconsider last evening, and to now see you rising today thinking that we should be extending this motion to reconsider as a courtesy today just strikes me as a bit flip-floppery. Pick one. Either motions to reconsider should be permitted as a courtesy or not.

Last evening the people standing where the maker of this motion is today were quite clear that the days of that courtesy had passed, and now today we flip-flop, flip-flop, flip-flop, and I would say, sir, the old saying about having your cake and eating it, too, but it is not really working out in the long run when you want to have it both ways. The people of Pennsylvania in the long run will not be fooled. You cannot be for something and against it. You cannot be against it one day and for it the next. The people in Pennsylvania catch on.

So over the years I have often voted for motions of reconsideration as a courtesy, but since the judgment of the leadership on that side of the aisle has been to end that process, at least as of last evening, I am not ready to rechristen it and pretend that yesterday did not happen and the discourtesy to the members yesterday is remembered today, and I will not be extending support for this motion to reconsider. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

## PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. On the question of reconsideration, the Chair recognizes the gentleman for the second time, Representative Reichley.

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

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. REICHLEY. Mr. Speaker, I note that within rule 26, it lays out the timeline for proper reconsideration of a vote, and this vote, which the gentleman, Mr. Evans, is asking to reconsider, took place on June 4 of 2008 at 11:47 a.m. I understand that the motion for reconsideration was filed on that day, but I am curious, Mr. Speaker, if we can properly entertain a vote on the motion for reconsideration because more than 5 days have passed since the actual vote occurred?

The SPEAKER pro tempore. The Parliamentarian has informed the Chair that the reconsideration was filed the same day as the initial vote and therefore the motion to reconsider is in order.

Mr. REICHLEY. Mr. Speaker, is there anything within our rules that the Parliamentarian can refer the House to that sets a time limit upon when a motion for reconsideration can occur, because theoretically, as one of our fellow members pointed out, a reconsideration motion could have been filed 2 months ago on a piece of legislation, and the question would be, is it truly appropriate in order to have that before the House?

The SPEAKER pro tempore. Again, the gentleman will note in rule 26 that if the motion is filed within 5 days in which the bill has been passed in the House, that motion is in order.

Mr. REICHLEY. And I am not trying to be overly technical here, Mr. Speaker, but that deals with the filing of the motion to reconsider. It does not address when the vote on the motion to reconsider is to take place, and I am wondering if the Parliamentarian can refer us to anywhere within our rules that states the vote on the motion to reconsider must occur within a certain time period?

The SPEAKER pro tempore. The rule is silent on that, to the gentleman, the rule is silent on that, and that has been the precedent of the House. As long as the reconsideration is filed within the 5-day time period, the reconsideration is in order.

Mr. REICHLEY. Mr. Speaker, I would refer you to the paragraph, I guess it is the second full paragraph, on page 22 of the rules, under rule 26. It says, "When a motion to reconsider any such vote is made within the aforesaid time limits and is decided by the affirmative vote prescribed herein...." I would argue that the rules imply that the 5-day period applies not only to the filing of the motion for reconsideration but also to the taking of the vote on the motion for reconsideration and would ask that the Parliamentarian consult Mason's Manual to see if there is any clarification on that issue.

The SPEAKER pro tempore. Yes; I will direct the gentleman to the portion of rule 26, and the paragraph begins, "A motion to reconsider any such vote must be made on the same day on which the initial vote was taken...." That being the case, this motion, the Chair rules, is in order.

Mr. REICHLEY. And just to clarify it, because I may need to file a motion to appeal the ruling of the Chair, the paragraph right below that, Mr. Speaker, says, "When a motion to reconsider any such vote is made within the aforesaid time limits and" – that is a conjunctive – "and is decided by the affirmative vote prescribed herein, the question immediately recurs on the bill...."

So my position is that the motion – excuse me – the vote on the motion for reconsideration must also occur within the 5 days from when the initial vote took place, not just the filing of the motion. You have to have both within the 5-day period.

The SPEAKER pro tempore. To answer the gentleman's question, again referring to that same paragraph, we are dealing with two separate issues. The Parliamentarian has informed the

Chair, and we are informing the House, the two separate issues are the timely filing of the reconsideration motion, and that was done, obviously, 6/4/08, the same day that we took up the initial passage of this House bill, and now we are on the question of an affirmative vote on the reconsideration motion. They are two separate questions. This has been the past precedent of the House, and this reconsideration motion is in order.

### RULING OF CHAIR APPEALED

Mr. REICHLEY. All right.

Well, Mr. Speaker, I would challenge the ruling of the Chair that the motion for reconsideration is in order. I believe that the rules are not consistent with the interpretation of the ruling of the Chair and that the paragraph, the third paragraph under rule 26, does, by inference, require that the motion to reconsider any such vote is made within the aforesaid time periods and is decided by the affirmative vote prescribed therein, that not only must the motion be filed but also the vote on the motion for reconsideration be taken within that 5-day period. That is the basis for my appeal of the ruling of the Chair.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The gentleman, Representative Reichley, has appealed the decision of the Chair. The decision is that the reconsideration motion filed by Representatives Evans on 6/4/08 to HB 2458 is in order.

On the question,

Shall the decision of the Chair stand as the judgment of the House?

### PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. On the question—

Mr. S. SMITH. Mr. Speaker? Mr. Speaker?

The SPEAKER pro tempore. On the question, the Chair recognizes the minority leader.

Mr. S. SMITH. I suppose it is possible for the Chair to make rulings on any independent day unrelated to the precedent of the House, but quite often when the Chair makes a ruling, they cite precedent as fortifying their decision. I admit I did not hear all of the exchange, but I am curious, Mr. Speaker, if, through the Parliamentarian's records, if there are precedents that would substantiate the current ruling of the Chair, and I would pose that as a parliamentary inquiry.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The House will be at ease while the Parliamentarian researches the question.

The House will come to order.

The Chair was incorrect in the inquiry to Representative Reichley in citing past precedent as an example. The Chair has been corrected and refers to an earlier ruling by the Chair that the paragraph cited in rule 26 deals with two separate questions. The one question deals with the timely filing of the reconsideration motion. That has been done. The second question is whether there is a time limit on the reconsideration itself.

The Chair rules that there is no time limit on the reconsideration motion, and the Chair rules that the motion is in order as long as the bill is still in possession.

On the question of appeal, the Chair recognizes the gentleman, Mr. Cutler.

Mr. CUTLER. Thank you, Mr. Speaker.

I would like to rise in support of Representative Reichley's motion, very easily spoken with regard to this.

The first full paragraph clearly outlines, Mr. Speaker, the provisions by which when a timely motion can be made. However, in the next paragraph, and I would like to read from it, if I may, "When a motion to reconsider any such vote is made within the aforesaid time limits" – that being 5 days – "and is decided by the affirmative vote prescribed herein, the question immediately recurs on the bill, resolution or other matter reconsidered."

Mr. Speaker, the reason I support this is very simple: The time limit in the second full paragraph on page 22 in rule 26 applies to both. While the motion may have been timely filed, it is inappropriate to bring it up for a vote outside of that 5-day period.

Mr. Speaker, I believe it is one simple little word; it is "and," but "and" makes the time limit apply both to the motion and to the vote, and accordingly, I support the motion to overrule the ruling of the Chair. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and returns to the minority leader. Do you seek recognition?

Mr. S. SMITH. Mr. Speaker, I would rise in support of the notion that the ruling of the Chair is incorrect.

Clearly, Mr. Speaker, when you look at the language within that paragraph, those two components are tied together. But beyond looking at the sentence structure and the grammar, I think one has to look at the actual effect of the ruling of the Chair. To suggest that once a reconsideration motion is filed within the 5 days that this issue is just held in limbo, in perpetuity potentially, I think is counterintuitive to the nature of due process of this place, of trying to move forward and resolve issues. It would seem to me, Mr. Speaker, that it is counter to the intent of the rules to allow it to linger over an extended period of time.

So I would simply say on those two counts, Mr. Speaker, I respectfully disagree with the ruling of the Chair. Just to quickly restate, one, based on the actual grammatical structure of the paragraph in question, and second, in terms of the net effect and impact it has on the legislative process, I think it would be detrimental to allow that type of motion to linger for a long time without some consequence of time. And the bottom line is, Mr. Speaker, why is the 5 days in there if it does not apply to both?

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

### PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. The Chair recognizes the gentleman from Allegheny, Representative Maher.

Mr. MAHER. A parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. MAHER. Since apparently we have a new way of telling time and counting days in this chamber, that 5 days magically is not 5 days, that in the event— I guess I am trying to understand a little bit the difference between a motion for reconsideration and a motion to rescind.

For instance, if I understand Mason's correctly, when a motion to reconsider is not in order, a motion to rescind is in order. So, for instance, if I wanted to offer a motion to rescind the action by which the bill to prevent furloughs of all the Pennsylvania State workers and to keep our parks open and keep the State operating just by the budget impasse, if I wanted to make a motion to rescind the action by which that bill was buried in committee, would it be timely for me to make a motion to rescind, or is there some time limit involved with that as well?

The SPEAKER pro tempore. The question before the body, Representative Maher, is the question of the appeal of the Chair, the decision of the Chair.

Mr. MAHER. And I am trying to gain an understanding on the rescission versus the motion to reconsider so that I can decide how the appropriate vote should be on this. Is there a time limit on a motion to rescind?

The SPEAKER pro tempore. Again, we are dealing with the question of the appeal of the ruling of the Chair.

Mr. MAHER. And the key element in this ruling of the Chair is a question of whether or not 5 days have passed, and anyone with a calendar can tell that 5 days have passed. So apparently there really is not a time limit on a motion to reconsider, and I am just trying to understand this vis-à-vis a motion to rescind. Is there a time limit on a motion to rescind? And then if I have the answer to that, I will conclude my parliamentary inquiry. I just want to understand.

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

The House will come to order.

On the question of the appeal of the Chair—

Mr. D. EVANS. Mr. Speaker?

The SPEAKER pro tempore. The Chair recognizes the Appropriations chairman, Representative Evans.

Mr. D. EVANS. Thank you, Mr. Speaker.

Mr. Speaker, I ask that the members uphold the decision by the Chair, and it is very clear that what came from the Chair was that it is solid on this particular issue. I understand that if members have some concern to handle this issue, there is a process to handle that particular, but I think he has been very clear. He has done his research. He answered the question of the Republican leader based on the information that he has.

I would hope that we can get to the substance of the amendment and just vote the amendment one way or the other. But I just ask that we uphold the decision of the Chair. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and returns to Representative Maher on the appeal of the Chair.

Mr. MAHER. Mr. Speaker, we were at ease pending a response to my parliamentary inquiry, and I do not know that I, in fact, I am certain I did not hear a response. So if you shared that information, I apologize, but could you repeat it?

The SPEAKER pro tempore. The Chair reminds the gentleman that we are dealing with the question of the appeal of

the ruling of the Chair. If the gentleman has questions about the rule of rescinding, I would ask him to approach the rostrum and have a sidebar with the Parliamentarian.

Mr. MAHER. Well, thank you, Mr. Speaker, and I appreciate that.

That concludes my parliamentary inquiry. Now I would like to speak on the motion.

The SPEAKER pro tempore. The gentleman is in order.

Mr. MAHER. Thank you, Mr. Speaker.

I am often puzzled when this reformed legislature cannot answer simple questions in broad daylight. When simple questions require answers in secret, it seems opposite of openness and reform and transparency, and it is disappointing. But on this question, the decision of the Chair is so obviously violating our rules. Our rules say that a motion to reconsider shall be voted within 5 days.

Now, if we are going to establish a precedent where that does not have to happen, I suspect you may discover that people will be filing motions to reconsider on just about anything and stacking them up, and then 5 days, 10 days, 20 days, a month later, that motion to reconsider will be pending. And you may have the opportunity under this bizarre interpretation of black ink on a page that 5 days in this House of Representatives is no longer 5 days, that we have gone through some sort of a time warp here, and once again our rules are being ignored for the convenience of skulduggery, skulduggery enabled by ignoring the rules.

Anybody in Pennsylvania who owns a calendar knows that more than 5 days have passed, yet the Chair rules "it ain't so." We have gone through a time warp – fantastic. Let us alert the scholars in physics at all the major universities in this State and share the secret that has been discovered on the rostrum today, how to actually bend time. Bending time to suit political contrivances, I suspect, is not altogether of interest to the scholars in physics, but the time warp that has been suggested in this Chair violates not just the rules but common sense. Five days have passed.

Please, do not sustain this notion that this chamber has somehow or another been transported through time, or if you believe we have, please buy tomorrow's lottery ticket. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and returns to the minority leader, Representative Smith.

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

Mr. Speaker, again, I continue to support the challenge of the Chair to suggest that the Chair's ruling is incorrect, respectfully. I would suggest to the members that if the ruling of the Chair is upheld, it opens up a tool that really circumvents the whole process of a reconsideration motion and that it is not a necessary perversion of what that rule was intended to do, in my opinion.

Mr. Speaker, the point I am making is that the rules are clear that any bill that has been on the calendar for 15 days would be automatically referred back to a committee. Therefore, if the shoe were slightly on the other foot in this case, and let us say I was in opposition to the position of the gentleman from the Lehigh Valley and I had filed the reconsideration motion, and for some reason the majority party decided that they did not want to reconsider that, they did not want to have to vote the reconsideration, all they would have to do is let that bill sit under this interpretation of, you can call it up whenever; they

would just have to let that bill sit for 15 days. That bill would change its legislative position as far as the calendar, and you would never see that reconsideration motion.

I think it opens the door for things that were not intended, that the purpose of the rule was not intended. The purpose of the rule is to say you have to file it and vote it within 5 days, and then you can put off the actual reconsideration of that amendment, the second voting of that amendment. But the notion that this House should decide whether or not it is going to reconsider the underlying question to the appeal should be done within the 5 days.

I would add, Mr. Speaker, that within the rules of the House and of Mason's Manual and the general sense of parliamentary procedure, there is almost always a way to backtrack or revisit an issue. For instance, in this case, Mr. Speaker, instead of going through the process that I believe undermines the intent of this rule, an amendment could have been filed – this bill is still on second consideration as long as it was given its proper time line – an amendment could have been filed that would have, say, removed the original Reichley amendment.

So my point is, Mr. Speaker, there are ways for the majority to do – and the majority does not necessarily mean Republican or Democrat; the majority will of the body – there are ways to accomplish that issue without enacting a ruling of the Chair that clearly undermines the clear grammatical intent of that particular rule.

So I would urge the members to vote against the ruling of the Chair and to acknowledge that that does not foreclose the majority party, in this case, from readdressing this issue. It just changes the process, but it would be more within the context of the rules instead of circumventing them by engaging in this ruling.

I would ask the members to vote in accordance, whichever way that is going to be, red or green, I am not sure yet, but I would ask the members to disagree with the ruling of the Chair. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair reminds the House that on questions of order, members are permitted to speak once. The Chair, however, is granting latitude to the maker of the motion, Representative Reichley.

Mr. REICHLEY. Thank you, Mr. Speaker.

Not trying to be impertinent, has the Parliamentarian consulted the former Parliamentarian at all to determine if he has any past recollection of this question arising before the House?

The SPEAKER pro tempore. Representative Reichley, the question before the House is the appeal of the ruling of the Chair. You may approach the rostrum and have a sidebar with the Parliamentarian.

Mr. REICHLEY. All right. Thank you, Mr. Speaker. But would the House be at ease then, Mr. Speaker?

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

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

The SPEAKER. The House will come to order.

The Chair recognizes Representative Reichley.

Mr. REICHLEY. Thank you, Mr. Speaker.

After our conference at the dais, based upon my question whether there had been any consultation with the former or previous Parliamentarian, I think the record should reflect that the previous Parliamentarian informed us that while there is not any precedent within the decisions from the Chair, it has been past practice to hold votes on reconsideration within the 5 days. That existed with Speakers of both a Republican and a Democratic nature and in fact occurred within this current session while you yourself, Mr. Speaker, were in the Chair. So the past practice has been to hold votes within the 5 days, as I am arguing should be the interpretation of the rule from the Chair.

Now, should I speak on the motion at this point?

The SPEAKER. If the Chair can just amplify, the gentleman is correct. There is a three-step process for reconsideration. One is, the filing of the motion to reconsider that has to be done within 5 days. The second is, it is followed by an affirmative vote, and if that affirmative vote is successful, then you move to the third step, which is another vote.

There is no time limit that applies. Except to the first part of that sequence to file the motion to reconsider, there is no time limit. The rule is silent on the time limit to have an affirmative vote or a negative vote on that reconsideration. That is in fact the ruling of the Chair. It has been the practice and will continue to be the practice of this Chair to take reconsideration motions before the House as quickly as possible.

The gentleman is correct. It has been a practice, but there is no precedent.

Mr. REICHLEY. Am I now speaking on the motion?

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

Mr. REICHLEY. I wanted to, with all deference to the Chair, be the last one to speak on this, so if there is any other member, perhaps the gentleman from Philadelphia, who wanted to say anything else? If not, I will proceed.

The SPEAKER. The gentleman—

## PARLIAMENTARY INQUIRY

Mr. DeWEESE. Just a point of parliamentary procedure.

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

Mr. DeWEESE. And this is purely academic. It does not apply to this minute, except in general.

If the two floor leaders were interested in speaking subsequent to the honorable gentleman, Mr. Reichley, would we, by parliamentary tradition, be able to speak? I do not necessarily want to today; I was just curious.

The SPEAKER. For the information of the members, on points of order, members are allowed to speak once. It is the understanding of the Chair the gentleman is up for the second time, which is okay. But leaders are, as I said before, and I will be consistent, are extended latitude that does not flow to the rank-and-file members, for obvious reasons.

The gentleman may proceed.

Mr. REICHLEY. All right. Thank you, Mr. Speaker.

Mr. Speaker, I think we need to put this vote in very clear context. What you will be doing by voting on this appeal of the Chair is in fact setting a precedent. While we just had a clarification from a former Parliamentarian that the prevailing

practice had been to hold votes on motions for reconsideration within 5 days, consistent with the interpretation that the gentleman, Mr. Cutler, and I were offering to the House, by voting to sustain the ruling of the Chair that there is no time limit, you will be creating a precedent.

And while one may say, well, this is something we will refer to the Speaker's Reform Commission or to the Rules Committee to rectify, until such a new ruling would come about, you will have created a precedent that a bill which is before the House, which is the subject of a motion for reconsideration, filed back on January 3 of 2007, could still be brought up today. There would be no time limit whatsoever based upon the ruling of the Chair, if you sustain that ruling.

And I want everyone to really carefully consider that this affects the reputation of the House. People who have been in the Speaker's Chair stretching from Manderino through Irvis, through Ryan, and Speaker's before that, all upheld a practice of holding the vote on the motion to reconsider within 5 days consistent with the interpretation we are offering today. And you are tarnishing and sully the consistent history of the House in according members that practice all for the sake of seven casinos, if that is really what you want to base your vote on, that this affects the integrity of the House.

And surely I know the members in this Assembly are cognizant of the fact that at some day down the road, the shoe could be on the other foot. And I would suggest to the members on the other side of the aisle, who have been very passionate about the need for reform and transparency and openness, do you really want to put us on a course down the road where such a parliamentary maneuver could be used to your disadvantage at some point? Do you want to be the one on the receiving end at some point when you may be in the minority to be told, hey, that motion of reconsideration we filed 2 weeks ago, 3 weeks ago, 4 months ago, we are now going to bring up based upon how many members we have here today? What is to prevent a party of the majority from looking at the board on any given day and saying, hey, you know what? They are three people down; let us do this vote today, and we are going to jam something through. This goes to the truthfulness of the process, to the integrity of the House, and should not be bandied about as a way of somehow letting seven casinos off the hook.

Now, this is not about me; it is not about, you know—Pretend it is somebody you like over here. Pretend it is Mr. Maher or somebody like that, somebody you like, that is offering this motion. You know, think about really what is at stake here for the reputation of the House that you would allow some ad infinitum time period to pertain when any motion for reconsideration on any bill could be brought up no matter how convincingly a bill had been defeated or how narrowly a bill had been defeated.

And I really am asking the members to look to their oath of office and to the integrity of their service here to determine if you want to allow this wide-ranging, open-ended interpretation that would allow for the majority to do anything at any given time, trampling the rights of the minority.

And as I said, you really are affecting, I think, the leadership of people like Irvis, Manderino, Ryan, and others in years past who would never have allowed this as a precedent to take place, because the practice always was to hold the motion for reconsideration within 5 days, in a timely way.

And I will ask my final question for the Chair: Please clarify what the vote should be if a "yes" vote is upholding the ruling of the Chair and a "no" vote is overruling or vice versa.

But please, members, look to the oath of office you took. Look to the integrity of the process here of the House, the reputation. Do not let it be sullied and tarnished on an ephemeral budgetary matter.

Thank you, Mr. Speaker.

The SPEAKER. If the gentleman will indulge the Chair, the Chair does take these parliamentary inquiries very seriously. The Chair has just found one precedent. We are researching this further. But there was a vote on September 28, 1993, whereby a vote was taken on June 23, the reconsideration was filed that same day, and the vote on reconsideration was not taken until September 28. So there is some precedent for what we are doing.

Representative Evans.

Mr. D. EVANS. Mr. Speaker, I was not going to comment—

The SPEAKER. Will the gentleman suspend.

For what purpose does the gentleman rise?

Mr. REICHLEY. Mr. Speaker, are you able to tell us then if that was within 5 legislative days—

The SPEAKER. The Chair—

Mr. REICHLEY. —because if so, that would be consistent with the rule.

The SPEAKER. The Chair stipulated that he is further researching that very issue, but the Chair wanted to inform the members of the precedent, that there was at least one instance that the Chair is aware of where a vote was taken on June 23 and the subsequent reconsideration vote was not taken until September 28. The Chair is not aware of how many legislative days intervened.

Mr. REICHLEY. But certainly that is consistent—

The SPEAKER. But the Chair will, if we get that research done before the vote, we will let the members know.

Mr. REICHLEY. And is that the only situation, Mr. Speaker, before today—

The SPEAKER. The Chair is researching as much as they can for the information of the members.

Mr. REICHLEY. I take it then— Well, it would be important to understand if that September date was within the 5 legislative days, because otherwise, I think the Chair is stating this would be the first time the House would ever be doing a vote on a motion for reconsideration beyond the 5 legislative days.

The SPEAKER. The Chair is not certain that it was not— There is no precedent in that regard, but the Chair is not aware of any precedent – that is why we separated precedent from practice – that requires the affirmative or negative vote on the reconsideration be done within 5 days.

The Chair thanks the gentleman.

Mr. D. EVANS. Mr. Speaker?

The SPEAKER. Representative Evans.

Mr. D. EVANS. Mr. Speaker, can I get a little order, please?

The SPEAKER. The House will come to order. Members will please take their seats.

Mr. D. EVANS. Mr. Speaker, as one member of this House, I am deeply troubled by what I just heard on the question around integrity, and I hope you were listening very carefully to what was just said.

I heard the word "integrity," I heard the word "casinos," tied into the question in terms of how we deal with this issue. This issue started very simple, Mr. Speaker. It started on a reconsideration, and if we would have just voted the reconsideration either up or down, we would never be in this particular position.

I have been around here, and sometimes people agree on reconsideration and sometimes people do not agree on reconsideration, but the fact is, we wanted to at least bring it up, and we could have voted the substance of the amendment either up or down. Unfortunately, Mr. Speaker, this has now been taken to a point where now integrity is being questioned about individuals and about the process, not about the substance of the issue.

Mr. Speaker, can I get some order, please?

The SPEAKER. Members will please take their seats. Sergeants at Arms will clear the aisles.

Mr. D. EVANS. Mr. Speaker, what started out, what started out as just a debate around the question of this amendment has now led into the integrity of this House, and it has been either implied or suggested, implied or suggested, Mr. Speaker, because the aspect of casinos are involved, how can you suddenly have people run over us? I think something is wrong with that, Mr. Speaker. I got a problem with that statement.

Now, the only thing we were doing was dealing on the substance of the issue. Mr. Speaker, nobody here made the motion about challenging that issue. That issue has been around a long time. It was only on the reconsideration. If we would have voted the issue on the reconsideration, we could have debated the issue on the substance of the amendment and it could have either been voted up or down.

So as one member in this body, I have a real problem when that word of "integrity" is raised in the context of this particular process and trying to be suggested. If you decide to uphold the Chair and the Chair has done a very good job, did the research, laid the information out exactly what is taking place, now all of a sudden is kind of suggesting some kind of sinister motive, I have a problem with that.

So I want you to understand clearly what was just said. I hope you listened clearly what was just suggested in a very nice kind of language and a very kind of nice word, because I want you to understand, words do matter. Words do matter with what was just suggested. So I want you to understand, I resent what was just said. I resent it.

Now, my issue was strictly on this amendment. Either vote the amendment up or down. That is all I was trying to say, not get into raising the integrity of any individual in this House. I got a problem with that.

Now, you know, you can do it, but I want you to understand what is being said and what is being suggested. I would hope, Mr. Speaker – and the Chair did a very good job; both Parliamentarians did a very good job. They did the research; they laid it out – I would hope we would uphold what was said by the Chair.

Thank you, Mr. Speaker.

The SPEAKER. For clarification of the members, that vote that the Chair referred to was taken within 4 legislative days.

# **PARLIAMENTARY INQUIRY**

The SPEAKER. Representative Dally.

Mr. DALLY. Thank you, Mr. Speaker.

I was going to point that out to the Chair. We had some research done on our own here that that was indeed done within the spirit of the existing rule. So my question to the Chair is, if this appeal does not stand, this is going to set a precedent for this House that, according to your research, has never occurred in the past. Is that correct?

The SPEAKER. The research is not complete.

Mr. DALLY. All right. Then maybe we should— Are we going to hold over this vote then until the research is complete?

The SPEAKER. The House can make the determination. These decisions are always left to the members.

Mr. DALLY. Okay. So you have gone back 15 years and have not found a precedent yet for the ruling that you have made on this issue. Is that correct?

The SPEAKER. Is the gentleman stating a point of parliamentary inquiry?

Mr. DALLY. If that is what you want to call it, that is fine.

The SPEAKER. The Chair will not get into a debate, but this issue is decided among the members.

Mr. DALLY. Okay. I guess my parliamentary inquiry is then that your research thus far has revealed what you thought was one precedent back in '93, which now turns out not to be the case.

The SPEAKER. There is an example, but there is no precedent.

Mr. DALLY. Thank you.

That being said, I think that we should support Representative Reichley on his motion. Thank you.

The SPEAKER. On the question, shall the decision of the Chair stand as the decision of the House?

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

Mr. REICHLEY. Mr. Speaker, on this matter, I understand that some members took my question in referring to the former Parliamentarian as somehow a slight on the Parliamentarian to your left. Let me assure the Parliamentarian, I was not questioning his integrity or competency but recognizing Mr. Myer, having served for both Republican and Democrat Speakers over a number of years, may have a residual amount of knowledge of this past situation occurring, and in fact, the 1993 vote you just referred to reflects that.

The SPEAKER. The Chair thanks the gentleman for his clarification.

Mr. REICHLEY. Thank you.

The SPEAKER. Those voting to sustain the decision of the Chair will vote "aye"; those voting to overturn the decision of the Chair will vote "nay."

On the question recurring,

Shall the decision of the Chair stand as the judgment of the House?

The following roll call was recorded:

# **YEAS—101**

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

# **NAYS—98**

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

# **NOT VOTING—0**

# **EXCUSED—4**

Curry	Petrone	Pyle	Rubley
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The majority having voted in the affirmative, the question was determined in the affirmative and the decision of the Chair stood as the judgment of the House.

On the question recurring,

Will the House agree to the motion?

The SPEAKER. The Chair returns to the motion to reconsider.

Does the gentleman, Representative Thomas, seek recognition on the motion for reconsideration?

Mr. THOMAS. Mr. Speaker, I would like for a personal privilege following the motion for reconsideration.

The SPEAKER. The gentleman is asking to be recognized under the provision of unanimous consent?

Mr. THOMAS. Yes.

The SPEAKER. The gentleman will check with the majority and minority leaders on that issue.

Is there anyone else seeking recognition on the motion to reconsider?

On the question recurring,

Will the House agree to the motion?

The following roll call was recorded:

#### YEAS—112

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

#### NAYS—87

Adolph	Fleck	Marshall	Reed
Argall	Gabig	McIlhattan	Reichley
Baker	Geist	Mensch	Roae
Barrar	Gillespie	Metcalfe	Rock
Bastian	Gingrich	Micozzie	Rohrer
Bear	Godshall	Millard	Ross
Benninghoff	Grell	Miller	Saylor
Beyer	Harhart	Milne	Scavello
Boback	Harper	Moul	Schroder
Boyd	Harris	Moyer	Smith, S.
Brooks	Hennessey	Murt	Sonney
Causer	Hershey	Nickol	Stairs
Civera	Hess	O'Neill	Steil
Clymer	Hickernell	Peifer	Stern
Cox	Hutchinson	Perry	Stevenson
Cutler	Kauffman	Perzel	Swanger
Dally	Keller, M.K.	Phillips	True
Denlinger	Killion	Pickett	Turzai

DiGirolamo  
Ellis  
Everett  
Fairchild

Mackereth  
Maher  
Major  
Mantz

Quigley  
Quinn  
Rapp  
Raymond

Vereb  
Vulakovich  
Watson

NOT VOTING—0

EXCUSED—4

Curry

Petrone

Pyle

Rubley

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

On the question recurring,

Will the House agree to the amendment?

The clerk read the following amendment No. **A07262**:

Amend Bill, page 2, lines 27 through 30; page 3, lines 1 through 5, by striking out all of said lines on said pages

Amend Sec. 502, page 3, line 6, by striking out "502" and inserting

305

Amend Sec. 503, page 3, lines 17 through 20, by striking out all of said lines

On the question recurring,

Will the House agree to the amendment?

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

Mr. REICHLEY. Thank you, Mr. Speaker.

I think we have probably gone through this thing in quite a lot of detail. I think that the expenses of the Gaming Board should come from the operating facilities, not from the Property Tax Relief Fund. I understand that some people may feel that somehow that works an unfair burden on the operating facilities. I see the contrary. I see that it unfairly withdraws a \$25 million loan from the Property Tax Relief Reserve Fund.

This appropriation identified in 2458 does not affect the General Fund. You are not talking about the programmatic funding in the budget we are negotiating. It does not affect the ability for the facilities to operate. And as the letter which I quoted indicates, these facilities are making more than enough money. It is not like they are going bankrupt. They have generated \$210 million for the horse racing industry, \$600 million for property tax reform, \$90 million for economic development. These facilities can afford to be assessed the 2-percent fee or the assessment on gross terminal revenue, which would support the Gaming Board, the same Gaming Board which has thus far refused to answer questions of the House or the Senate and pay their executive director \$120,000 for 4 months of work. So I would question whether you really want to take this out of property tax relief. Make the facilities that are operating pay for the assessment.

Thank you, Mr. Speaker. Vote "yes" on the amendment.

The SPEAKER. The majority leader, Representative DeWeese.

Mr. DeWEESE. Thank you very much, Mr. Speaker. I will be brief.

For two reasons, I would ask that we offer a "no" vote to the Reichley proposal. The first reason is that under his effort,

we would have a larger burden of the cost put on the casinos that are already operating, and it would be a very, very intense burden upon them. It would treat them differently than the casinos that are on line and will be opened within the next series of months and hopefully within a year or two.

So he is putting the hammer on some of these entrepreneurs, these business men and women, these Republicans and Democrats amongst us in our communities who are allowing for great vitality in the gaming industry at its inaugural months, and he will not allow that to continue. He will hammer away at that growth and that vitality.

The second and final reason is that when we passed the gaming law with the help of a handful of our Republican colleagues – 80 percent Democrats, 20 percent Republicans, in rough figures, but the 20 percent of the Republicans did vote with us – we promised the licensees a certainty and a consistency with regard to their expenses. That is in the statute. And Mr. Reichley's language, in my view, vitiates the purpose of the gaming law that was passed in 2004.

So for those two reasons – the fact that the casinos up and running now would be treated in a more negative and difficult way than the casinos that will be brought online in the near future, and the fact that the original language of our measure promised a degree of consistency and certainty that Mr. Reichley's language would countervail – I would ask for a negative vote on the Reichley amendment.

Thank you very much, Mr. Speaker.

The SPEAKER. Representative Scavello.

Mr. SCAVELLO. Thank you, Mr. Speaker.

I would like to speak on the amendment.

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

Mr. SCAVELLO. Mr. Speaker, across the Commonwealth, across the Commonwealth, we have a tremendous amount of seniors and property owners right now in the process of losing their homes because of high property taxes. And we are going to go around and vote against this amendment that lets that \$25 million leave the property tax fund and is going to be paid for from that fund rather than let the existing casinos pay that \$25 million. We are doing a disservice in this body here today if we vote for that \$25 million to come out of that fund. That \$25 million belongs to the taxpayers whom we promised, we promised property tax reduction, and every opportunity we get, we keep reaching into that fund and taking those dollars out.

I urge the members to remember your property owners back home, the ones that are hurting, and that \$25 million can go a long way to help those folks pay their taxes. So I am urging the members to vote "yes" on this amendment.

### **THE SPEAKER PRO TEMPORE (MICHAEL P. MCGEEHAN) PRESIDING**

The SPEAKER pro tempore. On the Reichley amendment, the Chair recognizes the gentleman from Philadelphia, Representative James.

Mr. JAMES. Thank you, Mr. Speaker.

Mr. Speaker, this is not coming out of the property tax fund, us giving money back to the people for their property tax; this is coming out of the property tax relief reserve account, which is an account that handles, that holds money. This amendment would force the seven casinos currently in operation to

subsidize the four casinos which are licensed but not yet operating.

Three Commonwealth agencies participate with the Pennsylvania Gaming Control Board in the regulation of gaming in Pennsylvania – the Pennsylvania State Police, the Attorney General's Office, the Department of Revenue – and these agencies are responsible for the continuing development of a comprehensive gaming regulatory scheme in our Commonwealth.

Under section 1401 of the Race Horse Development Act, the costs associated with regulations are paid by the existing casinos through drawdowns of the \$5 million deposit established by each casino immediately prior to the opening of that casino. Investigative and filing fees are billed directly to the casino. Only casinos that are operating have deposit funds.

Currently in our Commonwealth, 11 casinos are licensed but only 7 are operating, and thus, 7 casinos would be forced to pay an unfair share of the total if the amendment passes. The casinos that are in operation now would be required to bear a larger burden of the costs of regulation when compared with casinos that open later.

Make no mistake, Mr. Speaker, the loan from the property tax relief reserve account would not – and I repeat – from the property tax relief reserve account would not reduce the property tax relief to Pennsylvania taxpayers.

Further, this is a loan, and it must be repaid once all casinos are up and running. In allowing for this loan, this stays with the general intent of the Race Horse Development Act by assuring that only funds generated by the casinos be used to fund these regulations of the casinos.

These are some points where HB 2458 has been mischaracterized: First, the moneys taken from the property tax relief reserve account are taken only as a loan, which must be paid back when the remainder of the casinos are operational. Second, the funds are in the Property Tax Relief Reserve Fund and would not decrease the property tax relief to be paid to the taxpayers.

Again I will repeat it: Forcing the existing casinos to fund their competition goes against the basic tenets of a capitalist economy. It is, in effect, penalizing the businesses which did their best to become operational quickly. Just as we would not ask McDonald's to subsidize Burger King, we should not ask these businesses to subsidize their competitors.

I therefore urge my colleagues to vote against this amendment. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the Reichley amendment, the Chair recognizes the gentleman from Bucks County, Representative Clymer.

Mr. CLYMER. Thank you, Mr. Speaker.

Mr. Speaker, I stand in support of the Reichley amendment.

You heard the majority leader just a few minutes ago say we should not treat them differently. The truth of the matter is, we do treat them differently because they are a monopoly. These 14 casinos, the 7 that are now running, are a monopoly. If you want to gamble in Pennsylvania, we have created this wonderful monopoly for these casinos.

In addition, we treated them differently, because when we should have auctioned off the licenses, we did not do it. We decided to give them a one-time fee of \$50 million when we know that those casino licenses are worth anywhere from \$300 million to \$550 million, perhaps even more.

We cut out an exception so that they would not have to adhere to the strong principles of smoking within the casino as we have with other public and other businesses here in the Commonwealth. We made sure that they got what they wanted in that respect.

You heard the majority leader mention the vote that took place July 4 in 2004. It was 83 Republicans. He said no to the casinos, and unfortunately, we could only get five Democrats to support the cause. I am sure perhaps more would have wanted to, and today, in this enlightenment, this era of enlightenment and transparency, probably that vote would increase.

Mr. Speaker, the profits for the casinos have increased to the point where many of them or a few of them want to increase the number of slot machines that they have in their operations. That speaks to the point that, indeed, their profits are at a higher rate than what they anticipated.

The amount of the assessment that they agreed to is what they agreed to. They said, yes, assess us and we will pay for the different departments that we need to pay in order for them to run, such as the Department of Revenue, the Pennsylvania Gaming Control Board, the importance of the State Police and the Attorney General.

So those dollars are very important for the function of those agencies. And, Mr. Speaker, the Rendell administration said that this gambling was all about property tax reform, all about property tax relief. And you heard from my colleagues, talking about the importance of providing this property tax relief for Pennsylvanians. So that \$25 million is important.

And then, Mr. Speaker, finally, they are not being treated in a way as you have heard, to put economic or financial pressure on them. This is a good amendment, and I would ask my colleagues to support it. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the Reichley amendment, the Chair recognizes the gentleman, Representative Stairs.

Mr. STAIRS. Thank you, Mr. Speaker.

It just seems a short time ago, a couple of years ago, when the issue of the day was gaming in the Commonwealth. We anticipated this to be a very close vote and a very emotional vote, and I think what carried the day at that time was the idea that the moneys derived from the gaming would be used to aid and assist property owners to pay their property tax. Probably a little too much was given to aid them with regard to the selling of the voting proposal, because in reality, we are seeing that when our property owners do receive money, it is going to be much less than what they expected. But nevertheless, that was the idea that carried the vote to pass the gaming, was the relief from the property tax, and the Governor certainly promoted this as well as many legislators.

Well, several years have passed and here we are about to lose, potentially, some of the money that our property owners were anticipating and expecting. So I would certainly hope that we could vote the right way on this issue to protect the property owners and make sure that they not only get this \$25 million but many other millions of dollars that are out there to relieve them of the seriousness of the property tax issue. So I ask for your support. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman, Representative Reichley, from Allegheny for the second time.

Mr. REICHLEY. Lehigh, not Allegheny.

The SPEAKER pro tempore. The Chair apologizes.

Mr. REICHLEY. That is all right.

Mr. Speaker, just to respond to a couple of comments, the gentleman from Greene County mentioned about consistency and certainty for the operating facilities, and in fact, the language of the current law, the black and white on the paper says that the operating facilities shall be assessed for the expenses of the Gaming Board. The clarity, consistency, or certainty he is mentioning, it is not in the act. It is not there. It may have been an understanding. It may have been a past practice, as we just heard from the Chair, in the last year or two to take loans from the Property Tax Relief Fund and give that to the Gaming Board as a way of meeting their expenses and not assessing the operating facilities, but that is not our fault that there are other issues surrounding some of these other four entities that are not up and running.

The clear, black-and-white letter of the law is that the operating facilities pay the assessment, and that is what I am proposing should be done. In response to the gentleman from Philadelphia who said that this money would come from the Property Tax Relief Fund, I would refer him to page 3 of the bill, which at lines 17 through 19, says, "Unrestricted funds appropriated to the Pennsylvania Gaming Control Board under this part in the amount of \$25,511,000 shall constitute a loan..." from the State Gaming Fund, not from the Property Tax Relief Fund, from the Gaming Fund. That is the Property Tax Relief Fund, not the reserve fund, the money which would go to taxpayers, to homeowners.

So if you are considering voting "no" on this amendment and you voted "yes" before, you have got an interesting question to face: How do you reconcile that vote to your constituents? How do you tell them I voted to make sure the integrity of property tax relief would be there, but now I am going to vote on behalf of the casinos instead? I think this is a clear matter. Whose interest are you trying to help? Are you trying to ensure there is money there for property tax relief in the amount of \$25 million, or do you want to let seven casinos off the hook? It is a clear issue. It is a clear question. It is not a difficult matter to consider here.

If you voted correctly to affirm and to pass this amendment some 20 days ago, I would urge you to do the same today. Please vote "yes" on this amendment, and vote for property tax relief for property tax payers.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the Reichley amendment, the Chair recognizes the majority leader.

Mr. DeWEESE. Real quickly, Mr. Speaker, I think those of us that voted in favor of gaming in 2004 had as our preeminent focus property tax payers and property tax reductions. It is my contention that a negative vote against the Reichley amendment would allow for great vitality within the casinos that are operating and high hopes for the casinos that are online.

A favorable vote with Mr. Reichley's effort aligns itself with the gentleman from Bucks, the great antagonist of all times against gaming, my honorable friend and honorable chairman, whose gaze I currently meet. Let no one be fooled. The gentleman who preceded me at the microphone is not for a vital, successful gaming enterprise in Pennsylvania, and when a vital, successful gaming enterprise exists in the Keystone State, we will have a great deal of revenue to share for property tax

reductions. In Central Greene School District, everyone had a \$362 reduction. It will only be higher when Pittsburgh and Philadelphia and other casinos are online.

So a vote for the Reichley amendment, in my view, takes the guts out of the momentum that is going forward in the incipient gaming world in our Keystone State. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes, on the amendment, the minority leader.

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

Mr. Speaker, I certainly hope the majority leader did not intend to impugn the purpose of the Reichley amendment, that he was not suggesting that it is somehow devised to undermine or derail the effects of gaming in Pennsylvania. Clearly, that is not the intent. This is a fairly simple issue in some respects, Mr. Speaker, and it evolves around who should actually pay within whom, who among the casinos, those that are opened or those that are yet to be licensed and opened, who should be paying for the operation of the Gaming Control Board's basic administrative costs?

To suggest, Mr. Speaker, that support for the Reichley amendment somehow undermines or would take away from the success of casinos directly, I think, Mr. Speaker, is a stretch and not at all an accurate characterization. This question really rests around who should be paying at this point in time, and quite frankly, Mr. Speaker, to be totally candid, I do understand and see both points of view on this. I can very much understand them. I happen to believe that the Reichley amendment addresses it in a fair and appropriate way. I do understand the other side. That does not say that one or the other somehow undermines or is some kind of nefarious vote in an antigaming way. It is strictly a straight-up question that the members of this legislature are faced with relative to which is the more fair and appropriate manner for which these assessments should be administered or put into place.

So I would just like to state that as somewhat of a clarification or a qualification of what I heard.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the amendment, the Chair recognizes the Democratic whip.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, I would ask that the members defeat the Reichley amendment. We have to go back to when we originally established the 1401 accounts, and the whole idea behind what we did was to ensure that no tax dollars, no tax dollars of the Commonwealth of Pennsylvania, would be used to regulate any of the gaming operations in the State of Pennsylvania. And in the act we established section 1401. Section 1401 required these entities, the gaming entities, to contribute money into an account to pay for the regulation of gaming in the Commonwealth of Pennsylvania, and it was estimated that it would cost around \$60 million. All of us know that all of the venues are not up and running. So a disproportionate share, or burden, was placed on the existing gaming entities to make good for the money that it costs to regulate gaming in the State of Pennsylvania.

In the 1401 accounts, the money goes to the Department of Revenue, to the Gaming Board, to the State Police, and to the Attorney General, again, all to carry out the responsibilities of

the board, but because we do not have all those venues up and running, the 1 1/2-percent assessment that we placed on them, it was not enough money to take care of those operations or that enforcement of the act.

I want to ensure everyone in this chamber that your vote in no way will have any effect whatsoever on property tax relief in the Commonwealth of Pennsylvania. Your vote against Reichley, again, will have zero effect on the amount of money that is used for property tax relief. The money that is being used comes out of the reserve account. We say in this act that a \$400 million reserve has to be maintained at all times before property tax relief can occur, and it is the money over that \$400 million reserve that goes to property tax relief. We are not touching any of those dollars.

Let us talk about what the casinos are paying right now. In the Commonwealth of Pennsylvania, as opposed to every other State that has some form of gambling, we have the highest tax rate against our casinos than anyone else in the nation. Thirty-four percent of gross terminal receipts goes into our property tax account. Four percent of gross terminal receipts goes to local share, or local taxes. Twelve percent goes to the horse race improvement account. Five percent goes towards economic development and tourism. And they are all protected accounts, where that money is driven to so economic development can happen across the Commonwealth, but the reserve account, the 34 percent that goes into that slot account, is a separate and distinct account.

In addition to all of that, we tell our gaming venues that they have to pay \$50 million for a license. If we do not allow for this loan out of that reserve account to occur, we are going to further tax, in addition to all of these other taxes – the 34 percent, 4 percent, 12 percent, 5 percent – and the \$50 million that they have already paid for their license, we are going to tell them that they have to pay even more in taxes. That is just not right, and it is not fair. It is an amount of money that is going to come out of that account that has to be repaid to that account, and it is not going to have any effect on property tax relief in Pennsylvania.

And what really upsets me is that the vast majority of the members over here voted for that property tax relief. There were 20 votes on the other side of the aisle for property tax relief, and you are all crying about property tax relief and you did not even vote for the bill to begin with.

This Reichley amendment would be an unfair tax, an unfair tax on the existing gaming revenues that we have operating right now. It will not have any effect on property tax relief for the citizens of Pennsylvania. And I would urge our members to vote against the Reichley amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman, on the Reichley amendment for the second time, Representative Scavello.

Mr. SCAVELLO. Mr. Speaker, I want to clarify some of the numbers that I just heard. You know, \$50 million for a license, if you look at other States, they are charging \$250 million, \$300 million. So let us not exaggerate over the fact that these licenses sold for \$50 million.

There was another comment made on why I did not vote for gaming. I have one in my backyard, Mr. Speaker, and I have to tell you, I know of six or seven families already that had to remortgage their homes because of the losses at that casino. I also happen to know some businesses that are going to go under with \$350,000 in that casino. So we have got some

problems around the Commonwealth, and let no one in this room think that putting 14 of them around this Commonwealth was the right thing to do. You are a half-hour away, and if you have that sickness, it can spread and spread very quickly, and that pain is going to drag you right into that casino.

So let us not talk about the casino and why I voted against it, because I will tell you right now, it was the wrong thing to do for Pennsylvania.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman, Representative Clymer, for the second time.

Mr. CLYMER. Thank you, Mr. Speaker.

And to my good friend, the majority whip, I would like to just offer some comments as to why some of us voted against it. We felt that the slots being the crack-cocaine of gambling was not a good way to raise money. People going in there and spending money that they can ill-afford to spend, we felt there had to be a better way to make our economy stronger so that we could have more tax revenue in this treasury to provide services.

And, Mr. Speaker, we also found out through our studies, through people like Professor John Kindt of the University of Illinois and Professor Bill Lawrence of the Las Vegas, Nevada University, that some of the people who go in and spend their money are the poor, the disadvantaged, and the less fortunate in our society, and we felt, perhaps those people should not be spending that money, and that is another reason some of us decided that that is the wrong way to go.

And the false promises the casinos put out, the very fact that they magnetize the people to come in and say you can win and they show a few people who won a few thousand dollars. And the false promises of casinos are really not the way that we think we should play at this game here in Pennsylvania. And the \$1.5 million that the casinos had given for addiction is absolutely ludicrous when millions more are needed to help those people, those people who have become addicted and are trying to reestablish themselves to save their families. I thought families were the most important commodity we had in Pennsylvania, to build our communities and our neighborhoods and our State. The casinos do nothing to help in that respect.

Again, I support the Reichley 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	Mantz	Raymond
Argall	Geist	Marshall	Reed
Baker	Gillespie	McIlhattan	Reichley
Barrar	Gingrich	Mensch	Roae
Bastian	Godshall	Metcalfe	Rock
Bear	Grell	Micozzie	Rohrer
Benninghoff	Haluska	Millard	Ross
Beyer	Harhart	Miller	Saylor
Boback	Harper	Milne	Scavello
Boyd	Harris	Moul	Schroder
Brooks	Hennessey	Moyer	Smith, S.
Causser	Hershey	Murt	Stairs
Civera	Hess	Nailor	Steil
Clymer	Hickernell	Nickol	Stern

Cox	Hutchinson	O'Neill	Stevenson
Creighton	Kauffman	Peifer	Swanger
Cutler	Keller, M.K.	Perry	Taylor, J.
Dally	Kessler	Perzel	Taylor, R.
Denlinger	Killion	Phillips	True
Ellis	Mackereth	Pickett	Turzai
Everett	Maher	Quigley	Vereb
Fairchild	Major	Quinn	Vulakovich
Fleck	Mann	Rapp	Watson

#### NAYS—107

Belfanti	Galloway	Markosek	Shapiro
Bennington	George	Marsico	Shimkus
Biancucci	Gerber	McCall	Siptroth
Bishop	Gergely	McGeehan	Smith, K.
Blackwell	Gibbons	McI. Smith	Smith, M.
Brennan	Goodman	Melio	Solobay
Buxton	Grucela	Mundy	Sonney
Caltagirone	Hanna	Mustio	Staback
Cappelli	Harhai	Myers	Sturla
Carroll	Harkins	O'Brien, M.	Surra
Casorio	Helm	Oliver	Tangretti
Cohen	Hornaman	Pallone	Thomas
Conklin	James	Parker	Vitali
Costa	Josephs	Pashinski	Wagner
Cruz	Keller, W.	Payne	Walko
Daley	Kenney	Payton	Wansacz
DeLuca	King	Petrarca	Waters
DePasquale	Kirkland	Petri	Wheatley
Dermody	Kortz	Preston	White
DeWeese	Kotik	Ramaley	Williams
DiGirolamo	Kula	Readshaw	Wojnaroski
Donatucci	Leach	Roebuck	Yewcic
Eachus	Lentz	Sabatina	Youngblood
Evans, D.	Levdansky	Sainato	Yudichak
Evans, J.	Longietti	Samuelson	
Fabrizio	Mahoney	Santoni	O'Brien, D., Speaker
Frankel	Manderino	Seip	
Freeman			

#### NOT VOTING—0

#### EXCUSED—4

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

#### CONSIDERATION OF AMENDMENT A07263 CONTINUED

On the question recurring,

Will the House agree to the bill on second consideration?

The clerk read the following amendment No. **A07263**:

Amend Sec. 503, page 3, lines 19 and 20, by striking out all of said lines and inserting  
of \$25,511,000 shall constitute a loan and shall be repaid in the manner set forth in section 1720-I of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code. The board shall defer assessing slot machine licensees for repayment until such time as 11 slot machine licenses have been issued and 11 licensed gaming entities have commenced the operation of slot machines.

Amend Bill, page 3, by inserting between lines 22 and 23

Section 701. Transfers prohibited.—There is no authority for the State Treasurer, the Secretary of the Budget, the Secretary of Revenue

or the Pennsylvania Gaming Control Board to transfer any money within or between the appropriations in Part III or Part V.

Amend Sec. 701, page 3, line 23, by striking out "701" and inserting

702

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

The SPEAKER pro tempore. On the amendment, the Chair recognizes the gentleman, Representative Civera.

Mr. CIVERA. Thank you, Mr. Speaker.

Mr. Speaker, this amendment, presently, the way the bill is written – and there was some confusion on the floor from previous speakers – and with the Reichley amendment out of there now, the money comes out of the property tax fund. What this amendment does is takes the money from the property tax reserve fund, which does not touch the property tax fund which was just debated a few minutes ago.

So there was some confusion of the way the bill was written. The bill was written, and I go over that again, that the money without the Reichley amendment now would come out of the property tax fund, where this comes out of the reserve fund.

I wish that you would support the amendment. Thank you, Mr. Speaker.

The SPEAKER pro tempore. On the amendment, the Chair recognizes the gentleman, Representative Dally.

Mr. DALLY. Thank you, Mr. Speaker.

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

The SPEAKER pro tempore. The gentleman agrees to be interrogated. The gentleman is in order.

Mr. DALLY. Thank you, Mr. Speaker.

Mr. Speaker, we heard in the previous debate on the Reichley amendment that the money for this proposal was not going to affect the property tax fund. Now you are telling us something different, Mr. Speaker?

Mr. CIVERA. Mr. Speaker, the answer to your question directly, the way the bill was written, what I can read here, it was taken out of the property tax fund. This amendment clears that up and takes it out of the reserve account.

Mr. DALLY. Okay. And does that come out in the form of a loan, Mr. Speaker?

Mr. CIVERA. Mr. Speaker, could you repeat that? I did not hear that.

Mr. DALLY. I said does the money that is needed to fund this proposal, does that come out of that reserve fund as a loan?

Mr. CIVERA. Yes, Mr. Speaker.

Mr. DALLY. And are the companies obligated to repay that loan?

Mr. CIVERA. Yes, Mr. Speaker.

Mr. DALLY. Okay. And is there a market rate of interest on that loan?

Mr. CIVERA. To my understanding, it has never been established.

Mr. Speaker, to be quite clear with you, I do not believe that there is a rate of interest, and it has never been established.

Mr. DALLY. Okay. Mr. Speaker, who would establish that rate of interest, and at what point in time would that occur?

Mr. CIVERA. My understanding is that the Commonwealth should establish that rate of interest when the loan is negotiated.

Mr. DALLY. Mr. Speaker, at present, the reserve money is placed in some sort of investment account where it earns a certain rate of return. Is that correct?

Mr. CIVERA. Yes.

Mr. DALLY. So is it your intention that this loan that is then made, and I know you are not the proponent of the loan itself, but as far as where the money comes from, I am just concerned about this reserve fund being made whole by these loans that are going to be made out of it.

Mr. CIVERA. It should be addressed in the Fiscal Code of this year's bill.

Mr. DALLY. Okay. So that would be in future legislation?

Mr. CIVERA. Yes.

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

Just one comment, Mr. Speaker, on the amendment.

The SPEAKER pro tempore. The gentleman is in order.

Mr. DALLY. Thank you, Mr. Speaker.

I think this is a good amendment, and certainly, it takes the money out of the fund where it should come from. You heard in the previous debate some misinformation that was given to the members, because without the Reichley amendment and without this amendment passing, indeed it was the Property Tax Relief Fund that was taking a hit without this corrective language from Representative Civera.

So I ask the members to support this amendment. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes, on the amendment, the Democratic whip.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, I would concur with the previous speaker and with the maker of the amendment. This is a good amendment, and I would ask for the members to vote in the affirmative.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question, the Chair recognizes the gentleman, Representative Scavello.

Mr. SCAVELLO. Mr. Speaker, I am confused here. For the last hour or so, I am hearing that I was wrong, that money was not affecting the property tax, and now all of a sudden, we are hearing that it does affect. That bill, that amendment that we passed was affecting, and unless this amendment goes in, it does not correct the situation.

So we were actually taking the money away from the property tax reduction, were we not? That is just my question. And if I may have the maker of the amendment, again, clarify that.

The SPEAKER pro tempore. Does the gentleman agree to be interrogated? The gentleman is in order and may proceed.

Mr. CIVERA. Mr. Speaker, as I read the bill, and that is the reason why the amendment was drawn, that the language in the bill, the way it was written, comes out from the property tax fund. We then made the decision to amend the bill to take it out of the reserve fund. And so some of the conversation that went on during the debate, as I listened, because members were led to believe that it came out of the reserve account, at that point it did not. It came out of the property tax fund. This amendment corrects that, Mr. Speaker.

Mr. SCAVELLO. So for the folks seeing this at home, we have been telling them for the last hour that we were not affecting the property tax fund, but now we find out that we were, and I just want that as part of the record.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

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

The following roll call was recorded:

#### YEAS—199

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

#### NAYS—0

#### NOT VOTING—0

#### EXCUSED—4

Curry	Petrone	Pyle	Rubley
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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. **REICHLEY** offered the following amendment No. **A07267**:

Amend Sec. 503, page 1, lines 1 through 9 (A07263), by striking out all of said lines and inserting

Amend Bill, page 2, lines 27 through 30; page 3, lines 1 through 5, by striking out all of said lines on said pages

Amend Sec. 502, page 3, line 6, by striking out "502" and inserting

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Amend Sec. 503, page 3, lines 17 through 20, by striking out all of said lines

Amend Bill, page 1, line 15 (A07263), by striking out "or Part V"

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

#### AMENDMENT WITHDRAWN

The SPEAKER pro tempore. It is the understanding of the Chair that that amendment has been withdrawn.

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.)

#### APPROPRIATIONS COMMITTEE MEETING

#### DEMOCRATIC CAUCUS

The SPEAKER pro tempore. The Chair recognizes Representative Cohen for an announcement.

Mr. COHEN. Mr. Speaker, I am pleased to announce that there will be an immediate meeting of the House Appropriations Committee. There will be a Democratic caucus at 2:15.

Both of these meetings will be in the majority caucus room, 140 Main Capitol Building.

The SPEAKER pro tempore. The Chair thanks the gentleman.

There will be an immediate meeting of the Appropriations Committee in 140 Main Capitol Building.

#### REPUBLICAN CAUCUS

The SPEAKER pro tempore. The Chair recognizes Representative Major for an announcement.

Miss MAJOR. Thank you, Mr. Speaker.

I would like to announce a Republican caucus this afternoon at the call of the recess, at 2:15. That is Republicans will caucus at 2:15. Thank you.

The SPEAKER pro tempore. The Chair thanks the lady.

### VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS COMMITTEE MEETING

The SPEAKER pro tempore. The Chair recognizes the gentleman, Representative Melio.

Mr. MELIO. Thank you, Mr. Speaker.

The Veterans Affairs and Emergency Preparedness Committee will meet immediately for a voting meeting in room 60, East Wing. That is the room adjacent to the cafeteria. Veteran Affairs, room 60, East Wing, immediately.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Veterans Affairs and Emergency Preparedness Committee will meet at the break.

### ANNOUNCEMENT BY MAJORITY LEADER

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

Mr. DeWEESE. Two quick points. We will return to the floor at 3:15. And in a happy moment of bipartisanship, there is a photo-op at 2 o'clock sharp on the steps in the rotunda for Democrats and Republicans who wore their seersucker suits.

The SPEAKER pro tempore. The Chair thanks the gentleman.

### INSURANCE COMMITTEE MEETING

The SPEAKER pro tempore. The Chair recognizes the gentleman, Representative DeLuca.

Mr. DeLUCA. Thank you, Mr. Speaker.

Mr. Speaker, the Insurance Committee will be meeting in 205 Ryan Building immediately for a voting meeting this afternoon; 205 Ryan Building. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

There will be an Insurance Committee meeting immediately in 205 Ryan Office Building.

### GUESTS INTRODUCED

The SPEAKER pro tempore. The Chair welcomes the guest pages today, Shannon Craig and Matthew Newspadder, who are guests of Representative Gordon Denlinger. They are located in front of the Speaker. Would you rise and be welcomed by the House.

The Chair also would like to welcome visitors located to the left of the Speaker, Matthew Mulkeen, guest of Representative Rohrer, and Kevin McIntyre, the guest of Representative Cox, who are both students at Wilson High School in West Lawn, PA. They are both job-shadowing an employee of the PA Chamber today. The House welcomes you.

### AGRICULTURE AND RURAL AFFAIRS COMMITTEE MEETING

The SPEAKER pro tempore. The Chair recognizes the gentleman, Representative Hanna.

Mr. HANNA. Thank you, Mr. Speaker.

Agriculture and Rural Affairs Committee members, we are meeting immediately in room G-50 of the Irvis Building. We are meeting in G-50 of the Irvis Building immediately. It is a voting meeting. Will all Ag members please report to G-50 immediately.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Agriculture and Rural Affairs Committee will meet immediately.

### BILLS REPORTED FROM COMMITTEE, CONSIDERED FIRST TIME, AND RECOMMITTED TO COMMITTEE ON RULES

#### HB 1022, PN 4029 (Amended) By Rep. CALTAGIRONE

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for release of information in confidential reports and for investigation of reports of suspected child abuse by county agencies.

JUDICIARY.

#### HB 2119, PN 3027 By Rep. CALTAGIRONE

An Act amending Title 35 (Health and Safety) of the Pennsylvania Consolidated Statutes, providing for safety equipment for private security firms.

JUDICIARY.

#### HB 2526, PN 3848 By Rep. CALTAGIRONE

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for registration.

JUDICIARY.

#### HB 2529, PN 3849 By Rep. CALTAGIRONE

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for the use of polygraph tests.

JUDICIARY.

#### HB 2532, PN 4030 (Amended) By Rep. CALTAGIRONE

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

JUDICIARY.

**HB 2548, PN 3797**

By Rep. CALTAGIRONE

An Act amending the act of November 22, 1978 (P.L.1166, No.274), referred to as the Pennsylvania Commission on Crime and Delinquency Law, further providing for powers and duties of the commission.

JUDICIARY.

**HB 2639, PN 3946**

By Rep. CALTAGIRONE

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in State intermediate punishment provisions, further providing for referral to State intermediate punishment program.

JUDICIARY.

**PARLIAMENTARY INQUIRY**

The SPEAKER pro tempore. The Chair recognizes the gentleman, Representative Schroder.

Mr. SCHRODER. Mr. Speaker, would it be proper to raise a point of parliamentary inquiry at the moment?

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. SCHRODER. Mr. Speaker, yesterday during debate on the bill to raise the debt ceiling, there was a document that was produced and referenced by both the Democratic Appropriations chairman and the Democratic majority leader, and in fact, in one instance the document was even revealed and waved around by the Democratic leader.

Mr. Speaker, my first question is, was that document entered into the record so that all members could apprise themselves of its contents?

The SPEAKER pro tempore. The Chair informs Representative Schroder that nothing was entered into the record.

Mr. SCHRODER. As a follow-up, Mr. Speaker, is it not the usual practice and procedure, if not in fact in the rules, and I do not know, that documents that are referenced during debate, such as that was yesterday, that they be entered into the record?

The SPEAKER pro tempore. That has not been the practice of the House. It is up to the individual member to seek the inclusion into the record.

Mr. SCHRODER. Mr. Speaker, is there a procedure or a way that a member – myself, for instance – could move to require such a document that was referenced at length citing \$16 billion allegedly of capital projects submitted by one member, is there a way to require that document to in fact be entered into the record?

The SPEAKER pro tempore. A simple inquiry to the member would obviously be one way, but a change of the House rules would be a more laborious way in order to achieve the gentleman's goals.

Mr. SCHRODER. Mr. Speaker, if permissible, I would make that inquiry to the member, the Democratic majority leader, since he is still on the floor, should he choose to acknowledge my inquiry.

The SPEAKER pro tempore. Has the gentleman agreed to this interrogation?

Mr. DeWEESE. Mr. Speaker, I did not hear all of the gentleman's inquiry, and I think it would be helpful if we had

this colloquy at 3:15. I am certainly not trying to avoid anything. I do not remember, I did hear him say that I was waving something about. I remember the dialogue. I remember a lot of it was between one of our colleagues from Allegheny County and our Appropriations chairman, and I do remember making some reference to it myself. I will have to check the record.

Relative to his request, I would like him to please restate that request in an hour and 15 minutes when we come back. I do not mean to be tentative or hesitant or standoffish, but since the Appropriations chairman is no longer on the floor, I think it would be helpful if we had this conversation as soon as we return to the floor.

The SPEAKER pro tempore. Does the gentleman have further inquiry?

Mr. SCHRODER. Mr. Speaker, I will accede to the gentleman's wishes, and for now I will restate the request that hopefully within an hour and 15 minutes, the gentleman, the majority leader, as well as the Appropriations chair will proceed to enter the document that was referenced numerous times in yesterday's debate concerning the alleged \$16 billion in capital budget items, that that will be entered into the record when we return, and I would ask for time when we reconvene to raise the matter. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Mr. DeWEESE. Mr. Speaker, I should add, staff just advised me that we may be, at least some of the budget principles may be in negotiations at that point. Again, I am not being standoffish.

I will be glad to have a sidebar with the gentleman, and we will pursue an answer to his question. But at 3:15 or 3:30, the Appropriations chairman, the leadership in the House and the Senate, Republicans and Democrats may be sequestered in Mr. Pileggi's office. That is being decided as we speak.

The SPEAKER pro tempore. The Chair thanks the gentleman.

**STATEMENT BY MR. TURZAI**

The SPEAKER pro tempore. For what purpose does the gentleman, Representative Turzai, rise?

Mr. TURZAI. I would like a point of personal privilege, I think is the correct approach. In reference, I would like to follow up on—

The SPEAKER pro tempore. Will the gentleman suspend.

The gentleman will state his point of personal privilege.

Mr. TURZAI. I would like to follow up with the comments from the good gentleman from Chester County.

The SPEAKER pro tempore. The gentleman is in order.

Mr. TURZAI. Thank you.

I want to make it clear for the record that both during yesterday's debate and again this—

The SPEAKER pro tempore. The gentleman will suspend.

I am informed by the Parliamentarian that that is not the correct way to be recognized for your remarks, that you should seek unanimous consent.

Mr. TURZAI. Okay. I apologize.

The SPEAKER pro tempore. Do you do so?

Mr. TURZAI. May I seek unanimous consent?

The SPEAKER pro tempore. The gentleman is in order.

Mr. TURZAI. Thank you very much.

That in reference to the document that was supposedly here on the House floor, that I sought that document, a copy of that document yesterday, was not given a copy of it from the Appropriations chair. I sought it again today from the Appropriations chair, was not given a copy of it today, and that when I approached the desk, it appeared that there was no such document at all referencing the facts that were being bandied about. And since we are going to bring it up again, given the majority leader's points, at 3:15, I will be glad to address in detail some of those points that were raised. But I have already on two specific occasions asked the Chair and the leader for a copy of this supposed document. I do not believe the document exists, but I have been refuted on both occasions.

Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and reminds the members that they are free to be recognized when we return to session. However, if members seek unanimous consent, they should consult with the minority and majority leaders before they do so.

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

Mr. THOMAS. Mr. Speaker, to just restate what you had just said, the previous speaker was allowed to articulate concerns that had not received prior approval from the majority or the minority leader, and I say that because it was no longer than an hour ago that I was restrained from unanimous consent until such time that I received the approval of the majority and minority leaders. And I know you are a Speaker who wants to be fair.

Thank you.

The SPEAKER pro tempore. The Chair has restated that point and thanks the gentleman.

### VOTE CORRECTION

The SPEAKER pro tempore. The Chair recognizes the gentleman, Representative Brennan. For what purpose do you rise, sir?

Mr. BRENNAN. To correct the record.

The SPEAKER pro tempore. The gentleman is in order.

Mr. BRENNAN. My switch malfunctioned on HB 2458, amendment 7262. I was recorded in the negative. I wish the record to reflect that I meant to vote in the positive.

The SPEAKER pro tempore. The gentleman's remarks will be spread across the record.

Mr. BRENNAN. Thank you, Mr. Speaker.

### RECESS

The SPEAKER pro tempore. This House is in recess until 3:15 p.m., unless sooner recalled by the Speaker.

### AFTER RECESS

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

### BILLS REREPORTED FROM COMMITTEE

#### HB 983, PN 1980

By Rep. D. EVANS

An Act amending the act of January 19, 1967 (1968, P.L.992, No.442), entitled, "An act authorizing the Commonwealth of Pennsylvania and the local government units thereof to preserve, acquire or hold land for open space uses," further providing for acquisition of interests in real property, for local taxing options and for exercise of eminent domain.

#### APPROPRIATIONS.

#### HB 1086, PN 1258

By Rep. D. EVANS

An Act amending the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, prohibiting investments in corporations doing business in countries which sponsor terrorism.

#### APPROPRIATIONS.

#### HB 1596, PN 3574

By Rep. D. EVANS

An Act amending the act of July 2, 2004 (P.L.492, No.57), known as the Sign Language Interpreter and Transliterator State Registration Act, further providing for definitions, for responsibilities of Office for the Deaf and Hard of Hearing and for State registration required; providing for provisional registration; and further providing for change of personal information, for registration violations and for suspension, denial, nonrenewal or revocation of State registration.

#### APPROPRIATIONS.

#### HB 2188, PN 3698

By Rep. D. EVANS

An Act providing for court-appointed conservators to bring residential, commercial and industrial buildings into municipal code compliance when owners fail to comply.

#### APPROPRIATIONS.

#### HB 2537, PN 3821

By Rep. D. EVANS

An Act prohibiting the Commonwealth from obtaining certification under the Federal REAL ID Act of 2005; and providing for the authority of the Governor and Attorney General to file certain legal challenges.

#### APPROPRIATIONS.

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

### BILLS REPORTED FROM COMMITTEE, CONSIDERED FIRST TIME, AND RECOMMITTED TO COMMITTEE ON RULES

#### HB 2645, PN 4036 (Amended)

By Rep. DeLUCA

An Act establishing the Catastrophic Illness in Children Relief Fund and the Catastrophic Illness in Children Relief Fund Commission; providing for the powers and duties of the commission; establishing a program for the payment of medical expenses of children in cases of catastrophic illness; and providing for funding.

#### INSURANCE.

**HB 2648, PN 4035** (Amended)

By Rep. DeLUCA

An Act amending the act of July 8, 1986 (P.L.408, No.89), known as the Health Care Cost Containment Act, defining "committee"; further providing for powers and duties of the council; providing for the establishment of a Health Care Cost Containment Council Act Review Committee; and further providing for expiration.

INSURANCE.

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

The House will come to order.

**SUPPLEMENTAL CALENDAR A****BILL ON SECOND CONSIDERATION**

The House proceeded to second consideration of **HB 1086, PN 1258**, entitled:

An Act amending the Act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, prohibiting investments in corporations doing business in countries which sponsor terrorism.

On the question,

Will the House agree to the bill on second consideration?

Ms. **JOSEPHS** offered the following amendment No. **A07762**:

Amend Title, page 1, lines 1 through 25; page 2, lines 1 through 6, by striking out all of said lines on said pages and inserting Providing for divestiture by the State Treasurer, the State Employees' Retirement System and the Public School Employees' Retirement System of investments in companies doing business in Iran and Sudan.

Amend Bill, page 2, lines 9 through 32; page 3, lines 1 through 30; page 4, lines 1 through 3, 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 Protecting Pennsylvania's Investments Act.

Section 2. Findings and declarations.

The General Assembly finds and declares as follows:

(1) In 2001, the United States Securities and Exchange Commission determined that companies with business operations in terrorist-sponsoring states are exposed to a special risk category known as Global Security Risk, which is the risk to share value and corporate reputation stemming from the intersection of a publicly traded company's international business activities and security-related concerns, such as terrorism and weapons proliferation.

(2) In response to the financial risk posed by investments in companies doing business with a state that sponsors terrorists, the Securities and Exchange Commission established its Office of Global Security Risk to provide for enhanced disclosure of material information regarding such companies.

(3) According to a former chair of the Securities and Exchange Commission, the fact that a foreign company is doing material business with a country, government or entity on the Office of Foreign Assets Control's (OFAC) sanctions list is, in the Securities and Exchange Commission staff's view, substantially likely to be significant to a reasonable investor's decision about whether to invest in that company.

(4) A 2006 report by the United States House of Representatives states that "a company's association with sponsors of terrorism and human rights abuses, no matter how large or small, can have a materially adverse result on a public company's activities, financial condition, earnings, and stock prices, all of which can negatively affect the value of an investment."

(5) Iran tops the United States State Department's list of state sponsors of terrorism, funding such groups as Hamas, Hizballah and Islamic Jihad, as well as fueling the insurgency in Iraq via its Al-Quds force.

(6) The United States imposed sanctions on Iran by designating the Islamic Revolutionary Guard Corps, its Al-Quds Force and three state-owned banks as weapons proliferators and supporters of terrorism.

(7) The United Nations Security Council has three times voted unanimously to impose sanctions on Iran for its failure to suspend its uranium enrichment activities and called for an embargo on Iranian arms exports, a freeze on assets abroad of an expanded list of individuals and companies involved in Iran's nuclear and ballistic missile programs and barring new grants or loans to Iran except for humanitarian and developmental purposes.

(8) Foreign entities have invested in Iran's petroleum energy sector despite United States and United Nations sanctions against Iran.

(9) All entities that have invested more than \$20,000,000 in any given year in Iran's energy sector since August 5, 1996, are subject to sanctions under United States law under the Iran and Libya Sanctions Act of 1996 (Public Law 104-172, 110 Stat. 1541).

(10) The United States renewed the Iran and Libya Sanctions Act of 1996 in 2001 by enacting the ILSA Extension Act of 2001 (Public Law 107-24, 115 Stat. 199) and in 2006 by enacting the Iran Freedom Support Act (Public Law 109-293, 120 Stat. 1344).

(11) On July 23, 2004, the United States Congress declared that "the atrocities unfolding in Darfur, Sudan, are genocide."

(12) On September 9, 2004, Secretary of State Colin L. Powell told the United States Senate Foreign Relations Committee that "genocide has occurred and may still be occurring in Darfur" and "the Government of Sudan and the Janjaweed bear responsibility."

(13) On September 21, 2004, addressing the United Nations General Assembly, President George W. Bush affirmed the Secretary of State's findings and stated, "At this hour, the world is witnessing terrible suffering and horrible crimes in the Darfur region of Sudan, crimes my government has concluded are genocide."

(14) On December 7, 2004, the United States Congress noted that the genocidal policy in Darfur has led to reports of "systematic rape of thousands of women and girls, the abduction of women and children, and the destruction of hundreds of ethnically African villages, including the poisoning of their wells and the plunder of their crops and cattle upon which the people of such villages sustain themselves."

(15) Also on December 7, 2004, Congress found that "the Government of Sudan has restricted access by humanitarian and human rights workers to the Darfur area through intimidation by military and security forces, and through bureaucratic and administrative obstruction, in an attempt to inflict the most devastating harm on those individuals displaced from their villages and homes without any means of sustenance or shelter."

(16) On September 25, 2006, Congress reaffirmed that "the genocide unfolding in the Darfur region of Sudan is characterized by acts of terrorism and atrocities directed against civilians, including mass murder, rape, and sexual violence

committed by the Janjaweed and associated militias with the complicity and support of the National Congress Party-led faction of the Government of Sudan."

(17) On September 26, 2006, the United States House of Representatives stated that "an estimated 300,000 to 400,000 people have been killed by the Government of Sudan and its Janjaweed allies since the Darfur crisis began in 2003, more than 2,000,000 people have been displaced from their homes, and more than 250,000 people from Darfur remain in refugee camps in Chad."

(18) On December 31, 2007, President George Bush signed the Sudan Accountability and Divestment Act into law which authorizes state and local government to divest assets in companies that conduct business operations in Sudan, and to prohibit United States Government contracts with such companies.

(19) The Darfur crisis represents the first time the United States Government has labeled ongoing atrocities a genocide.

(20) The United States Government has imposed sanctions against Sudan since 1997. These sanctions are monitored through the United States Treasury Department's Office of Foreign Assets Control.

(21) Since 1993, the United States Secretary of State has determined that Sudan is a country the government of which has repeatedly provided support for acts of international terrorism, thereby incurring restrictions of United States assistance, defense exports and sales, and financial and other transactions with Sudan.

(22) It is a fundamental responsibility of the Commonwealth to decide where, how and by whom financial resources in its control should be invested, taking into account numerous pertinent factors.

(23) Divestiture should be considered with the intent to improve investment performance and, by the rules of prudence, fiduciaries must take into account all relevant substantive factors in arriving at an investment decision.

(24) The Commonwealth is deeply concerned about investments in publicly traded companies that have investments in Iran and Sudan as a financial risk to shareholders.

(25) On July 6, 2007, the Pennsylvania House of Representatives passed House Bill No. 1140, Printer's No. 2190, entitled "An act prohibiting the investment of State funds in certain private business entities doing business in Sudan; and providing indemnification to certain persons," which would prohibit the investment of State funds in certain private business entities doing business in Sudan.

(26) By investing in publicly traded companies having investments in Iran and Sudan, the State Treasurer, the State Employees' Retirement System and the Public School Employees' Retirement System could put the fund they oversee at financial risk.

(27) Divestiture from markets that are vulnerable to embargo, loan restrictions and sanctions from the United States and the international community, including the United Nations Security Council, is in accordance with the rules of prudence.

(28) The General Assembly finds that this act should remain in effect only insofar as it continues to be consistent with and does not unduly interfere with the foreign policy of the United States as determined by the Federal Government.

(29) To protect the Commonwealth's assets, it is in the best interest of the Commonwealth to enact a statutory prohibition regarding the investments in companies doing business in Iran and Sudan managed by the State Treasurer, the State Employees' Retirement System and the Public School Employees' Retirement System.

### 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:

"Board." As defined in 71 Pa.C.S. Pt. XXV (relating to retirement for State employees and officers) or 24 Pa.C.S. Pt. IV (relating to retirement for school employees).

"Business activities." Owning or controlling property or assets located in, having employees or facilities located in, providing goods or services to, having distribution agreements with, issuing credit or loans to, purchasing bonds or commercial paper issued by, investing in or having equity ties to or with Iran, Sudan or any company domiciled in Iran or Sudan or their affiliates.

"Company." Any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company or other entity or business association that exists for the purpose of making a profit.

"Direct holdings." All securities of a company that are held directly by the public fund or in an account or fund in which the public fund owns all shares and interests.

"Government of Iran." The government of Iran and its instrumentalities and companies owned or controlled by the government of Iran.

"Government of Sudan." The government in Khartoum, Sudan, which is led by the National Congress Party, formerly known as the National Islamic Front, or any successor government formed on or after October 13, 2006, including the coalition the National Unity Government agreed upon in the Comprehensive Peace Agreement for Sudan. The term does not include the regional government of southern Sudan.

"Inactive business activities." The continued holding or renewal of rights to property previously operated for the purpose of generating revenues but not presently deployed for that purpose.

"Indemnatee." Each current or former board member, duly appointed designee of a board member, officer, employee, including, without limitation, the attorneys in the Office of Chief Counsel that serve a public fund, agent, research firm or investment manager of a public fund who was or is a party to, or is threatened to be made a party to, or is otherwise involved in any proceeding by reason of the fact that the person is or was a board member, designee of a board member, officer, employee, agent, research firm or investment manager of a public fund.

"Indirect holdings." All securities of a company that are held in an account or fund, such as a mutual fund, managed by one or more persons not employed by the public fund, in which the public fund owns shares or interests together with other investors not subject to the provisions of this act.

"Iran." The Islamic Republic of Iran.

"List of State Sponsors of Terrorism." The list of countries designated by the United States Secretary of State as having repeatedly provided support for acts of international terrorism as reported annually in Country Reports on Terrorism in accordance with 22 U.S.C. § 2656(f).

"Marginalized populations of Sudan." Include, but are not limited to, the portion of the population in the Darfur region that has been genocidally victimized; the portion of the population of southern Sudan victimized by Sudan's North-South civil war; the Beja, Rashidiya and other similarly underserved groups of eastern Sudan; the Nubian and other similarly underserved groups in Sudan's Abyei, Southern Blue Nile and Nuba Mountain regions; and the Amri, Hamadab, Manasir and other similarly underserved groups of northern Sudan.

"Military equipment." Weapons, arms, military supplies and equipment that may be used readily for military purposes, including, but not limited to, radar systems or military-grade transport vehicles; or supplies or services sold or provided directly or indirectly to any force actively participating in armed conflict in Sudan.

"Mineral extraction activities." Include exploring, extracting, processing, transporting or wholesale selling or trading of elemental minerals or associated metal alloys or oxides (ore), including gold, copper, chromium, chromite, diamonds, iron, iron ore, silver, tungsten, uranium and zinc, as well as facilitating such activities, including by providing supplies or services in support of such activities.

"Oil-related activities." Include, but are not limited to, owning rights to oil blocks; exporting, extracting, producing, refining, processing, exploring for, transporting, selling or trading of oil; constructing, maintaining or operating a pipeline, refinery or other oil field infrastructure; and facilitating such activities, including by providing supplies or services in support of such activities, provided that the mere retail sale of gasoline and related consumer products shall not be considered oil-related activities.

"Power production activities." Business operations that involve a project commissioned by the National Electricity Corporation (NEC) of Sudan or other similar government of Sudan entity whose purpose is to facilitate power generation and delivery, including, but not limited to, establishing power-generating plants or hydroelectric dams, selling or installing components for the project, providing service contracts related to the installation or maintenance of the project, as well as facilitating such activities, including by providing supplies or services in support of such activities.

"Proceeding." Any threatened, pending or completed action, suit or proceeding, including, without limitation, an action, suit or proceeding by or in the right of a public fund, relating to compliance with any investment limitations imposed by statute, whether civil, criminal, administrative, investigative or through arbitration.

"Public fund." Any of the following:

(1) The State Employees' Retirement Fund established pursuant to 71 Pa.C.S. Pt. XXV (relating to retirement for State employees and officers).

(2) The Public School Employees' Retirement Fund established pursuant to 24 Pa.C.S. Pt. IV (relating to retirement for school employees).

(3) Any Commonwealth fund administered by the State Treasurer.

"Scrutinized business activities." Business activities that have resulted in a company becoming a scrutinized company.

"Scrutinized company." Any of the following:

(1) Any foreign company that has business activities with a value of at least \$20,000,000 in Iran in any 12-month period, or that has supplied military equipment to the Government of Iran, or that has knowingly and willfully violated United States export controls with respect to Iran.

(2) Any foreign company that meets the criteria set forth either in subparagraph (i) or (ii):

(i) The company has business operations that involve contracts with or provision of supplies or services to the government of Sudan, companies in which the government of Sudan has any direct or indirect equity share, government of Sudan-commissioned consortiums or projects, or companies involved in government of Sudan-commissioned consortiums or projects; and

(A) More than 10% of the company's revenue or assets linked to Sudan involve oil-related activities or mineral extraction activities; less than 75% of the company's revenues or assets linked to Sudan involve contracts with or provision of oil-related or mineral extracting products or services to the regional government of southern Sudan or a project or consortium created exclusively by that regional government; and the company has failed to take substantial action specific to Sudan; or

(B) More than 10% of the company's revenues or assets linked to Sudan involve power production activities; less than 75% of the

company's power production activities include projects whose intent is to provide power or electricity to the marginalized populations of Sudan; and the company has failed to take substantial action specific to Sudan.

(ii) The company supplies military equipment within Sudan, unless it clearly shows that the military equipment cannot be used to facilitate offensive military actions in Sudan or the company's implements rigorous and verifiable safeguards to prevent use of that equipment by forces actively participating in armed conflict, for example, through post-sale tracking of such equipment by the company, certification from a reputable and objective third party that such equipment is not being used by a party participating in armed conflict in Sudan, or sale of such equipment solely to the regional government of southern Sudan or any internationally recognized peacekeeping force or humanitarian organization.

The term does not include a foreign company that is a social development company.

"Social development company." A company whose primary purpose in Iran or Sudan is to provide humanitarian goods or services, including medicine or medical equipment, agricultural supplies or infrastructure; educational opportunities; journalism-related activities; information or information materials; spiritual-related activities; services of a purely clerical or reporting nature; food, clothing or general consumer goods.

"Substantial action specific to Iran." Adopting, publicizing and implementing a formal plan to cease scrutinized business activities within one year and to refrain from any such new business activities in Iran.

"Substantial action specific to Sudan." Adopting, publicizing and implementing a formal plan to cease scrutinized business operations within one year and to refrain from any such new business operations; undertaking significant humanitarian efforts in conjunction with an international organization, the government of Sudan, the regional government of southern Sudan or a nonprofit entity and evaluated and certified by an independent third party to be substantial in relationship to the company's Sudan business operations and of benefit to one or more marginalized populations of Sudan; or through engagement with the government of Sudan, materially improving conditions for the genocidally victimized population in Darfur.

"Sudan." The Democratic Republic of Sudan.

#### Section 4. Identification of companies.

(a) Best effort.—Within 30 days after the effective date of this section, a public fund shall make its best effort to identify all scrutinized companies in which the public fund has direct or indirect holdings. A public fund shall, at a minimum, review and rely, as appropriate in the public fund's judgment, on publicly available information regarding foreign companies that have scrutinized business activities, including information provided by nonprofit organizations, research firms, international organizations and government entities.

(b) Assembly.—By the first meeting of a public fund following the 30-day period under subsection (a), the public fund shall assemble all scrutinized companies that fit the criteria specified in paragraph (1) of the definition of "scrutinized company" into a Scrutinized Companies with Activities in Iran List and shall assemble all scrutinized companies that fit criteria specified in paragraph (2) of the definition of "scrutinized company" into a Scrutinized Companies with Activities in Sudan List.

(c) Update.—A public fund shall, from the effective date of this section, annually update and make publicly available its Scrutinized Companies with Activities in Iran List and Scrutinized Companies with Activities in Sudan List based on evolving information from, among other sources, those listed under subsection (a). In addition, a public fund shall provide a copy of its lists to all other public funds including all updates.

### Section 5. Required actions.

(a) Procedure.—A public fund shall adhere to the procedures under this section for assembling companies on its Scrutinized Companies with Activities in Iran List and Scrutinized Companies with Activities in Sudan List.

#### (b) Engagement.—

(1) For each company on a public fund's Scrutinized Companies with Activities in Iran List or Scrutinized Companies with Activities in Sudan List in which the public fund has direct and indirect holdings, the public fund shall send a written notice informing the company of its scrutinized company status and specify the business activities which have resulted in this determination and that it may become subject to divestment by the public fund. The notice must inform the company of the opportunity to clarify its scrutinized business activities and encourage the company, within 90 days of the date of receipt of the notice, to cease its scrutinized business activities in Iran, Sudan or both, or convert the activities to inactive business activities in order to avoid qualifying for divestment by the public fund. The notice shall be sent no later than 120 days after the effective date of this section.

(2) If, within 90 days of the date of receipt of a notice under paragraph (1), a company announces by public disclosure substantial action specific to Iran or substantial action specific to Sudan, the public fund may maintain its holdings, but the company shall remain on the Scrutinized Companies with Activities in Iran List or Scrutinized Companies with Activities in Sudan List pending completion of the companies' cessation of scrutinized business activities. Following completion of a company's cessation of scrutinized business activities, the public fund shall remove the company from its Scrutinized Companies with Activities in Iran List or Scrutinized Companies with Activities in Sudan List.

#### (c) Divestment.—

(1) If, after 90 days following the effective date of receipt of the notice under subsection (b)(1), a company has not announced by public disclosure substantial action specific to Iran, substantial action specific to Sudan or both as specified in the notice, or the public fund determines or becomes aware that the company continues to have scrutinized business activities, the public fund, within nine months after the 90-day period, shall sell, redeem, divest or withdraw from its direct and indirect holdings all securities of the company.

(2) If a public fund determines or becomes aware that a company that ceased scrutinized business activities following engagement under subsection (b) has resumed the activities, the public fund shall send a written notice to the company under subsection (b), and the company shall be immediately reintroduced onto the public fund's Scrutinized Companies with Activities in Iran List or Scrutinized Companies with Activities in Sudan List.

(3) A public fund shall monitor a scrutinized company that has announced by public disclosure substantial action specific to Iran, substantial action specific to Sudan or both. If after one year the public fund determines or becomes aware that the company has not implemented the plan, within six months after the expiration of the one-year period, the public fund shall sell, redeem, divest or withdraw from its direct and indirect holdings all securities of the company.

(d) Prohibition.—A public fund may not acquire securities of a company on its Scrutinized Companies with Activities in Iran List or Scrutinized Companies with Activities in Sudan List.

(e) Excluded securities.—Nothing in this act shall apply to the public fund's holdings in alternative investments.

### Section 6. Reporting.

(a) Report to United States Attorney General.—Within 30 days of the passage of this act, administrators of the public fund shall file a

written report to the United States Attorney General detailing the requirements contained in this act.

(b) Duty of public fund.—A public fund shall, within 30 days of the creation of its Scrutinized Companies with Activities in Iran List and Scrutinized Companies with Activities in Sudan List, provide a report to the Governor, the President pro tempore of the Senate, the Speaker of the House of Representatives and each member of the boards of the State Employees' Retirement System and Public School Employees' Retirement System that includes the items required under subsection (b). The report shall be made available to the public.

(c) Contents.—The report under subsection (a) shall include the most recent Scrutinized Companies with Activities in Iran List and Scrutinized Companies with Activities in Sudan List and all of the following:

(1) A summary of correspondence with companies engaged by the public fund under section 5.

(2) All investments sold, redeemed, divested or withdrawn in compliance with section 5(c).

(3) All prohibited investments under section 5(d).

(4) A list of all publicly traded securities held by the public fund.

### Section 7. Expiration.

(a) Recurrence of investment in Iran.—A public fund shall have no obligations under this act with respect to a company engaged in business activities in Iran upon the occurrence of any of the following:

(1) Iran does not appear on the List of State Sponsors of Terrorism.

(2) The President or Congress of the United States, through legislation or executive order, declares that mandatory divestment of the type provided for in this act interferes with the conduct of United States foreign policy.

(b) Recurrence of investment in Sudan.—A public fund shall have no obligations under this act with respect to a company engaged in business activities in Sudan upon the occurrence of any of the following:

(1) The President or Congress of the United States declares Darfur genocide has been halted for at least 12 months.

(2) The United States revokes all sanctions imposed against the government of Sudan.

(3) The President or Congress of the United States declares that the government of Sudan has honored its commitments to cease attacks on civilians, demobilize and demilitarize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance and allow for the safe and voluntary return of refugees and internally displaced persons.

(4) The President or Congress of the United States, through legislation or executive order, declares that mandatory divestment of the type provided for in this act interferes with the conduct of United States foreign policy.

### Section 8. Conflict with other laws.

A public fund may perform any action necessary to comply with this act, notwithstanding the provisions of any other law.

### Section 9. Indemnification.

(a) General rule.—Each indemnitee shall be indemnified and held harmless by the Commonwealth for all good faith actions taken by the indemnitee and for all good faith failures to take action, regardless of the date of any such action or failure to take action, in connection with attempts to comply with any investment limitations imposed by statute against all expense, liability and loss, including, without limitation, attorney fees, judgments, fines, taxes, penalties and amounts paid or to be paid in settlements reasonably incurred or suffered by the indemnitee in connection with any proceeding.

(b) Advance payment.—The right to indemnification provided in this section shall include the right to have the expenses reasonably incurred by the indemnitee in defending any proceeding paid by the Commonwealth in advance of the final disposition of the proceeding upon the receipt by the Commonwealth of a written undertaking by the

indemnitee to refund the amounts so advanced if it is ultimately determined that the indemnitee is not entitled to indemnification under this section.

(c) Persons entitled.—Indemnification pursuant to this section shall continue as to an indemnitee who has ceased to be a board member, designee of a board member, officer or employee of a public fund and shall inure to the benefit of such person's legal representatives, heirs, executors and administrators.

(d) Reimbursement to public funds.—To the extent that the Commonwealth does not make any indemnification payments, including any advancement of legal fees and expenses, within 30 days of demand therefor, a public fund shall make such payment and the Commonwealth shall reimburse the public fund.

(e) Construction.—The repeal, expiration or amendment of any provision of this section shall not limit the rights of any indemnitee to indemnification, including advancement of expenses, with respect to any action or failure to act occurring prior to the effective date of such repeal or amendment.

Section 10. Severability.

If any provision of this act or its application to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application.

Section 11. Effective date.

This act shall take effect immediately.

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On the amendment, the Chair recognizes the gentlelady, Representative Josephs.

Ms. JOSEPHS. Thank you, Mr. Speaker.

This amendment, A07762, requires divestment from foreign companies, not domestic, but foreign companies doing business in Iran and the Sudan only. It essentially replaces HB 1086. It would mirror legislation moving through the U.S. Congress and supported by the President, as well as, you may remember, at least so far as the Sudan part goes, it is substantially like a bill we have passed here on the floor last July with only three negative votes, 194 to 3, which required a targeted divestment from the Sudan. It gives protection to pension fund managers, resulting from any liability having to do with decisions regarding these kinds of divestments. It excludes private equity investments, and it provides 16 months to divest from the targeted company.

This amendment I bring before you not only because it is not right to invest in countries that conduct genocide or sponsor terrorism, but more importantly, because investments in most companies that do business in those countries are fiscally unsound in a worldwide economy where countries such as the Sudan and Iran are unstable and are renegades, outlaws, in the world community.

In fact, the Securities and Exchange Commission established in 2001 an Office of Global Security Risk to protect investors and tell them what countries that engage in terrorism or other bad, bad activities are bad investments. There is Federal law regarding Iran, and there is Federal law that was signed regarding the Sudan. Both of these pieces of legislation encourage States to do their part, and that is what I am attempting to do with this amendment, and I am hoping, asking, for everybody on this floor to vote for amendment 07762.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the lady.

On the question, the Chair recognizes the gentleman, Representative Shapiro.

Mr. SHAPIRO. Thank you, Mr. Speaker.

Mr. Speaker, I rise in strong support of the Josephs amendment. I do so based on the belief that fundamentally, the United States and the Commonwealth of Pennsylvania have three tools in our arsenal to win the War on Terror, to support our allies, and to isolate our enemies — that is, military means, diplomatic means, and economic means. Certainly, the first two, military and diplomatic means, come from Washington. The third, our economic means, I believe can emanate from the State and should emanate right here from the Commonwealth of Pennsylvania.

The fundamental question before us today is whether or not the Commonwealth of Pennsylvania should continue to profit from foreign companies that support terrorism. The amendment offered by the gentlelady from Philadelphia limits the scope to Iran and Sudan, which are currently subject to U.S. sanctions; that is, no U.S., no domestic company can do business in either country. The amendment at hand only deals with foreign companies and their investments in these two countries. Both Iran and Sudan are considered sponsors of terror by the United States Department of State. Foreign companies that invest more than \$20 million in the Iranian energy sector today are already subject to sanction.

On June 14, Iran ruled out suspending uranium enrichment despite an offer made by the six world powers, clearly in an effort to develop weapons of mass destruction and nuclear weapons that could be potentially used against our allies, or even, God forbid, the United States. The United Nations had voted unanimously three times to impose sanctions on Iran for failure to suspend its uranium enrichment activities. The crisis in Sudan today is the first time, the first time the United States government has labeled an international human rights crisis contemporaneously with that crisis as genocide. The U.S. government estimates that between 300,000 and 400,000 civilians have been killed by the government of Sudan and the Janjaweed, and 2.2 million people have been displaced.

President George W. Bush signed the Sudan Accountability and Divestment Act of 2007 on December 31, much of which the Josephs amendment is modeled off of. Our State has already taken important steps in this terror-free investing area. Treasurer Wiessmann has already divested \$1.2 million from PetroChina, one of the foreign companies that would be targeted in this effort, and she is investigating whether \$13.6 million more in other holdings ought to be divested from. And the Treasurer has said and written that if the General Assembly chooses to require a Commonwealth-wide adoption of a divestment policy, such action can be managed prudently and proceeds can be reinvested for comparable returns.

It is not just Treasurer Wiessmann. It is not just the United States government. It is also Wall Street that is responding to divestment activities in other States and in other regions. The FTSE (Financial Times and the London Stock Exchange) Group, F-T-S-E Group, a global indexing company has partnered with Conflict Securities Advisory Group to provide index funds which screen out companies with business activities in Iran and in Sudan. And the real question is, why should Pennsylvania be involved? Why should we consider this at all? HB 1086, the underlying bill that we are considering, has 72 bipartisan cosponsors. I believe we have an ethical obligation and a financial imperative to act today.

The State's responsibility is to protect the retirement funds and life savings of State employees. The Securities and Exchange Commission in Washington determined that companies doing business with countries that sponsor terrorist organizations are exposed to a greater global security risk, which affects share value and the corporate reputation. And it is not just Pennsylvania that is including important legislation like this. Eighteen States, eighteen States, have passed legislation to divest from Sudan, Iran, or both, and 11 other States have taken voluntary steps to divest their pension funds or pass resolutions urging divestment.

And there is precedent right here in Pennsylvania for this type of action. During the 1980s, PSERS (Public School Employees' Retirement System) voluntarily divested from companies doing business in apartheid South Africa, and at the time, 24 States and 71 cities joined in this action. PSERS has also divested from tobacco stocks at other times.

The amendment today put forth by Chairwoman Josephs reflects the product of nearly 3 years of work where we have reached out to many different interests on this issue, and in sum, what it says is that we will not invest in foreign companies in Iran that have business activities valuing at \$20 million over the last 12 months, whether they have sold military equipment to Iran since April 1, 1979, when the Ayatollah came to power, or if they violate U.S. trade sanctions with Iran.

As for Sudan, we say we will not invest in foreign companies that have dealings in Sudan if they have operations that involve contracts with the government of Sudan or companies or projects which the government controls or has equity in if more than 10 percent of the company's revenues or assets linked to Sudan involve oil-related activities or mineral extraction activities, and less than 75 percent of these assets are linked to the regional government of southern Sudan; if more than 10 percent of the company's revenues or assets linked to Sudan involve power production activities; and if the company supplies military equipment within Sudan.

The Sudan section of this amendment is modeled after HB 1140, which members of this chamber adopted overwhelmingly, 194 to 3, back in July. The Iran language is based on the Iran Sanctions Act and is mirrored on legislation that has passed in the U.S. House of Representatives and is also pending in the Senate. We have incorporated many of the concerns raised by the pension funds, raised by labor, raised by business during this 3-year process of discussion.

The pension funds suggested that the underlying bill did not leave enough time for divestment. They said 60 days was not enough. This allows for a 16-month, 16-month engagement period prior to when the boards would have to divest from a targeted company. It excludes alternative investments – a request of the boards – and it provides indemnification for the pension boards.

The act will expire as it pertains to Iran when Iran is no longer considered a state sponsor of terror, as determined by the United States Department of State, and it will no longer pertain to Sudan when Congress or the President declares that genocide has been over for at least 12 months, the United States has removed sanctions against Sudan, or the provisions are found to be inconsistent with U.S. foreign policy.

Mr. Speaker, the amendment before us gives us an opportunity to say "no" to foreign companies that are propping up terrorist regimes, to do our part to use the economic power, the economic power of the Commonwealth of Pennsylvania that

today invests \$115 billion, to say that we will not invest in foreign companies that are propping up terrorist regimes.

I believe the time has come for Pennsylvania to join the ranks of these other 18 States, to follow the dictate of President George W. Bush and the Congress that is urging us to act, to meet our moral imperative, and to ensure that our retirees are not exposed to the financial risk that they are exposed to as a result of these amendments. I would very much appreciate and urge the members to support A07762, the Josephs amendment, to HB 1086.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the Josephs amendment, the Chair recognizes the gentleman, Representative Nickol.

Mr. NICKOL. Thank you, Mr. Speaker.

First of all, I apologize to the members, I have a summer cold, so my throat is rather dry, and hopefully I can keep up to the challenge, though.

The first thing I would like to tell you about is a little bit of history on the issue of divestment. One of my favorite quotes of Yogi Berra was, "It's déjà vu all over again," because we were back at this point back in 2001, prior to the prime sponsor of this bill having been elected, and we had divestment bills under consideration that were offered by Representative George Hasay from Luzerne County. And back at that point in time, I was assigned by the Speaker to meet with some of the groups that were here lobbying us to push those divestment measures, and what struck my ear is the prime sponsor of the bill actually mentioned one of the groups, Conflict Securities, that was here lobbying me and lobbying the General Assembly for this legislation.

I think it is interesting that on divestment, that there are two groups that are pushing divestment nationally. One group in Sudan is the Sudan Divestment Task Force, which is a clear-minded group of students who are focused on the genocide in Sudan. The other group which is focused on the five nations that are state sponsors of terrorism, and Iran in particular, is the Center for Security Policy in Washington, which is a neocon think tank, and if you go on their Web site and start looking at all their divestment issues, you keep coming up with the name of Conflict Securities.

Well, I have a little story about Conflict Securities and their interest in this legislation. When they approached us, their first thought was, well, before we pass legislation here on the floor of the House requiring the pension funds to divest, let us look at what it means and what it costs. Let us kick the tires of the proposal. So at the urging of the Speaker, I took these people over to PSERS, and they met with PSERS and SERS, and they told us that they have a list, a proprietary list of all the companies that do business in these states that sponsor terrorism. We asked to see their list, and they said, no. You show us your list of investments and we will highlight those companies that are violating – that are doing business with these countries, and our comment back was, when we get the list, will you tell us what business they do and to what extent is it involved in what sectors of the economy? They said, no; we just give you a list; we do not tell you what they are really doing there; just a list. Well, I came back and told the Speaker and we discussed the whole thing, and we thought, well, let us really search this out. We cannot get the cooperation of Conflict Securities to provide that list to us. Let us get the

Legislative Budget and Finance Committee to search out a list of companies doing business in these nations, and we passed a resolution here on the floor of the House asking the Legislative Budget and Finance Committee to do that. The Legislative Budget and Finance got back to us several months later, basically saying that they were totally unable to follow through and develop the list. They have been put in contact with Conflict Securities, but because it was a proprietary list and they wanted to sell it and they did not want it to be distributed to anybody else, they would not assist the Legislative Budget and Finance Committee in developing a list to show us the impact. So as a result, the Legislative Budget and Finance failed to do, with our permission, failed to do the study because they could not get the information, and divestment that year consisted of legislation that basically told the pension funds not to do business with any country or any company or any individual listed on the Federal list as having violated U.S. sanctions, and so the pension funds have been doing that ever since. But that is a little bit of an issue on Conflict Securities. PSERS pretty soon learned that the idea was, if you could get PSERS to have to do this search, they were going to – they had the only proprietary listing of all these companies and we would have to have our investment managers all buy that list and the updates from them, and there was a profit-making motive involved in the whole thing, and that is basically why we walked away from it at that time. I see they are still selling their lists and so on from these.

But let me go back to the amendment itself, because I rise to oppose it, and the reason I do rise to oppose it is what Representative Josephs is doing with her amendment is expanding a bill that only deals with treasury, that deals with State dollars, and she is expanding it to include the money held in trust for the active and retired members of the State Employees' Retirement System and the Public School Employees' Retirement System. So she is radically expanding the underlying bill to include those two pension funds, and I think if we want to try it out, we should just do it with State dollars first before we tell PSERS and SERS with the big dollars that they have to do this.

But first of all, the pension boards, we have to understand, are governed by legal principles derived from Federal court decisions and the U.S. Department of Labor guidance on ERISA, the Federal law, the Employment Retirement Income Security Act of '75. In addition, they are governed by State law. We as legislators have required of them a duty of loyalty, to use the fund's assets for the sole and exclusive benefit of the members. We have required of them a duty of prudence, to manage the investments to avoid unnecessary risk or loss, and have required them as fiduciaries to take steps to ensure there are sufficient funds available to pay the promised benefits. We do not want them investing in risky schemes because of a personal relationship or selling assets at a loss to send a political message, whether it is dumping oil stocks to protest gas prices or selling off Japanese companies to save the whales, no matter how much we might sympathize with the underlying issues. What we have told the pension funds to do is, do your job and do it well; keep your eye on the bottom line. That leaves the politics to us. And PSERS and SERS have done just that.

PSERS had earnings of 22.9 percent during the previous year. There is not a major public pension fund in this nation that posted higher earnings. SERS operates on a calendar-year basis, and over this period of time earned 17.2 percent. To put this in

perspective, the average large public pension fund in the nation earned 8.7 percent during the same period of time. SERS earnings were almost twice the rate of comparable funds. Even today, with markets much lower, both funds are performing better than their peers. The performance of these two pension funds is helping us to earn our way out of the projected pension spike in 2012-2013.

The proposal today would have us override the fiduciary and prudent investing standards we have required of these pension boards. It would divert the two boards from their assigned missions and give them responsibility for investigating and monitoring foreign companies and international trade on the other side of the world.

Presently the most distant offices maintained by both PSERS and SERS are in Venango County. While it might seem like the end of the world to some of the people from the southeast, Venango County is nowhere near Iran or Sudan and not really a suitable location to perform these functions.

Now, please remember that both pension funds already do closely monitor the lists maintained by the U.S. Treasury. This would add to those duties. So what we have before us today is a proposal to step beyond the Federal law, beyond the requirements of Federal law, and adopt our own secondary action against companies doing business in two of the dozen or more countries against which the U.S. has trade sanctions, Iran and Sudan. And we would be assigning the two quite reluctant agencies, PSERS and SERS, the responsibility for enforcement, not DCED (Department of Community and Economic Development) with its financial trade offices abroad or the Attorney General with all his investigators.

Now, this is not an easy task at all. Both the sponsor of this amendment and the sponsor of the bill talked about the Securities and Exchange Commission and their actions. Congress pushed the task of coming up with a national list of companies doing business in the five nations listed as state sponsors of terrorism to the Securities and Exchange Commission some years ago. It took the Securities and Exchange Commission a couple years to actually come up with their list. It was posted June 25, 2007. The list ended up being removed on July 20, 2007, less than a month after it was posted, due to considerable complaints. It appears the SEC did what we would call a word search of the annual report of companies and they listed on that any company whose reports mentioned the name "Sudan" or any of the other key names. The final list ended up containing the names of companies that merely said in their annual report that they had no business dealings with Sudan. I understand the SEC has now abandoned this task, so with this amendment, we will ask PSERS and SERS to step in and take over.

I do not question the sincerity of the sponsor of this amendment. She clearly cares about what is happening in Darfur and wants to see action taken against Iran. Who among us does not agree with her? And I must compliment her. This amendment is really a two-headed animal. It has language unique to Sudan and language unique to Iran. And the Sudan language, largely drawn from Federal law, conforms pretty closely, not absolutely but very closely, with the Federal law, and I have very little objection with her language in Sudan. Most of my objections center on the language on Iran and the impact.

However, good intentions alone are not an excuse to pass an amendment that will, number one, immediately cost PSERS and

SERS an estimated \$46.3 million in transactional costs alone on day one; two, have a serious financial impact on the earnings of PSERS and SERS, our two State-sponsored retirement systems; three, cause an increase in the employer contribution rate for both pension funds; four, trigger school property tax increases and increase State spending to pay the increased employer contributions; five, antagonize public employee unions by hijacking funds paid into the pension funds that are legally for the exclusive use of the members and using them to make political statements; number six, enrage retirees who see us willing to spend money in the funds to make political statements while ignoring their economic well-being; number seven, smear the reputations of many Pennsylvania employers by publicly holding them out to be supporters of terrorism when they are fully complying with all U.S. laws and have not violated U.N. sanctions; eight, seriously damage Pennsylvania's efforts to attract foreign direct investment; nine, impermissibly interfere with the Federal government's exclusive power to conduct the nation's foreign affairs, not with Sudan – that is good language – but with the language dealing with Iran; and number ten, at the same time never cause Mahmoud Ahmandinejad, the President of Iran, or Omar al-Bashir, the President of Sudan, a sleepless night.

Other than this, I do not have any objections to the bill.

I have several questions for the prime sponsor of the measure, if she would indulge me, Mr. Speaker.

The SPEAKER pro tempore. Will the gentlelady stand for interrogation? The gentlelady agrees. The gentleman is in order.

Mr. NICKOL. I am curious, on page 6, if you could refer to page 6, we are looking at the definition of "Scrutinized company," and you separate out Iran and Sudan for different treatment there, and with regard to the business dealings, with regard to Iran, you talk about business activities, which is a defined term on page 4 of the bill, but when you are talking about Sudan, you are talking about business operations. "Business operations" is a term used in Federal law. It is much narrower than the definition of "Business activities," and I just want to find out if indeed that was purposeful. I mean, are you picking up the Federal definition of "Business operations"? Are business operations different than business activities? If you could explain why the two different terms are used?

Ms. JOSEPHS. Mr. Speaker, I have two answers to the question. One is we were trying to comply with the Federal legislation, which has already passed with respect to Sudan and it is on the way to be passed with respect to Iran, and because we had overwhelming support for HB 1140 a year ago, and I tried as hard as I could to make the Sudan portions of this bill as close to HB 1140 so people would feel comfortable that they had voted for it already, they had done the right thing, and they could vote for it again.

Mr. NICKOL. So, Mr. Speaker, am I to interpret that to say that the business operations, as you use the term referring to Sudan, are different than business activities and business operations would essentially refer to Federal law, in the definition in the Federal law?

Ms. JOSEPHS. I am understanding that it is the same.

Mr. NICKOL. Excuse me; I did not understand. It is the same as?

Ms. JOSEPHS. The meaning of "operations" and "activities" is the same. We used "operations" because that is the word that is used in Federal law.

Mr. NICKOL. So it is the same as in Federal law?

Ms. JOSEPHS. Yes. Yes, sir; yes, Mr. Speaker.

Mr. NICKOL. Thank you.

On page 4 in the definition of "Business activities," it talks about "affiliate." Could you explain what you are including by "affiliate"?

Ms. JOSEPHS. Mr. Speaker, if you would give me a line. I do not see "affiliate." I see "facilities."

Mr. NICKOL. It is line 32 in the definition of "Business activities," the only word on that line.

Ms. JOSEPHS. All right. We have it on a different line.

Mr. Speaker, we use the word "affiliates" there in the sense of companies that are a different arm, perhaps differently named, than the company which we have scrutinized because of impermissible activities in these two countries.

Mr. NICKOL. So, Mr. Speaker, would I be correct in assuming that because the China National Petroleum Corporation, CNPC, operates in Sudan and Iran, that their affiliate, which does not do business in either country, PetroChina, would be included then for divestment?

Ms. JOSEPHS. Yes.

Mr. NICKOL. LUKOIL, the major Russian oil company, does business in Iran, it is my understanding. ConocoPhillips is a 20-percent owner of LUKOIL. Would ConocoPhillips be an affiliate?

Ms. JOSEPHS. I think that is one of the companies and activities that would be on the scrutinized list where we could have some time to discover, to discover what relationship investors and other companies have, and it is not on the list that PSERS and SERS have already actually – and the Treasury – have already voluntarily adopted.

Mr. NICKOL. Mr. Speaker, PSERS and SERS had quite a bit of difficulty in terms of trying to come up with definitions, and so the list was crafted very narrowly of those companies that they knew would be included, and there was a broad range of companies that could be impacted where they were uncertain the impact of the legislation, which is why I am asking some of these questions. For example, if a U.S. company – because the definition of "Business activities" and "affiliates" does not deal with a U.S. company or a foreign company; it is all companies – so would a U.S. company that has a 20-percent ownership share in a company on the list be an affiliate? Would they be required therefore, because of the affiliation, to divest of U.S. companies as well?

Ms. JOSEPHS. Mr. Speaker, we have a letter from ConocoPhillips which states unequivocally that there have been instances when ConocoPhillips has incorrectly been associated with business activities in these countries. So I am not willing to speculate about a hypothetical. This letter was dated October 2007, and there are no U.S. companies involved in what we are talking about. We are talking about foreign investments and foreign companies.

Mr. NICKOL. If I could clarify the answer – and we will not use the terms "LUKOIL" or "ConocoPhillips"; maybe that is confusing it – but if you have company A that does business and meets the nexus in doing business in Iran and does more than \$20 million worth of business and that company is in part owned by another company, is that company an affiliate?

Ms. JOSEPHS. Mr. Speaker, I am not going to speculate about some hypothetical company that may or may not be invested in another company that may or may not be doing impermissible activities in Sudan or Iran. But I do want to take this opportunity to stress once again for my friends in the

General Assembly that there are no United States, there are no domestic companies involved in this. We are talking about divesting from foreign companies. U.S. law already forbids this kind of domestic investment. We do not need to duplicate that and we cannot duplicate it here in the State.

Mr. NICKOL. Mr. Speaker, U.S. law does not prevent ConocoPhillips from owning 20 percent of a Russian oil company.

Ms. JOSEPHS. That may be, but it does not.

Mr. NICKOL. Well, let us move on to another one. The word "foreign" is not in front of "affiliate," so I was trying to determine whether or not in a relationship like that that this actually extended to domestic companies who have an ownership share in a company doing business.

Let us move to another company. Shell of Iran is an affiliate, I would assume. They are a wholly owned subsidiary of Royal Dutch Shell based in the Netherlands. Therefore, I would presume, am I correct, that because an affiliate of Royal Dutch Shell, even though it is a separate company for legal purposes, that you would include them as an affiliate and therefore the pension funds could not own any stock in Royal Dutch Shell?

Ms. JOSEPHS. Mr. Speaker, we do have a list from PSERS and SERS which we can make available to you, and Royal Shell is on the list. Whether or not the affiliate or Royal Shell would qualify for divestment depends on a 16-month process in this amendment which allows scrutiny of those companies' activities and operations to see whether they are aiding either in genocide or in terrorism, depending on which is our target for each individual company and country.

Mr. NICKOL. Mr. Speaker, perhaps I misunderstood the amendment. I thought that the process is to determine if a company does or does not do business in Iran, not that PSERS or SERS have any discretion once they determine they meet the threshold of \$20 million a year in business in Iran.

Ms. JOSEPHS. Mr. Speaker, I think you have, indeed, misinterpreted the amendment. Let me try and make it clearer for everybody here. There is a period of engagement. There are benchmarks that will be applied by the funds to see whether these companies that are targets for divestment actually ought to be divested from. If, for instance, they do not meet the threshold of \$20 million, in the case of Iran, or if, for instance, they are supplying – doing business with the south of Sudan or the part of Sudan where Darfur is, or in either case, if any company is doing something which helps marginalize people or the ordinary citizen of either Sudan or Iran, we will not ask anybody to divest from those companies.

Mr. NICKOL. Mr. Speaker, I understand your language with regard to Sudan and it is exactly on point, but with Iran, which was the example I gave, as I read it, it is totally different and it is automatic. I do not see any language, and perhaps you could point out where if you are helping – if you are doing something for marginalized populations in Iran, the pension fund does not have to divest. If that section is in this amendment, I have totally missed it.

Ms. JOSEPHS. Mr. Speaker, I direct your attention to page 8, line 4, section (b), "Engagement." It lays out the standards of which I was just speaking, and it applies very specifically both to companies with activities in Iran and companies with activities in Sudan.

Mr. NICKOL. We both read the same section totally differently, but I am not getting much satisfaction and getting clear answers. So, Mr. Speaker, I will end my interrogation.

If I could just finalize?

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

Mr. NICKOL. I would just like to urge the members to consider that what this amendment does is it takes a bill in divestment affecting Treasury, which is dealing with State dollars, and expands it to include the two pension funds where we are basically playing with other people's money. I think if divestment is a course we want to take, we probably should do it with the State, with the Treasury first, see how it applies, see which companies are listed, and work the bugs out before we go into the pension funds and start perhaps losing the big dollars at that moment.

And with regard to Sudan, the lady's amendment is well crafted with regard to Sudan. It follows Federal law, but I also ask the question, if Congress is taking action in Iran but has not completed action, why do we want to adopt something requiring our pension funds to take a huge hit and divest of holdings of companies doing business in Iran which may or may not be subject to divestment under the Federal statute when that finally is enacted? I think we can afford to wait a little bit to see what the Federal law says and tailor any proposal that we are considering to meet that law rather than just willy-nilly encountering investment losses ourselves by dumping these assets.

I urge members to oppose the amendment. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the Josephs amendment, the Chair recognizes the gentleman from Allegheny, Representative Frankel.

Mr. FRANKEL. Thank you, Mr. Speaker.

I want to address this on a couple different levels, but to be responsive to my esteemed colleague from York, I think it is important to recognize that this action, if we are to take it, is not something that we are doing in a vacuum. There is an enormous amount of experience out there. Eighteen other States have implemented terror-free investing, and the one State that has been at it the longest, that has lived by this standard the longest is the State of Missouri. The State of Missouri Investment Trust is a terror-free fund, and it has yielded over 28 percent in returns, and that fund exceeds the Core – the basis for evaluating amongst other funds across the country. The benchmark for Core Investment Strategies has exceeded those returns on a gross basis by over 4 percent.

Our Treasurer, Treasurer Wiessmann, has said definitively she believes that this can be done in a thoughtful way that will not affect performance, and I quote, she says, "If the General Assembly chooses to require a Commonwealth-wide adoption of a divestment policy, such action can be managed prudently and proceeds can be reinvested for comparable returns."

So again, I think we are not doing this in a vacuum. We are not blazing a trail. This is being done federally. This is being done in 18 other States. And while we alone are not going to have an impact in changing foreign policy combined with the Federal government, the other 18 States and other States that are considering this type of legislation, we can, we can have an influence and change the behavior of rogue States, and I think it is extraordinarily important.

The last time we talked about this and the House passed the divestment in the Sudan legislation, I spoke about some compelling reasons I think we need to be looking at this type of

legislation. Our country has been a great bastion of freedom and has fought great wars, but in the area of dealing in a timely basis with genocide, with dealing with foreign policy and taking diplomatic steps, other steps before engaging militarily, we have lessons of the past that can be learned here today.

I, as I have mentioned before, represent a House district that has very many Holocaust survivors, and along with our World War II veterans, this generation that has so much history to it, that has endured so much and has so much to teach us, they are dying each day. That group included my wife's mother, who was a survivor of Auschwitz. When I sit down and I speak with survivors in my community, as I have periodically, and I have learned over the years even before I was in the legislature, the lesson that they want to leave behind, the legacy that they want to leave behind is that we should never forget, and embedded in that lesson is that we should take whatever action we should to stand up when we have the opportunity to say it is time to stop this, it is time to take action.

Our country, again, had fought great battles in World War II but could have acted more expeditiously to prevent the Holocaust when we knew it was taking place. We also could have acted when the genocide in Rwanda was taking place and chose not to. We now have an opportunity to take the lessons of the past and apply them to today, and in the State of Pennsylvania, we can make one step, a small step, but in concert with others, a step that will help change a policy of genocide in the State of Sudan. We need to take that action. We have a moral imperative to do that action.

With respect to Iran, we know from our actions in Iraq that we did not take every opportunity to take diplomatic efforts to do the things that we should have been doing in order to avoid that tragic intervention that we are dealing with today. Here we have an opportunity, and we know that there has been a great deal of discussion recently with respect to the possibility of military intervention in Iran in order to prevent the development of nuclear weapons of mass destruction that would be used by terrorists, a threat that is imminent, a threat that is palpable, a threat that we need to deal with.

Again, taking our lessons from the past, this is an opportunity we have to step forward and say that Pennsylvania is going to do its part along with other States to not only send a message but to ultimately create a fiscal financial problem for this rogue State that hopefully will educate it and its citizens to the extent that we are not going to tolerate this and maybe be able to preclude a military intervention in the future.

We have an opportunity here. It is not going to bring gloom and doom. The sky is not going to fall on Pennsylvania pension funds. We know that from the experience of other States. I respect the concerns by my colleague from York, but I ultimately come down on the basis that this is prudent from the standpoint I think it is fiscally prudent. I think it is prudent in terms of what we need to be doing to bolster our case, our international case, with respect to these two rogue States.

I want to commend the maker of this amendment and I want to commend the maker of the bill, Representative Shapiro, who has done an enormous amount of work with working with the stakeholders who had concerns about the initial legislation, addressing most of those concerns, and I think what we have here is a very good, responsible piece of legislation that will say a great deal about Pennsylvania and hopefully be part of turning the tide against the rogue nations in this world that we are trying to deal with internationally.

So thank you, Mr. Speaker, and I respectfully ask your support for the Josephs amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman.

### LEAVE OF ABSENCE

The SPEAKER pro tempore. Returning to leaves of absence, the Chair recognizes the minority leader, who requests that the gentleman from Delaware, Representative CIVERA, be placed on leave for the remainder of the day. Seeing no objection, the leave is so granted.

### CONSIDERATION OF HB 1086 CONTINUED

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

Mr. LEACH. Thank you, Mr. Speaker.

I rise today to support the Josephs amendment and the bill in chief and to support terror-free investment.

You know, we have heard some of the arguments against this bill and this amendment before. I remember studying and following very closely the move to divest from South Africa in the 1980s, and the same arguments were made then that, well, we can make more money if we continue to invest in the apartheid system, if we continue to fund what I think everyone agrees was an oppressive and destructive and immoral system; we can make money by doing that.

But, Mr. Speaker, first of all, I will join the arguments of others who have argued that we will not lose any money by doing the right thing in this case, but even if we did, Mr. Speaker, even granting for a moment the theory behind this argument, I would make the case, Mr. Speaker, that this is blood money, that this is money that would be a stain and a blot on the reputation of the Commonwealth of Pennsylvania. The only way that we can have a good return on our investment, the argument goes, is if we support repression, terror, genocide, or at the very least are indifferent to it, Mr. Speaker, and I do not believe that that is the case. Even if it were true in terms of the financial aspect of it, which it is not, I do not believe morally that is a legitimate argument.

Now, it is important to remember, as Representative Shapiro pointed out, that many other States have done this, and this has truly been a bipartisan effort. We have seen very Democratic legislatures, like California, pass this; we have seen very Republican legislatures, like the Florida Legislature, pass this. We have seen 18 States do this, and this is pending in a whole variety of other States.

Now, Mr. Speaker, the question is, will this cost the citizens of Pennsylvania money if we divest? And in order to keep funding terrorism and keep funding immoral practices because it is going to cost us money, which I do not think we should do even if it were true, I think that you have to demonstrate a certain burden, you have to meet a certain burden of proof. You have to present some evidence that we are actually going to be losing money. I have heard no evidence of that. In fact, to the contrary.

Representative Frankel talked about the situation in Missouri. If you look at the situation in the other States that have done this, there is no evidence and the gentleman who argued against this amendment offered no evidence that money

will be lost. Among the people who have written about this is Michael Barone of U.S. News, who says, the potential losses, if they exist at all, are almost certainly minimal. A fund can find plenty of international stocks for its portfolio without touching those who do business in Iran or do business in Sudan. These are not our only options. Why is it that we can only make money if we invest in these terrorist or genocidal regimes? On the other hand, we have seen historically divestment really hurts the targets of the divestment. Any analysis of the situation in South Africa with the fall of apartheid will demonstrate that the divestment of American companies from South Africa was a major contributor to the eventual fall of apartheid.

You know, Mr. Speaker, a lot of people that I talk to about this bring up the point that there is a hunger in America to contribute to the war on terror that we are all fighting, and one of the complaints the American people have is that our government, except for a few people who they send over to fight these wars, has asked nothing of us as citizens. We are not going to interfere with tax cuts; we are not going to require anything of the average person. It is easy to completely put the war on terror out of our mind and have no part in it, and that is not what the people want, Mr. Speaker. The people are hungry for an opportunity to contribute. This bill and this amendment give all of us in Pennsylvania an opportunity to contribute to the war on terror and to make a stand against these types of brutal regimes. This is something that we can do.

There have been a couple of points raised about the fiduciary relationship that we have to the investment funds that we are talking about and in fact that we do have a fiduciary relationship. As a lawyer who is familiar with this area of law somewhat, I can tell you there is nothing about a fiduciary relationship that requires a fiduciary obligation, that requires us to be morally indifferent to the investments that we make. All that a fiduciary obligation requires is that we make sound investments, that we make prudent investments, that we make investments that are not reckless and are not likely to lose money for the investor to the best of our ability. There is no obligation inherent in a fiduciary relationship to invest in terrorist regimes, to invest in genocidal regimes. That is simply not true. Other States also have fiduciary obligations. There has been no court finding that they have violated their fiduciary obligations by divesting in the sort of regimes that we are talking about today.

There is also the argument about, well, this is going to cost transactional costs. The fact is, Mr. Speaker, that every single day these pension funds have transactional costs. They are investing and divesting and moving investments around constantly. This could be done in such a way that there would be no increased transactional costs whatsoever.

Mr. Speaker, I would also make the point that, from my perspective at least, an Iran with nuclear weapons is unacceptable. The United States— And we have heard this from people on both sides of the aisle – Presidential candidates on both sides of the aisle, the incumbent President – that they will do everything they can, including, potentially, the military option to prevent Iran from having nuclear weapons. The fact is that one of two things is going to stop Iran from having nuclear weapons. Either we have a successful regime of sanctions, of economic and political sanctions, or failing that, there will be a war in Iran, in all likelihood, to stop Iran from having nuclear weapons, military action.

What we will do by doing this divestment is contribute in a small way to make it more likely that economic sanctions work and that that eliminates the Iranian nuclear threat and that we do not have to send more young men and women off to war and have more condolence resolutions here in the House. It is that important that we pass this bill. We are going to be part of the solution here if we pass this legislation.

James Woolsey, the former director of the CIA (Central Intelligence Agency), said that terror-free investment is a critical part of the comprehensive sanctions package, and according to the Center for Security Policy, Iran's ability to fund nuclear programs and sponsor terrorism will come to a grinding halt without revenue from foreign investors. Iran's ability to fund terror will come to a grinding halt without the money that the investment from the pension funds of Pennsylvania and other States provide. I cannot imagine a more powerful statement, Mr. Speaker, on why this bill is necessary.

The fact is that America, by continuing to invest in foreign governments that support terrorism, is failing to use its most powerful weapon, which is our financial power, our financial wherewithal, to stop terror in its tracks. We have more than just our military power. Our financial power in some ways is more comprehensive and more powerful, and it is time we start using it.

Finally, Mr. Speaker, Representative Frankel mentioned the Greatest Generation. I also come back to them. This is a generation that we have spent a lot of time talking about recently, whose sacrifices and whose courage we admire and we aspire to, and you have to think what would the Greatest Generation do? Would they continue to pour money into regimes that are using that money to find ways to kill Americans, to kill our fellow citizens? Is that what the Greatest Generation would do because we can make some more money off of it? We make a little more profit here and there? Is that the sort of moral example that they set for us? Is that the moral example that we want to set for our children? I do not think so, Mr. Speaker.

And I would urge support of the Josephs amendment so that we could put Pennsylvania on record as opposing these regimes and put our money where our mouth is and put our resources behind the idea that we will not be supporting terror and genocide and regimes that mean us harm.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the Josephs amendment, the Chair recognizes the gentleman, Representative Seip.

Mr. SEIP. Thank you, Mr. Speaker.

Mr. Speaker, I rise to support this amendment.

My wife and many other soldiers and military personnel have been on the floor of this House. Others that have fought against terrorism have been honored on the floor of this very House. Mr. Speaker, to do anything but to limit the resources of our enemies is unconscionable. Let us do all we can to support our fighting men and women.

Mr. Speaker, there is no amount of dividends or returns that is fair compensation for even one more condolence resolution on the floor of this House.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question, the Chair recognizes the gentleman from Philadelphia, Representative Payton.

Mr. PAYTON. Thank you, Mr. Speaker.

I rise today in support of the Josephs amendment not only because it is the right thing to do, but there are a couple other points that I want to discuss. Number one is that if we divest, it is the right thing to do, and if we are putting our money into companies that are profiting off the stability, off instability – I apologize – off instability and nations that sponsor terrorists, I think we have in this chamber 203 patriots and we should be patriotic enough to divest from terror-sponsoring nations, not to mention the genocide happening in Darfur.

So again, I appeal to the 203 patriots in this chamber, in this chamber, to do the right thing not only morally but for the health and welfare of this Commonwealth.

And a song comes to mind when thinking about this bill, and it is by Michael Jackson, and it is, "You Are Not Alone," and we are certainly not alone in this effort. The Federal government has joined us, many cities have joined us, and many other States. So I would implore all of the patriots in this room to vote "yes" for the Josephs amendment. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the Josephs amendment, the Chair recognizes the gentleman, Representative Ross.

Mr. ROSS. Thank you, Mr. Speaker.

I have supported divestment in the past and I would like to support it again, but unfortunately, in order to do it properly, we have to get it right, and this particular proposal does not get it right. There are a couple of key problems with it which are going to prevent me from being able to support it. The first and most important issue here is that it would be entirely appropriate for us to instruct the Treasurer and encourage the Treasurer to continue on the path of divestment and careful scrutiny of our investments, and I would entirely support that, and I am delighted to hear that she is doing that.

When you go to the next step and start looking at our retirement funds, we have to meet a higher standard. We have to not only be moral and be correct, as has been pointed out, but we also have to take an extra step to protect the investments of the people that have entrusted their money out of their payroll to us.

Now, let us look at what the funds contain. They contain \$1.9 billion of commingled funds, index funds. If there is a single company on any of those funds that does not meet the standards being proposed here today and they do not decide voluntarily to agree to divest of those companies, we will have to get rid of that fund. That is a huge problem for us. We should not be extending this to index funds. We will be winding up divesting of many, many companies that have no connection at all to Sudan or Iran simply because there is some company somewhere on that fund. This is not a good idea. If in fact that had been taken out, I would have a different attitude toward it, but they did not choose to craft it in that fashion.

So unfortunately, although I admire their effort, because of the way this has been constructed, I cannot support it and I will be voting "no."

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the Josephs amendment, the Chair recognizes the gentleman, Representative Maher.

Mr. MAHER. Thank you, Mr. Speaker.

Would the maker of the amendment answer a couple questions?

The SPEAKER pro tempore. The lady indicates that she will. The gentleman is in order and may proceed.

Mr. MAHER. Thank you.

The preceding speaker said that your amendment is drafted in a way which would preclude investments in index funds. Is that correct?

Ms. JOSEPHS. Mr. Speaker, if it is all right with the asker of the questions, I would yield to my colleague from Montgomery County to answer them, and if you would be so kind as to repeat the question for him, I would appreciate that.

Mr. MAHER. I would be delighted.

The preceding speaker indicated that your amendment will preclude investments in index funds, and I believe that, to add some clarity, for instance, there are all sorts of index funds that are pegged to the S&P (Standard and Poor's) 500 or the Wilshire 5000, the Nasdaq, et cetera, et cetera, et cetera, and if I understand the way your amendment is drafted, it would say that an index fund that does not exclude companies that might be on this list, it would be out of bounds. I am just trying to understand if that is correct.

Mr. SHAPIRO. Thank you, Mr. Speaker.

Mr. Speaker, would a company become a scrutinized company under the provisions of this amendment, it would apply to those companies, those foreign companies, whether they are held directly as direct investments or whether they – I should say, and if they are also held as indirect investments. Therefore, Mr. Speaker, the gentleman's question I believe is alluding to indirect investments, and the answer is yes. Would it be a scrutinized company commingled within that indirect investment, then, yes, it would be something that the Commonwealth would divest from, Mr. Speaker.

Mr. MAHER. Thank you.

Another question: Often financial transactions can involve rates being reset based upon the performance of an index. Would transactions by the Commonwealth that have rates that are set determined by a performance of an index, would those be out of bounds if that index is one of these that would be on the scrutinized list?

Mr. SHAPIRO. Mr. Speaker, I think the question the gentleman is asking – and I appreciate the line of questioning – I think that the gentleman's question is a bit too hypothetical to try and address. Specifically, this language would direct the Commonwealth, the two pension funds and the Treasurer, from divesting any scrutinized companies that are held directly or indirectly.

Mr. MAHER. So if the Treasury wanted to enter into a forward contract that had a price to be determined based upon the performance of one of these scrutinized, and therefore prohibited, indexes, would that be a legal investment or would that be illegal under this amendment?

Mr. SHAPIRO. Again, Mr. Speaker, that would depend on the specific scenario, the specific companies involved in whether or not they would be considered targeted. I would—Or scrutinized; excuse me.

I would point out to the gentleman that there are a plethora, to use a Bill DeWeese word, a plethora of opportunities now available and becoming available on Wall Street that are considered terror-free indexes; that is, indexes that do not invest

in these foreign companies that meet the criteria of doing business in Iran and Sudan.

Mr. MAHER. Now, if the Treasury or one of the— Let me just stick with the Treasurer.

If the Treasurer were to have funds that were in an escrow account, perhaps due to one of these bond issues where we have debt service reserve funds and so forth set aside, and if there are contracts in place, bond indentures in place, that require funds to be invested in a certain form of security, and if that security involves one of these companies that would be prohibited, what would be the appropriate course of action for the Treasurer to take if this amendment were to become law?

Mr. SHAPIRO. Mr. Speaker, I think I counted three or four what-ifs in that hypothetical that the gentleman raised, and again, I would point out several things that have been referenced on the floor.

Number one, this pertains to these scrutinized companies that are held both directly and indirectly. In addition to that, there is a 16-month period within which this divestment would occur. Therefore, under the gentleman's hypothetical, I think that would provide ample opportunity for the boards or the Treasurer, I cannot remember which hypothetical we are up to now, but it would allow the boards and the Treasurer the opportunity over a 16-month period to divest.

The issue at hand is whether or not we believe that investing in these foreign companies that are doing business and propping up these terrorist regimes in Iran and Sudan are wise investments or if they are risky investments. I would maintain that they are unwise, full of risk, and put our retirees at risk.

Mr. MAHER. With funds invested pursuant to a bond indenture, such as the bonds that were approved by this chamber yesterday, with funds invested pursuant to a bond indenture for a bond issue that has already happened, and there is an indenture that specifies the types of securities in which the reserve funds are to be invested – it is a contractual obligation between the Commonwealth and the bondholders – what is the Treasurer to do when there is a contractual obligation between the Commonwealth and bondholders? Would that contractual obligation supersede this legislation, or would this legislation supersede that obligation?

Mr. SHAPIRO. Mr. Speaker, again another hypothetical is raised. Let me try and answer it in a general way since it is a general hypothetical, and again, I think I have answered this three or four or five times now.

The contract that the gentleman speaks of, Mr. Speaker, is a contract that indebts this Commonwealth for a particular purpose. It does not also direct the Treasurer, or PSERS or SERS or whomever the arm of the Commonwealth may be, to go ahead and invest in foreign companies doing business in terror-sponsoring nations. That is not what that does.

So, Mr. Speaker, again, these are general hypotheticals. This language is clear, I believe, in that it directs the Treasurer, in this case, to divest from any foreign companies held directly or indirectly that meet the criteria under the Josephs amendment.

Mr. MAHER. Thank you, Mr. Speaker.

That concludes my questions. I would like to speak on the amendment.

The SPEAKER pro tempore. The gentleman is in order.

Mr. MAHER. While I am certainly surprised that the gentleman appears so unfamiliar with the typical terms of debt undertaken by this Commonwealth, that will ordinarily insist upon the creation of debt service funds and debt service reserve

funds and with rather particular requirements about how such funds are to be invested. As has been reviewed recently, there are billions and billions of dollars of debt, and there are going to be millions and millions of dollars of debt service reserves. Apparently there has been no thought given to, how can the Treasurer honor this proposed law without violating contractual obligations?

So this bill as drafted, this amendment as drafted, will put the Treasurer in a position to decide, what crime will the Treasurer commit? Because any action taken by the Treasurer would be breaking the law. I do not think that is fair to put the Treasurer in a position that no matter what the Treasurer does, the Treasurer will be breaking a law or breaking a contract.

I am also surprised that the notion is that an index fund is necessarily indirect ownership. Indexes by their nature are statistics. Some of these statistics do in fact represent an accumulation of stock intended to mirror some segment of the market; others do not. For instance, there is an oil index fund, and I suppose that oil index fund at some level or another, whether it owns oil or not, would be involved with somebody who is making oil who might wind up on this list, but ultimately, it is a statistic. Similarly, options contracts are not actually ownership, not actually ownership in a company, but rather the right to buy or sell an interest in the company but not actually owning anything in the company.

The goal of the legislation is a noble goal, but as some of the other speakers have illustrated, and I will not repeat, this amendment is so poorly crafted that these questions that are referred to as hypotheticals, but are the real questions that Commonwealth officials would need to have answers to to understand the conduct that is expected of them if this were to become law, I do not think this legislation actually provides clarity of the conduct expected. I think it is unfair to hold public officials to requirements that cannot be understood by those who claim to support it, because if the folks who are proposing this amendment do not even understand the answers to the questions of what happens in the real world, I do not know how we can expect that those who would be subject to this amendment would understand it any better.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the amendment, the Chair recognizes the gentleman, Representative Shapiro.

Mr. SHAPIRO. Thank you, Mr. Speaker.

Mr. Speaker, there have been many important points raised. I would like to try and rebut them and offer some contrary evidence to demonstrate that I believe the Josephs amendment is properly tailored and an important amendment for this House to adopt.

An initial issue was raised as to the cost of this amendment, suggesting that somehow we should not be divesting and that it is not about saving the whales, as the gentleman from York suggested, you know, that it would be a slippery slope; we would have to keep divesting and divesting. This is not about saving whales, this is not about costing the pension funds too much money; this is about saying no to foreign companies that are doing business with terror-sponsoring nations.

PSERS and SERS today invest directly \$1.5 billion in companies that would be scrutinized under the Josephs amendment. There is also no evidence, no evidence, that terror-free investing is expensive or detrimental in any way to

investment performance. Indeed, the actuarial note that accompanies the Josephs amendment did not put a cost on this divestment effort. We have seen the divestment practices of the Treasurer not result in losses to the Pennsylvania Treasury, and Treasurer Wiessmann wrote that, quote, "If the General Assembly chooses to require a Commonwealth-wide adoption of a divestment policy, such action can be managed prudently and proceeds can be reinvested for comparable returns."

Additionally, there are 18 States that have divested, none of which we have seen any losses of any appreciable amount, and in fact, in the case of Missouri, which has been on the books for, indeed, the longest time, we have seen them exceed the benchmarks that they were performing at before they went to terror-free investing. The Missouri Investment Trust is a terror-free fund that has yielded over 28-percent returns, but let us compare apples to apples.

The EAFE (Europe, Australasia, and Far East) Index, the index used by pension funds across the United States, has seen a 4.14-percent increase as a result of the Missouri Trust Fund going terror-free. According to the Republican State Treasurer, Sarah Steelman, in Missouri, so far, the outperformance of our fund has more than outweighed any additional cost to separately manage our account. So says the Republican Treasurer of Missouri.

We have heard from various speakers that there is going to be a risk to the Pennsylvania pension funds, yet there is no evidence of any risk in these other States being put on the pension funds, and indeed, the risk, I believe, occurs if we fail to divest, if we continue to invest in these foreign companies that are doing business in these terror-sponsoring nations. Do not take my word for it; the Securities and Exchange Commission in Washington has said so. Treasurer Wiessmann has said so in her language.

And furthermore, if the gentleman is correct, if the gentleman is correct that there would be a loss – again, a point that I am not willing to concede and the evidence suggests has not happened in the other States – we already have two statutes on the books to protect our retirees and to protect the pension funds by making it the obligation, the obligation of the General Assembly, of the General Fund, to cover whatever losses may result in 24 Pa.C.S 8531 and 71 Pa.C.S 5951.

The gentleman also suggested there is no list; how could we know which companies would be scrutinized? Well, after just a few days of having the Josephs language, PSERS and SERS were able to provide a list of the companies that would be considered for divestment, these foreign companies that could be considered for divestment, and it is important to note that not a single company on this list has a large presence in Pennsylvania. Westinghouse is not on this list. Siemens is not on this list. ConocoPhillips is not on this list. Rolls-Royce is not on this list. These companies, these jobs, these important economic drivers in our Commonwealth, would not be impacted.

We have also seen that many of the companies that appear on this list are not just bad actors overseas; they are bad actors right here at home. Royal Dutch Shell, that I believe was referenced earlier in the discussion, which would be a targeted company according to the list provided by PSERS and SERS, just settled with Attorney General Corbett for \$120 million in a class-action lawsuit for overstating oil and natural gas reserves and artificially inflating stock prices over a 5-year period.

That is going to garner PSERS and SERS the opportunity to recover \$6.5 million.

Mr. Speaker, I believe the time has come for Pennsylvania to join with the other 18 States that have taken this courageous step to say no to foreign companies that are propping up terrorist regimes. It is important for us at this time as a Commonwealth to put our mark down and say we will not profit from companies that are propping up terrorist regimes.

I would respectfully ask members to join together with our bipartisan coalition, support the Josephs amendment, and make sure that Pennsylvanians' voices are heard, that we will not prop up terrorist regimes.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes, for the second time, Representative Nickol.

Mr. NICKOL. Thank you, Mr. Speaker.

I would like to respond to some of the comments. First of all, with regard to the cost of the amendment.

Now, the cost on day one. This is just a transactional cost of following through with what the pension funds are required to do in terms of divesting, the sale and then the repurchase, the roundtrip cost of divestment, plus the monitoring and compliance, and that total cost is \$46.3 million.

Now, the previous speaker said it will not cost too much money. I do not know what "too much money" means, but in Hanover, Pennsylvania, \$46.3 million is too much money.

Also, in the discussion over the 18 States with divestment, you have to be cautious, because these States do not have this bill. Most of the States have rationally determined that you cannot divest index funds. Most of the States have rationally narrowed the scope of divestment. Many of the States that are being cited actually gave their pension boards fiduciary and prudent person— They are supposed to apply prudent-person and fiduciary standards, which limit their divestment essentially to a handful of companies, not this broad-based divestment of everything, including many companies with the index funds that are not even doing business in Iran or Sudan.

We also heard mention of Missouri several times. Please remember, there is a huge difference between the Treasury and the pension funds in any State. The pension funds invest billions. The pension funds invest long term. Treasurers, most of their money is in overnight instruments and short-term instruments. They do have a layer of investment that will go into stocks that are longer-term investments, but it is a relatively minor share of their entire portfolio you are talking about. When you are talking about the pension funds here, you are talking about a major share of their investments.

We also heard one speaker say there are a plethora of indexes out there which the pension funds could invest in. I personally would like to know, because PSERS has not been able to find a single money manager of a sufficient size for us to invest in that manages a fund based on one of those indexes. The only ones that are out there are minuscule, little startup funds where they only have a handful of investors. There are no funds large enough to take investors from institutional investors like PSERS, unless the speaker can name one, and I would like to know the name of that fund, because the previous ones he has introduced us to are very, very small funds.

In the end, this is a bad bill. We are being asked to remove, we are being asked to act on this legislation at a point in time

when both pension funds are under water in terms of their investments for the year. They both have negative numbers for this calendar year. And they are asking us, and I have heard the previous speaker say there is going to be no cost to divestment. Imagine if we had done this 6 months ago. Well, the MSCI (Morgan Stanley Capital International) World Energy Index, these are international energy companies which you will find are mainly the companies on the list, their performance over this period of time was 233.20 percent. Now, in my world, if you are out of those stocks, you have lost money. I mean, we are under right now, and we would be knocking the pension funds out of their highest earning segments. There has to be a cost to any rational person looking at those numbers and those indexes.

I urge members to defeat this amendment. This amendment does not— If we defeat this amendment, we are not killing divestment; we are limiting it. We are limiting it to Treasury, and the bill, 1086, deals with divestment. It deals with divestment by Treasury. If we are going to move forward, let us just deal with Treasury before we do any major damage by dealing with the other pension funds. Members can still have a chance to vote for a divestment bill; it just does not need to be this broad. We do not need to rope in the pension funds and do potentially untold damage.

I urge the members to defeat this amendment. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes, for the second time, the gentleman from Allegheny, Representative Maher.

Mr. MAHER. Thank you, Mr. Speaker.

I would like to get a couple more questions answered, if the maker or her delegate would be able to respond.

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

Mr. MAHER. Thank you.

If your amendment were to become law, could the Governor still give grants to companies that might be on this list?

Ms. JOSEPHS. Mr. Speaker, I have no idea why the Governor would want to give grants to foreign companies that invest in terror, but it does not touch that, so I suppose he could.

Mr. MAHER. Thank you.

If your amendment were to become law, could the Governor offer job-incentive credits and programs and funding to companies even if they are on this list?

Ms. JOSEPHS. Mr. Speaker, I doubt very much our Governor would want to invest in companies that are engaged in genocide, but I suppose if he wanted to support genocide in that way, he could.

Mr. MAHER. And do you know if this windmill operator, the foreign-owned windmill operator that seems to have received attention and perhaps investment from the Governor, do we know if any of their affiliates are on this list?

Ms. JOSEPHS. No, we do not, and that is why we have 16 months to look at this.

The Treasurer actually does not seem to have any problem with this. She is doing it herself. She would like to see the Commonwealth do it as a permanent policy. She does not seem to have these kinds of problems. She is a very experienced fund manager. I think we ought to go with the Treasurer of this State.

Mr. MAHER. And so you are saying that the Treasurer, who has pursued a policy objective here, would prefer to have it cast in stone? Are you sure about that?

Ms. JOSEPHS. The Treasurer has said so. She is pursuing a fiscally sound policy because, contrary to what has been said on the floor here, Treasury moneys do not belong to us any more than pension moneys belong to us; they belong to the people of Pennsylvania. And I believe she has said in a letter, which is on your screen and on everybody's else's screen, that she is in favor of this amendment. Yes, sir. Yes, Mr. Speaker.

Mr. MAHER. Well, thank you. I appreciate that clarification.

And do we know, has anybody researched, or rather, let me change it this way. Under your amendment, if the State wanted to lease a highway to a company that has affiliates that are on the list, would the State still be able to lease the highway to such a company?

Ms. JOSEPHS. Mr. Speaker, very speculative, very hypothetical. I will say, because I do not want to be perceived as being contrary or not wanting to give out information, but I suppose if we wanted to engage in a very big way with companies that are aiding genocide and terror, we could do it under this bill. But I kind of do not think it is going to happen, and I would really like to be relieved from answering speculative hypotheticals that have nothing whatsoever to do with the bill or with any real situation in the world.

Mr. MAHER. Thank you, Mr. Speaker. I will be happy to relieve the gentlelady, and I thank her for her answers.

What a halfhearted effort this is. Not only do we not understand and these folks cannot answer questions about the real-world decisions that the Treasurer and PSERS and SERS would have to deal with, but apparently it is still okay for the State to give money to companies that it would not be able to invest in. It is still okay for the State to give tax credits to companies that it would not be okay to invest in. It would still be okay for the State to lease a highway to a company that it would not be able to invest in.

If we want to really get at this issue, let us go about it in a broad fashion. Let us prohibit all transactions with such entities, and instead what this does is it targets statistics. Statistics are now our enemy. Indexes, indexes that are simply numbers, are now the enemy. But if the Governor wants to go around with a big cardboard check, he can give money to these outfits, but you just cannot invest in them. It seems pretty halfhearted to me.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Are there any other members seeking recognition before we recognize the prime sponsor? On the question, the Chair recognizes the gentleman, Representative Pashinski.

Mr. PASHINSKI. Thank you, Mr. Speaker.

I rise in support of this amendment.

On a daily basis, we have been told that the Iranian government supplies weapons and trains troops against our American forces. It is beyond me at this point that the discussion has really revolved around money and money alone. It seems to me that we have been told time and time again that we are at war, and I think our concerns here should be relative to the brave men and women that give of their lives across the ocean to allow us the safety, the freedom, the leisure, to sit and stand in this hall and casually debate whether or not we should support countries that fight and kill our own American soldiers.

We are an organization that is supposed to balance the powers and balance the powers of reasoning, and I see \$46.3 million in transaction funds and I see one American soldier, and what I see is that the balance for the American

soldier is much more important than the balance of the \$46.3 million. I see that there will be an increase by participants to try to make up the difference, and what I see is the balance between the life of one American, and that increase of money is not even in contention.

I rise in support of this, because I think it is time that we as an Assembly, that we as a State, that we as a nation, stop looking at just the bottom line and look at the moral and human aspect of this. If we vote for this, we send a message to our foes that we will not put up with what they are doing.

I stand proudly with the maker of this amendment, and I ask all the members to do the same. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentlelady from Philadelphia, Representative Josephs.

Ms. JOSEPHS. Thank you, Mr. Speaker.

It is interesting, I have been told by half the opponents of this bill that it does not go far enough, the other half that it goes too far. I ask you, what is a girl to do? And I answer, vote for amendment 07762.

And I am sensible of the arguments that have been made that say, so, if we lose money, it is worth it, and I agree with that, but it is not true. This is a win-win. I have pensioners, everybody has pensioners; I would not hurt them no matter what. I believe this bill will put these funds and the Treasury funds which also belong to the people of this State in a much better position than they are now under their voluntary efforts to do this very thing without having all the problems that have been alluded to in all of this speculation that has been going on.

We have a win-win. We can support our men and women in Iraq because they may not have to go to Iran, because we may be effective. They may not have to go to the Sudan because we could be, probably will be, effective, and the funds will be in better shape.

My pensioners who do not want to be hurt and will not be hurt and will be held and the people who get Treasury money one way or another have come to me; they have said they do not want blood on their hands. Neither should we.

Thank you. Please vote for this amendment.

The SPEAKER pro tempore. The Chair thanks the lady.

On the Josephs amendment, the Chair recognizes the majority leader.

Mr. DeWEESE. Thank you, Mr. Speaker.

We should vote for the Josephs amendment because it is morally right. We should vote for the Josephs amendment because it is fiscally sound. We should vote for the Josephs amendment because the United States government made a suggestion to the 50 States that this was the avenue of advance. And that is not just a military term; that can be a political term, and the political objective of 300 million Americans relative to Iran and Sudan is mutually shared by the wide swath of our population.

Preeminent among supporters for this kind of action are the neoconservatives who dominate American conservative talk shows, American conservative publications. Whether it is Kristol or Wolfowitz or any other names among those luminaries of conservatism, joining with Progressives, joining with far-sided people in 18 other States, this should be a bipartisan vote.

We have received correspondence from United States Senator Bob Casey, we have received correspondence from

United States Congressman and former colleague Bob Gerlach, who represents the honorable gentleman from the 155th District of Chester County – Jim Gerlach. His appellation is inconsequential; his congressional service on this issue is worthy of approbation.

This is a chance for us to speak out in a manner that we do not get the chance to very often, Mr. Speaker. I have traveled in the Middle East, worked in Israel, believe in its cause, believe in its destiny, and I would like a bipartisan vote to join me in an efficacious and idealistic vote. I ask for an affirmative vote on the Josephs amendment. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

#### YEAS—166

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

#### NAYS—32

Baker	Geist	Micozzie	Phillips
Bastian	Gillespie	Miller	Ross
Bear	Gingrich	Moul	Saylor
Clymer	Harris	Mustio	Steil
Creighton	Hess	Nickol	Stern

Cutler	Mackereth	O'Neill	Swanger
Fairchild	Mantz	Peifer	Turzai
Fleck	McIlhattan	Perry	Vulakovich

NOT VOTING—0

EXCUSED—5

Civera	Petrone	Pyle	Rubley
Curry			

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. **NICKOL** offered the following amendment No. **A07846**:

Amend Title, page 1, lines 1 through 25; page 2, lines 1 through 6, by striking out all of said lines on said pages and inserting Prohibiting public investments in sponsors of terrorism.

Amend Bill, page 2, lines 11 through 32; page 3, lines 1 through 30; page 4, lines 1 through 3, 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 Terrorism Investment Prohibition Act.

Section 2. Declaration of policy.

The General Assembly finds and declares as follows:

(1) Foreign terrorists and those organizations and countries that shelter, harbor and support them, pose a grave threat to the security and well-being of all the citizens and institutions of this Commonwealth.

(2) It is imperative that public funds be prudently managed and invested, as more particularly set forth in this act, to ensure that foreign terrorists and those organizations and countries that shelter, harbor and support them derive no benefit from the investments.

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:

"Person." Includes any corporation, partnership, limited liability company, business trust, other association, government entity other than the United States of America and a state, estate, trust, foundation or natural person.

"Public fund." Any of the following:

- (1) The Public School Employees' Retirement Fund.
- (2) The State Employees' Retirement Fund.
- (3) A fund administered by the State Treasurer.

Section 4. Prohibited investments.

(a) Prohibition.—

(1) Except as set forth in paragraph (2), the assets of a public fund shall not be invested in the stock or obligations of any person or country:

(i) which is specifically identified by the Office of Foreign Asset Control of the United States Department of the Treasury on its Internet website, as supporting foreign terrorism; and

(ii) against which economic, trade or other sanctions have been imposed by the President of the United States.

(2) Paragraph (1) does not apply to any of the following:

- (i) Indirect holdings in actively managed investment funds.
- (ii) Investments in commingled funds.

(b) Scope.—The prohibition under this section shall be to the extent prescribed by the President of the United States.

Section 5. Portfolio review.

(a) Comprehensive review.—

(1) Within 90 days of the effective date of this section, the investment manager of a public fund shall complete a comprehensive review of the investments of the public fund to determine compliance with section 4.

(2) At least annually, the investment manager of a public fund shall complete a comprehensive review of the investments of the public fund to determine compliance with section 4.

(b) Contacts.—The investment manager of a public fund shall contact companies identified under section 4(a) to:

- (1) request information regarding the scope of the investment; and
- (2) express the concern under section 2(1).

Section 6. Divestiture.

If the investment manager of a public fund becomes aware that the assets of the public fund have been invested in violation of this act, the investment manager shall immediately move to divest the public fund of the investment in a fiduciarily prudent manner.

Section 20. Effective date.

This act shall take effect immediately.

On the question,

Will the House agree to the amendment?

#### AMENDMENT WITHDRAWN

The **SPEAKER** pro tempore. On the amendment, the Chair recognizes the gentleman, Representative Nickol. The gentleman waives off.

Will the House agree to the amendment? On the question—The Chair recognizes the gentleman, Representative Nickol.

Mr. **NICKOL**. Mr. Speaker, I was under the understanding that I communicated that that amendment was withdrawn.

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

On the question recurring,

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

The **SPEAKER** pro tempore. The Chair recognizes Representative Nickol, and the Chair asks if he intends to offer amendment A07707? Will the gentleman approach the rostrum.

The House will come to order.

On the question recurring,

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

Mr. **GODSHALL** offered the following amendment No. **A07859**:

Amend Sec. 5, page 8, line 41 (A07762), by striking out "nine" and inserting

Amend Sec. 8, page 10, line 7 (A07762), by removing the period after "law" and inserting

, including, but not limited to, any fiduciary or prudent investing responsibilities as prescribed in 24 Pa.C.S. § 8521 (relating to management of fund and accounts) and 71 Pa.C.S. § 5931 (relating to management of fund and accounts) and any obligations of a public fund with respect to choice of asset managers, investment funds or investments for the public fund's securities portfolios.

Amend Bill, page 10, by inserting between lines 42 and 43 (A07762)

Section 10. Reimbursement.

After the end of the fiscal year of each public fund, the public fund shall submit to and the Secretary of the Budget shall certify the determination of the net losses, if any, costs and expenses incurred by the public fund as a result of compliance with the provisions of this act, and the Commonwealth shall promptly reimburse the public fund for those losses, costs and expenses from the General Fund. If the public fund accrues net gains as a result of compliance with the provisions of this act, the gains shall first be offset against the costs and expenses of compliance with this act during the previous fiscal year and any balance shall be offset against the costs and expenses of compliance and any net losses incurred in future fiscal years.

Amend Sec. 10, page 10, line 43 (A07762), by striking out "10" and inserting

11

Amend Sec. 11, page 10, line 48 (A07762), by striking out "11" and inserting

12

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

The SPEAKER pro tempore. On the question, the Chair recognizes the gentleman, Representative Godshall.

Mr. GODSHALL. Thank you, Mr. Speaker.

I am offering this amendment at the request of the SERS Board. As a member of the State Employees' Retirement System, the SERS Board, I am offering A7859.

As a board member, I have a fiduciary duty toward the employed and retired members of SERS. My amendment will provide a measure of protection for the assets that have been deposited in and invested by SERS.

Specifically, my amendment would provide SERS and PSERS and other public funds a more reasonable timeframe for divesting from holdings in scrutinized companies. The timeframe would be extended from 9 months to 15 months.

The amendment would also establish a procedure for SERS, PSERS, or any other public fund to determine losses incurred as a result of divestment. Reimbursement of losses would be made up by the General Fund. Any losses that we incur at the retirement systems would be made up by the General Fund. It would also shield SERS and PSERS from potential liability by authorizing them to perform any action necessary to comply with the bill's divestment requirements, notwithstanding the funds' existing fiduciary duties, prudent-person requirements, and other statutory mandates that we fall under.

It has been mentioned that the divestment costs would be approximately just under \$50 million to start. Divestment totals, as I read this, would probably fall close to \$8 billion in total. This would give us approximately 15 months to do this, and that was before we, over at SERS, at least, knew that the index funds or the indirect-holding funds would fall under this amendment. In fact, we were under the opinion that this amendment that was offered by the Representative from Philadelphia would exclude

indirect holdings and finding out at this point that it does not. So we are still looking at approximately \$8 billion-plus that we have to divest.

All we are asking for is that our fiduciary requirements are protected, we are asking for a little bit more time, and we are asking that the State of Pennsylvania will protect the retirees, your retirees, your constituents, from moneys that have been invested in these funds, which is really their money.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the amendment, the Chair recognizes the gentlelady, Representative Josephs.

Ms. JOSEPHS. Thank you, Mr. Speaker.

I ask everybody to vote against this amendment. I understand what the gentleman is trying to do, but we had consulted with fund managers when we wrote this amendment and when we wrote the underlying bill, which has a timeframe in it which is not as long as this amendment proposes.

And the amendment is duplicative. Already the General Fund is required to replace any moneys that are lost through investment or divestment. But again, the General Fund is never going to have to do that, because this is going to make a much better investment policy for the fiscal bottom line than we have now. The fund managers realize it; they are doing this voluntarily, but we are the policymakers and we have the right to say they should do this and it should be long range, done in a way that is long range.

Please vote "no" on this amendment. Thank you.

The SPEAKER pro tempore. The Chair thanks the lady.

The Chair recognizes the gentleman, Representative Shapiro.

Mr. SHAPIRO. Thank you, Mr. Speaker.

Mr. Speaker, I want to certainly commend the gentleman from Montgomery for his service, not just here in the House but on our pension board. He does so quite ably. And as I met with the staff of the pension board and talked with them about HB 1086, which required just 60 days – 6-0, 60 days – for divestment, one of the key issues that the board staff raised to me was that that was not long enough. We discussed what would be a reasonable time period, and we settled on 16 months.

The members of this chamber that just adopted the Josephs amendment already adopted a timeline extension from 60 days to 16 months, making sure that the pension funds and the Treasurer were given ample time to divest from these foreign companies doing business in these terror-sponsoring nations.

Furthermore, I would remind the members that when we considered HB 1140 nearly a year ago, when a similar timeline-extension amendment was offered, it was defeated by this House by a vote of 92 to 106.

The second aspect of the gentleman's amendment deals with reimbursement. It suggests from the gentleman's statement that he believes that there will be a loss to the pension funds as a result of this divestment effort, yet nowhere in the evidence of the 18 States that have already done this have we seen any type of loss. Nowhere in these other 18 States that have adopted divestment laws have we seen a requirement of reimbursement as the gentleman is offering for us today.

Now, it does not mean that we in Pennsylvania need to follow the lead of the other 18 States, but there are also, on the merits, some significant questions associated with the gentleman's amendment. It is unclear to me and to many what a

net loss is or even what a net gain is. What is the benchmark moment in time? There are net losses and gains each and every day when stocks are sold and stocks are bought. Each and every day we see the markets fluctuate and go up and down, whether we are divesting or not. What is a loss? What is a gain?

The language in the gentleman's amendment – and I say this respectfully, because he is an incredibly knowledgeable member of this House, particularly on these issues – but the language that the gentleman put forth is vague. It gives, I believe, too much wiggle room to the funds, who may not want to move forward with a divestment strategy, the opportunity to wiggle out of that.

Finally, finally, the reimbursement language that the gentleman puts forth is unnecessary, and here is why: There are two laws already on our books, 24 Pa.C.S. 8531 and 71 Pa.C.S. 5951, the former dealing with PSERS, the latter dealing with SERS. The language states that the required interest charges payable, the maintenance of reserves in the fund, the payment of all annuities and other benefits granted by the board under the provisions of this part, are hereby made the obligations of this Commonwealth.

Mr. Speaker, it is already in law that if a retiree cannot be paid, if a mark cannot be met as set forth by these boards, the Commonwealth is already on the hook. The Commonwealth is already responsible. The language the gentleman puts forth is not needed, it is vague, and the initial part of the gentleman's language as it relates to timelines has already been addressed by the Josephs amendment and had been rejected by this House when a similar bill was considered a year ago.

I would respectfully ask the members of this House to oppose the gentleman's amendment. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question, the Chair recognizes the gentleman, Representative Nickol.

Mr. NICKOL. Thank you, Mr. Speaker.

I would like to remind the members that now that the bill is amended with regard to PSERS and SERS, we are not only dealing with State funds. First, I think we need to understand that pension funds are not State funds, as has been stated in some of the divestment proposals I have seen earlier. Our State funds, PSERS and SERS, both hold assets in trust that are obligated to the members of the retirement system, our active and retired State and public school employees. They are not State funds that could be diverted to any other use or to use as we please. I think it is important to point out here at the onset that we are not dealing with State funds when we are talking about the pension funds; we are playing with someone else's money.

A number of the unions and retiree groups and school boards have communicated with some of you about an amendment that I had to offer that is very much similar to what Representative Godshall was offering at the moment, and I will not be offering my amendments because his language is as good if not better than my own. So I would urge you to understand that they are also supporting Representative Godshall's amendment.

Now, I would like to answer a couple of the questions or a couple of the comments. First of all, the gentleman from Montgomery County said that it is already required that the pension funds reimburse for any losses, and he is correct in that. Any gains or losses are amortized over 30 years, so over a 30-year period, 1/30th of any losses would be covered within

the employer contribution rate, and that does push off any cost of divestment over an extended period of time.

So the General Fund would have to do that. I mean, they would have to make up for this. But also, you know, if it plays out in that fashion, the school boards and local property tax payers will have to be picking up half the costs, too. One of the geniuses of the gentleman from Montgomery's amendment is that he has the Commonwealth covering the cost of divestment – the taxpayers. Since we are the representatives of the taxpayers and we are using the moneys in these pension funds, he is having the taxpayers cover the cost, not the school districts through their contribution rate, which ultimately translates to the property tax payers.

And I have heard the sponsor of the amendment, the previous amendment, and the sponsor of the bill both talk about how there is no cost at all to divestment and how it may actually even make additional dollars by selling these assets. Well, maybe if we did, there would not be any costs; there would be no reason to oppose this amendment. The Commonwealth would not have to put up any money. If indeed they believed their own words and they had the courage of their own convictions, I would think they would embrace the gentleman's amendment since it will be no cost.

Now, I heard the comments about the language being fuzzy. The gentleman from Montgomery has within his amendment that the figures have to be certified by the Secretary of the Budget. He is not, I guarantee you, going to allow the pension funds to play games and incur or try to purport to have bigger losses. If anything, he will probably knock any estimates they have down from what they may present. So I think there is a fail-safe item within that amendment with the Secretary of the Budget doing the certification that prevents this from running amok and the pension funds just loading all their losses in and saying, hey, taxpayer, pick it up.

So I just challenge the gentleman to have the courage of his own convictions if there is no cost. And also, this would give him great credit, because if the pension funds had to calculate their gains or losses, it would be advertised up front each year, and the sponsor of this amendment could take credit for those tremendous gains, if there are gains. Of course, he could also get blamed if there are losses. So it is a little bit nicer, I guess, you do not take a risk if you can bury it over 30 years as opposed to doing it up front, as the gentleman from Montgomery has proposed.

I urge the members to support the gentleman's amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Philadelphia, Representative Cohen.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, I rise to oppose this amendment. This amendment, like many of the other arguments against the Josephs amendment, is based on the assumption that losses only count when they are realized; that if we buy a stock, hypothetically, at \$60 and then we sell it at \$40, we have incurred a loss of \$20, whereas if we leave it in the fund, we have not incurred a loss at all. But the fact is, the stock is worth whatever it is worth. And if a stock is bought at \$60 and it is now valued at \$40, the State pension fund or any other fund covered by this amendment has lost the value of \$20 per share.

The values of the stock, as Representative Shapiro said, go up and down every day. They go up and down regardless of

whether we leave them in the fund or whether we sell some stock and then buy some other stock, which also will go up and down. Losses are losses regardless of whether they are realized losses and, thus, count as losses for Federal purposes or for accounting purposes. They are losses even if we still have them and then they can go up or down in the future.

It is hard for me to believe, Mr. Speaker, that with all the money the United States is spending fighting terrorism, it is a really great idea for any company to go around helping terrorist regimes. It would seem to me that for any company in the world to find ways to help prop up through business activities terrorist regimes is a tremendous business risk. And putting aside all questions of morality, all questions of our values, all questions of human decency, any company anywhere that uses its business activities to prop up terrorist regimes is engaging in pretty stupid activity, which is highly unlikely to be profitable in the long run.

I am very heartened by the overwhelming vote for the Josephs amendment, and I would urge a similar overwhelming vote against this amendment.

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

Mr. SHAPIRO. Thank you, Mr. Speaker.

Just 60 seconds, and then I will give the gentleman from Montgomery the opportunity to close as it is his amendment.

This House rejected the timeline extension when it was last considered a year ago by a vote of 92 to 106, point number one.

Point number two, on the issue of reimbursement, there was a question as to what the language actually means. I raised it, Representative Cohen raised it, the previous speaker, what is a loss, what is a gain? I was speaking to one of the gentlemen here on the side who has a 529 college savings plan for his young child. When you get the statement each and every month that says your holdings went up, your holdings went down, you do not know whether or not the manager has bought new stock, sold other stock, what activities went on, but you know that it went up or it went down. You also do not know whether the gain or the losses realized were realized as a result of the overall economic trends in the stock market going up or down or that individual sale. The point is, it is too imprecise. It is too impossible to be able to determine the net losses and the net gains on an annual basis, as the gentleman, Mr. Godshall, proposes in his amendment.

The statute we have on the books, the statute we have on the books takes into consideration meeting the needs of retirees on an ongoing basis and making sure the General Fund is on the hook for that. The current law works; we should stay with it. We should not inject this vague language into it, and I would respectfully ask the members to oppose the Godshall amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman.

### LEAVES OF ABSENCE

The SPEAKER pro tempore. Returning to leaves of absence, the Chair recognizes the minority leader, who requests leave for the remainder of the day for the gentleman from Delaware, Representative BARRAR, and the gentleman from Delaware,

Representative RAYMOND. Seeing no objections, leave is so granted.

### CONSIDERATION OF HB 1086 CONTINUED

The SPEAKER pro tempore. On the question, the Chair recognizes the gentleman, Representative Maher.

Mr. MAHER. Thank you, Mr. Speaker.

I am hoping that the gentlelady, Ms. Josephs, would stand and answer a couple of questions to help further illuminate her prior comments.

The SPEAKER pro tempore. The gentlelady agrees to be interrogated. The gentleman is in order.

Mr. MAHER. Thank you, Mr. Speaker.

If I understood earlier, you indicated that you do not expect any losses from divestments. Is that correct?

Ms. JOSEPHS. I do not expect the adoption of this policy will make the fund weaker. I expect the adoption of this policy will help the bottom line in the long run and make the funds both, all three funds, stronger.

Mr. MAHER. Thank you.

And if you are correct in your expectation, why does it trouble you that the maker of the amendment seeks to essentially insure those who have private moneys in these funds from suffering losses. If you are right that the funds will do better, why are you concerned about standing behind that assertion with the Commonwealth's shield on the accounts of these tens and hundreds of thousands of individuals?

Ms. JOSEPHS. I am thinking of future people reading the code and seeing the same provision over and over again. This is duplicative; it is not necessary. It does not make it stronger to say it twice. We said it once; it is done.

Mr. MAHER. Well, we will agree to disagree, and I will move on.

You mentioned that you had, in forming your opinion that things would be better in these investment products that satisfy your amendment, that you had spoken with some investment managers. Is that correct? Did I understand that correctly?

Ms. JOSEPHS. I had spoken with the Treasurer, not with others. We spoke with investment managers about the timeframe. I used common sense and the experience of the State's churches, universities, and other institutions that have followed this or a similar policy, and they are all doing well if not better than the funds that do not follow this policy.

Mr. MAHER. And that is certainly encouraging. In the interest of transparency and openness, can you identify for us who these investment managers were who provided counsel to you?

Ms. JOSEPHS. I did not claim to have counsel about the duplicative provision in this amendment. I have spoken with Robin Wiessmann about the policy as a whole, and I have encouraged her, and she has encouraged me.

Mr. MAHER. And I have much respect for our Treasurer, but again, you did refer, even a moment ago, to having had conversations with investment managers about timeframes and so forth. In the interest of transparency and openness, can you reveal who these investment managers are who provided you their wisdom?

Ms. JOSEPHS. We spoke with the investment managers of PSERS and SERS. I am not sure I can get their names correct for the record here. I will supply them at a future date.

Mr. MAHER. So these investment managers are strictly those who are with PSERS and SERS?

Ms. JOSEPHS. That I have spoken to directly, yes, and I believe that my staff and Mr. Shapiro's staff has spoken to these but perhaps other investors, managers of investment funds.

Mr. MAHER. And would these managers of investment funds be beyond PSERS and SERS?

Ms. JOSEPHS. I do not know.

Mr. MAHER. Well, perhaps, I should ask Mr. Shapiro.

Ms. JOSEPHS. Mr. Speaker, is this really relevant, this line of questioning?

Mr. MAHER. Mr. Speaker, I have concluded my questions for Ms. Josephs, and I am hoping that Mr. Shapiro may be able to illuminate the ball that she passed over to him.

The SPEAKER pro tempore. Does the gentleman seek to interrogate Representative Shapiro?

Mr. MAHER. I would very much appreciate it. Thank you.

The SPEAKER pro tempore. The gentleman agrees. The gentleman is in order.

Mr. MAHER. Thank you.

The gentlelady, Ms. Josephs, says she thinks but she is not certain that you have researched this question, talking to investment managers beyond those who are at PSERS, SERS, or Treasury. Is she correct in her expectation that you did some research involving the advice and wisdom of other investment managers?

Mr. SHAPIRO. Mr. Speaker, as I am sure the gentleman does before he approaches a debate, I consult written material, I listen to experts, I look at lots of different materials to try and form my judgments and my opinions, and I come to the floor prepared.

I would say one of the preeminent experts that we have talked to has been a Republican State Treasurer in Missouri, Sarah Steelman, who has had much success in Missouri dealing with divestment, but I could not certainly off the top be able to go through the voluminous amounts of material and the numerous people I have talked to and be able to recount each and every one of them.

Each and every one of those discussions, however, fueled my ability to come to the floor and offer, through Representative Josephs, an amendment that I believe brought together many different interests, and as a result of the vote that went before us, the overwhelming bipartisan vote that went before us, I think we were successful in that effort, Mr. Speaker.

Mr. MAHER. Thank you, and I do applaud your preparation, but I am not sure I heard an answer. Ms. Josephs said she believed but was not certain that among this panoply of people that you are referring to included investment managers beyond PSERS, SERS, or the Treasury. And let me rephrase this, did you consult with investment managers who are actually out there in the real world trying to earn a return?

Mr. SHAPIRO. Mr. Speaker, I am not sure how my preparation for debate and my preparation to put this language together is in any way relevant to the gentleman forming an opinion on the Godshall amendment, which is the issue before this House.

Mr. MAHER. Well, if the gentleman is not interested in transparency and openness on this question, I certainly cannot compel it, but I would say it is a simple question.

Mr. SHAPIRO. Mr. Speaker—

Mr. MAHER. If you wish to—

The SPEAKER pro tempore. The gentleman will suspend. Confine the interrogation to the contents of the Godshall amendment.

Mr. MAHER. This is connected absolutely to the Godshall amendment, Mr. Speaker, and I thank you for your focus.

The question is simple: Did you receive advice as to what one could expect in terms of returns, and when forming your opinion that the Godshall amendment is not necessary because these funds will do better than they would otherwise, did you receive advice from experts who are actually out in the real world doing investments?

Mr. SHAPIRO. Mr. Speaker, I know that the gentleman later on this evening is going to have an amendment that he wishes to offer. Would the gentleman be willing at that time to lay out every single person he has talked to on that amendment to form his opinion? Would he be willing—

Mr. MAHER. I would be very happy to.

Mr. SHAPIRO. Could he recount every single conversation? Mr. Speaker—

Mr. MAHER. I could. I would be happy to.

Mr. SHAPIRO. Mr. Speaker, I will answer the question if the gentleman will yield. This line of questioning is not relevant to the Godshall amendment. Furthermore, I think the gentleman undermines the reputation, indeed the standing of the able men and women who work at PSERS and SERS, who are in fact experts, whom we did consult, and who have offered, as the gentleman suggested, real-world opinions as to what is at stake in this amendment.

If the gentleman wishes to vote for the Godshall amendment, he should do so based on his own work product, not on the work product of some other member in this House.

Mr. MAHER. So, Mr. Speaker, I am gathering that the gentleman is not going to provide the transparency and openness as to reveal who it was he consulted with.

The SPEAKER pro tempore. Has the gentleman concluded his interrogation?

Mr. MAHER. Actually, Mr. Speaker, I am going to offer one further opportunity and ask one last question. Is it possible that any of the experts in the real world that you might have consulted with were also involved in offering investment products that meet the Josephs standard?

Mr. SHAPIRO. Mr. Speaker, this question has been asked several times and answered.

Mr. MAHER. Thank you, Mr. Speaker.

That concludes my interrogation.

The SPEAKER pro tempore. The gentleman is in order.

Mr. MAHER. You know, if this Josephs amendment is not really going to cost the hundreds of thousands of individuals who have their money withheld from their paychecks and on deposit at PSERS and SERS, if it is really not going to hurt them, well, then this amendment does not change a thing, but if that is wrong, if the crystal ball is a bit off and those individuals lose money, are we meeting our duty as fiduciaries? Are we being a bit too generous with other people's money? And if things go great, outstanding, the Godshall amendment will not cost the Treasury a penny, but if the Josephs and Shapiro assertions do not coincide with the actual outcomes, I think these individuals deserve a bit of a guarantee that the Commonwealth, acting under the assurances of rosy days ahead, will actually back that up. It is only fair. It is simple fairness.

Now, I would hope that at some point in time maybe the gentleman would choose to answer the question as to whether

any of the folks who advised about how to frame the Josephs amendment are actually in the business of selling products that meet that frame. I think that in the interest of openness and transparency, it is a reasonable question. And if the gentleman wishes to ask me about the investment protection standards and how that thought process came about, I would be happy to recount for him every conversation with every person.

The SPEAKER pro tempore. The gentleman will suspend. Again, the Chair will caution you to confine your remarks to the contents of the Godshall amendment.

Mr. MAHER. Thank you, Mr. Speaker.

As a point of personal privilege then, I will just say I will be happy to perform and respond—

The SPEAKER pro tempore. Is the gentleman seeking a point of personal privilege?

Mr. MAHER. I have concluded my remarks, Mr. Speaker. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

### LEAVE OF ABSENCE

The SPEAKER pro tempore. Returning to leaves of absence, the Chair recognizes the minority leader, who requests a leave of absence for the remainder of the day to the gentleman, Mr. MUSTIO, of Allegheny County. That leave is so granted.

### CONSIDERATION OF HB 1086 CONTINUED

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Nickol, for the second time.

Mr. NICKOL. Thank you, Mr. Speaker. I will be brief.

First of all, I wanted to clear up any misapprehension that in consulting the chief investment officer or the investment office at PSERS, that they in any way indicated that they could earn superior returns if we approved this amendment.

Also, I heard several times, Representative Godshall being told that the timeline extension amendment was defeated previously, and it was. I offered it to HB 1140, and it was defeated by the members of this body. However, what he was selective in saying and did not point out was that the other part of the amendment dealing with reimbursements, State reimbursement of the pension funds, was approved by the members of the House and was added as an amendment to HB 1140.

I just urge members to be ready, that the State should put its money where its mouth is if it is going to require divestment and should reimburse the pension funds. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Seeing no other member seeking recognition, the Chair recognizes the prime sponsor, Representative Godshall.

Mr. GODSHALL. Thank you, Mr. Speaker.

I want to make something extremely, very, very clear. I am not here trying to destroy the Josephs amendment. All I am doing is trying to protect the people whom we serve at the SERS Board, which are your constituents, and the PSERS Board with adding a little bit of language in here that would possibly help them in case there is a loss. I have heard also that there are no losses, and I have also heard by my colleague from Montgomery County that it was very difficult, or else from the

gentleman from Philadelphia, I am not sure, of what is a net loss and what is a net gain. If we do not know what is a net loss and what is a net gain, how do we know 18 States did not suffer any losses? You know, I do not understand that.

And I do want to say that the securities litigation, securities litigation, which goes on all the time at the SERS Board level and at the PSERS Board level, is well protected, and it is required, and it is a procedure recognized by the courts of Pennsylvania. I want to repeat that. Securities litigation is a procedure recognized by the courts in Pennsylvania to determine losses in case there are some irregularities which happen with some of our managers or whatever. We can determine what those losses are by a recognized procedure.

I really would like to say when, you know, the immediate cost up front is just under \$50 million. Now, that is a cost to divest the holdings that we would have to divest. We have some individual holdings that are over a billion dollars that we are going to have to divest. And the PSERS, SERS Board people have come to me and said we can do it better if we have a little bit more time to invest than the 9 months that is included in the amendment. We really also have a concern about the potential liability to both boards pertaining to the fiduciary duties.

And lastly, I guess, you know, what we are saying here, the \$50 million up front, to begin with, is going to be, on the PSERS end of it, it is going to be subjected to increased payments from the school districts, and it is an unfunded mandate, which we have heard a lot about. There is no other way of doing it. Both PSERS and SERS at this time are in a loss situation. We and SERS, by statute, must earn 8 1/2 percent a year to take care of our liabilities. To fund our liabilities, we must earn 8 1/2 percent. We are presently in a loss situation of about 4 percent. That means we are going to have to make up about 13 percent, plus cover the losses from the first quarter, in order to meet our liabilities.

So now we are putting another \$50 million mandate on top of this. As I said, I have no problem at all with the Josephs amendment, but I do think if we subject the funds to these kinds of losses, to these kinds of situations, then it should be up to the House of Representatives, not the school districts, not your constituents, and it should not be a loss that is transferred to the retirees of the SERS and PSERS. It should be taken care of by this body, and I ask for a favorable vote.

The SPEAKER pro tempore. The Chair thanks the gentleman.

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

The following roll call was recorded:

#### YEAS—106

Adolph	George	Mantz	Quinn
Argall	Gerber	Marshall	Rapp
Baker	Gillespie	Marsico	Reed
Bastian	Gingrich	McIlhatten	Reichley
Bear	Godshall	Mensch	Roae
Benninghoff	Goodman	Metcalf	Rock
Beyer	Grell	Micozzie	Rohrer
Boback	Haluska	Millard	Ross
Boyd	Harhai	Miller	Sainato
Brooks	Harhart	Milne	Saylor
Buxton	Harris	Moul	Scavello
Cappelli	Helm	Moyer	Schroder

Causar	Hennessey	Murt	Seip
Clymer	Hershey	Nailor	Smith, S.
Cox	Hess	Nickol	Sonney
Creighton	Hickernell	O'Neill	Stairs
Cutler	Hutchinson	Pallone	Steil
Dally	Kauffman	Payne	Stern
Denlinger	Keller, M.K.	Peifer	Stevenson
DiGirolamo	Kenney	Perry	Swanger
Ellis	Kessler	Perzel	Taylor, J.
Evans, J.	Killion	Petrarca	True
Everett	Kotik	Petri	Turzai
Fairchild	Mackereth	Phillips	Vereb
Fleck	Maher	Pickett	Vulakovich
Gabig	Major	Quigley	Watson
Geist	Mann		

## NAYS—89

Belfanti	Freeman	McCall	Solobay
Bennington	Galloway	McGeehan	Staback
Bianucci	Gergely	McI. Smith	Sturla
Bishop	Gibbons	Melio	Surra
Blackwell	Grucela	Mundy	Tangretti
Brennan	Hanna	Myers	Taylor, R.
Caltagirone	Harkins	O'Brien, M.	Thomas
Carroll	Harper	Oliver	Vitali
Casorio	Hornaman	Parker	Wagner
Cohen	James	Pashinski	Walko
Conklin	Josephs	Payton	Wansacz
Costa	Keller, W.	Preston	Waters
Cruz	King	Ramaley	Wheatley
Daley	Kirkland	Readshaw	White
DeLuca	Kortz	Roebuck	Williams
DePasquale	Kula	Sabatina	Wojnaroski
Dermody	Leach	Samuelson	Yewcic
DeWeese	Lentz	Santoni	Youngblood
Donatucci	Levdansky	Shapiro	Yudichak
Eachus	Longietti	Shimkus	
Evans, D.	Mahoney	Siptroth	O'Brien, D.,
Fabrizio	Manderino	Smith, K.	Speaker
Frankel	Markosek	Smith, M.	

## NOT VOTING—0

## EXCUSED—8

Barrar	Curry	Petrone	Raymond
Civera	Mustio	Pyle	Rubley

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

On the question recurring,

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

Mr. **DALLY** offered the following amendment No. **A07856**:

Amend Sec. 2, page 4, by inserting between lines 20 and 21 (A07762)

(30) As the potential investment losses that may be incurred by the State Employees' Retirement Fund and the Public School Employees' Retirement Fund as a result of statutorily required divestment are unknown, it is prudent for the General Assembly to increase the minimum employer contribution rates for both funds to bring the employer contribution rates closer to normal contribution rate as specified in 24 Pa.C.S. § 8328(b) (relating to actuarial cost method) and

71 Pa.C.S. § 5508(b) (relating to actuarial cost method) to deal with the uncertainty that divestment may bring.

Amend Bill, page 10, by inserting between lines 42 and 43 (A07762)

Section 10. Public School Employees' Retirement System employer contribution rate for 2008-2009.

Notwithstanding the requirements of 24 Pa.C.S. 8328(a) (relating to actuarial cost method) with regard to actuarial cost method, in order to provide for a potential divestment investment loss offset, beginning July 1, 2008, the total employer contribution rate for the Public School Employees' Retirement System shall in no case be less than 6.44% plus the premium assistance contribution rate, as specified in 24 Pa.C.S. § 8509 (relating to health insurance premium assistance program).

Section 11. State Employees' Retirement System employer contribution rate for 2008-2009.

Notwithstanding the requirements of 71 Pa.C.S. § 5508(a) (relating to actuarial cost method) with regard to actuarial cost method, in order to provide for a potential divestment investment loss offset, beginning July 1, 2008, the total employer contribution rate for the State Employees' Retirement System shall in no case be less than 5%.

Amend Sec. 10, page 10, line 43 (A07762), by striking out "10" and inserting

12

Amend Sec. 11, page 10, line 48 (A07762), by striking out "11" and inserting

13

On the question,

Will the House agree to the amendment?

The **SPEAKER** pro tempore. On the question, the Chair recognizes the gentleman, Representative Dally.

Mr. **DALLY**. Thank you, Mr. Speaker.

This amendment, 7856, would increase the minimum employer contribution rate for PSERS to 6.44 percent plus the premium assistance rate, which makes the rate a total of 7.2 percent. It increases the minimum employer contribution rate for SERS to 5 percent. And the intent of this proposal and the increase as proposed is to bring the employer contribution rate closer to the normal cost and address the uncertainty caused by the divestment that is in the Josephs amendment and also the potential volatility associated with that, and it will also lead to a smoothing of rates as we head to the 2012 funding problem that both the funds will realize.

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

On the question, the Chair recognizes the gentleman, Representative Shapiro.

Mr. **SHAPIRO**. Mr. Speaker, the Dally amendment again assumes that there are going to be losses in our pension funds as a result of our terror-free investment practices, and again I will reiterate to the members, there is no evidence, no evidence, to suggest that that is going to occur.

Furthermore, with the adoption of the Godshall amendment, members who were seeking protection from any perceived losses have that protection as a result of the Godshall amendment going in. What the Dally amendment does is it clearly states that we are going to increase the contribution, we are going to make them increase the contribution to PSERS and to SERS. This is fiscally an unwise and unnecessary amendment, especially in light of the Godshall amendment, and I would ask the members to oppose the Dally amendment, again, based on the fact that there is no evidence to suggest there will be losses, and number two, that increasing the

contribution rates at PSERS and SERS is not the answer in these times.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question, the Chair recognizes the gentleman, Representative Nickol.

Mr. NICKOL. Thank you, Mr. Speaker.

This amendment, I feel, is a good amendment. It actually is something that the Governor endorsed when he made his budget presentation here to the House to try to maintain the pension rates at this level in order to deal with the pension spike. It is also something that Secretary Masch recently in his white paper on pension costs said that we should continue to maintain the contribution rates, especially at PSERS, at this level, so that we do not have the contribution rate drop only to spike upward in 2012-2013.

And the House basically passed this same legislation, not this session, but last session. It was a bill I sponsored that passed here unanimously. And the Senate this session has sent us SB 826, prime-sponsored by Senator Armstrong, that does exactly the same thing; it maintains the contribution rates at PSERS and SERS in order to hopefully get additional revenues to address the pension spike. Now, normally, a concern would be what impact does this have on school districts, because here we are at the end of June and school districts had probably programmed in or would normally have programmed in the employer rate as certified by PSERS, which was 4.64 percent.

However, the Secretary of Education sent an advisory to all the school districts and told them to plan their budgets around the 7.2 number. So school districts have already programmed that into the budget as well. So maybe the reason for approving it now that the Godshall amendment has gone in might have been dissipated to some extent, but this is a darn good amendment. It follows through with the priorities of the Governor, the Secretary of the Budget, the House last session unanimously, and the Senate this session. I urge members to support the amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Seeing no other members seeking recognition— The Chair rescinds. The Chair recognizes the gentlelady from Philadelphia, Ms. Josephs.

Ms. JOSEPHS. Mr. Speaker, I am a short politician. I give a short speech. Please vote "no."

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the lady, returns for the second time to the prime— The Chair rescinds again. The Chair recognizes the gentleman, Representative Shapiro.

Mr. SHAPIRO. If the gentleman would stand for a brief interrogation.

The SPEAKER pro tempore. Does the gentleman submit to interrogation?

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

Mr. SHAPIRO. Thank you, Mr. Speaker.

Mr. Speaker, there have been some members who have raised concerns, both in terms of whether or not this amendment is germane to the underlying bill but also, more importantly, suggested that this would cause property taxes, the property taxes that we have been working so hard to lower, to increase as

a result of putting a larger burden on our school districts, and I am wondering if the gentleman could respond to that issue as to whether or not he can be sure that this would not result in a property tax increase for our constituents?

Mr. DALLY. Thank you, Mr. Speaker.

I wish I could make such an assurance. What I will say is that the rate that is proposed in this amendment for PSERS is exactly what the Governor had in his budget proposal and is what the school districts were advised to keep their rate at, which is their current rate for this year, at 7.13 percent. So it is the same rate that they are paying this year. So what this proposed amendment does, rather than having it drop to 4.76, is to keep it at 7.13 in order to smooth out these drastic changes in the employer contribution rates and to also alleviate some of the spike that we are looking at for 2012.

Mr. SHAPIRO. Thank you, Mr. Speaker.

So the gentleman, I do not want to put words in the gentleman's mouth, but the gentleman cannot offer an assurance that this would not result in a property tax increase, meaning it could result in increased property taxes for our constituents.

Mr. DALLY. I guess I cannot make that assurance, just like I am sure the maker of the bill or the maker of the amendment can give me the same assurance that this divestment does not cause property taxes to increase.

Mr. SHAPIRO. I appreciate that from the gentleman.

However, the amendment that the gentleman offers clearly is more on point to having a nexus between increased property taxes versus continuing to invest in foreign companies doing business with terror-sponsoring nations. That said, Mr. Speaker, just on the amendment. I have concluded my interrogation.

The SPEAKER pro tempore. The gentleman is in order.

Mr. SHAPIRO. I would just point out to the members, this amendment, the maker of the amendment is not able to assure us in the House that this will not result in increased property taxes. Indeed, we are putting a greater burden on the school districts, a greater burden on the school districts that they will invariably have to pass on to our property owners in the form of property taxes.

This amendment, I believe, is not germane to the underlying legislation, and more importantly, this raises the risk of property taxes increasing on our constituents, and I would respectfully ask the members to oppose the Dally amendment.

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

Mr. KILLION. Thank you, Mr. Speaker.

I just want to address that point. When you invest in the market, and what we saw happen when the market was up and the pension funds were overfunded, the school districts did not have to put anything in, and the same thing happens in the municipal market. There is a concept of time value of money and opportunity costs. When you make a decision not to invest in the market and not put that extra money in, even though you are fully funded, you lose those opportunities as that money could have sat there and grown. It is the opposite of what the gentleman from Montgomery County said. When you set a level so that regardless of whether you are overfunded or not, you still have to put the money in, that takes care of you in the out-years when the market goes down.

You cannot risk the loss of the opportunity in the marketplace. That is why they call it opportunity cost. This amendment does just the opposite. This protects the taxpayers in the outer years when the market goes down because they put the

money in, they allow the compounding to occur. It is a good amendment. We should vote for it.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, for the second time, Representative Nickol.

Mr. NICKOL. Thank you, Mr. Speaker.

I want to thank the gentleman from Montgomery County for reminding me in terms of the list of people who have supported maintaining the contribution rate. I mentioned the Governor, I mentioned the Secretary of the Budget, I mentioned the House passage of legislation last session, unanimously, here. I mentioned the Senate this session sending us a bill, which is sitting in Finance Committee. I did neglect to mention the School Boards Association approved of maintaining the contribution rate.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

### LEAVE OF ABSENCE

The SPEAKER pro tempore. Turning to leaves of absence, the Chair recognizes the minority leader, who requests a leave of absence for the remainder of the day for the gentlelady from Montgomery, Representative HARPER. That leave is so granted.

### CONSIDERATION OF HB 1086 CONTINUED

The SPEAKER pro tempore. The Chair recognizes, on the question, the gentleman from Philadelphia, Representative Cohen.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, this proposal may have merit on its own, but it should be a separate proposal. Trying to convert this bill into an all-purpose, omnibus pension bill is a mistake. It imposes costs upon every single pensioner. I am sorry. It imposes costs on every single current participant in the program. And to imply, to set up a regulatory scheme which implies that using the pension fund to send an important message in congruence with American foreign policy that terrorism is wrong and should not be supported, to imply that this important message is going to cost every single active participant in the pension fund money is just wrong. This is a totally separate issue. It ought to be in a totally separate bill. Perhaps we ought to pass the Senate bill upon considering its merits. Perhaps we ought not to. Perhaps we ought to pass our own bill, but we should not enmesh these two fundamentally irrelevant issues in the same bill.

I would urge a "no" vote on the Dally amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Dauphin County, Representative Buxton.

Mr. BUXTON. Thank you, Mr. Speaker.

Mr. Speaker, I would like to have the opportunity to interrogate the maker of the amendment, please.

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

Mr. BUXTON. Mr. Speaker, so I am clear on this amendment, are you trying to provide a level percentage that the school districts will contribute to the pension system to try to

avoid the so-called 2012 spike that may occur under current conditions in the pension system?

Mr. DALLY. Yes, Mr. Speaker. That is part of the intention of the amendment. While it does not alleviate the spike, it does provide some redress on that issue, but also, it addresses the issue of whether, if these funds lose money as a result of this divestment, which this House has spoken very loudly and convincingly on this afternoon, that they believe that is the proper policy, that this just provides the fiscal stability to the two pension plans to not only address any shortfall in that regard but also to look to 2012 and provide stability to the system in terms of funding.

Mr. BUXTON. Mr. Speaker, did you indicate that school boards this year prepared their budgets based on a 7.3-percent contribution to the pension plan and next year that will drop to 4.2 percent?

Mr. DALLY. They were given instructions— Yes, Mr. Speaker. They were given instructions to continue the existing employer contribution rate for this coming fiscal year, even though on an actuarial basis it drops down to 4.76 percent.

Mr. BUXTON. And your legislation would provide that threshold at 6.44 percent for the following years?

Mr. DALLY. That is correct, plus the health-care cost adjustment.

Mr. BUXTON. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question, the Chair recognizes the gentleman from Allegheny, Representative Frankel.

Mr. FRANKEL. Thank you, Mr. Speaker.

This amendment speaks to an important issue, but I do not know what it has to do with trying to create an investment policy in Pennsylvania that is rooted in the idea that we ought not to be sponsoring and investing in countries that sponsor genocide and sponsor terror and threaten us with nuclear terrorism. That is the issue here this evening. This is an issue that needs to be vetted. It needs to be discussed. And quite frankly, what we are seeing here is a tactic by the opponents of the divestment policy that we saw the last time, which is to bring other issues into this discussion that are important issues, quite frankly, but need to be considered separately, and I do not believe that this amendment is germane.

### GERMANENESS QUESTIONED

Mr. FRANKEL. And I would ask the Speaker if he would—I would like to question, move, that this amendment is not germane.

The SPEAKER pro tempore. The gentleman, Representative Frankel, raises the point of order that amendment No. 7856 to HB 1086 is not germane. The Speaker, under rule 27, is required to submit questions of germaneness of an amendment to the House for decision.

On the question,

Will the House sustain the germaneness of the amendment?

The SPEAKER pro tempore. On the point of order, the Chair recognizes the gentleman, Representative Frankel.

## PARLIAMENTARY INQUIRY

Mr. FRANKEL. Mr. Speaker, just a point of parliamentary inquiry. We are asking for a vote for germaneness or is—

The SPEAKER pro tempore. It is customary first to explain why you believe this amendment is not germane.

Mr. FRANKEL. Without repeating the argument, clearly this is an issue that does not speak to what the substance of this bill is, which is to deal with terror-free investing, divesting Pennsylvania from making investments in countries that sponsor genocide and terrorism. That is the substance of this bill. This bill speaks to a much broader issue with respect to our long-term viability of our pension funds that needs to be vetted in a separate forum. We need to discuss it. We need to meet about it. It is not relevant to this discussion here today.

The SPEAKER pro tempore. On the motion, the Chair recognizes the prime sponsor, Representative Dally.

Mr. DALLY. Thank you, Mr. Speaker.

While the House spoke overwhelmingly on the issue of terrorism and the divestment that is contained in the underlying bill and amendment, what my amendment does is deals with any investment losses that could occur, just like the Godshall amendment. I did not hear germaneness raised with the Godshall amendment. What this deals with is the fiscal soundness of the pension funds. If they were to take a financial hit because of this divestment, these increases in employer rates would smooth that hit and also provide the funds necessary to offset the spike in 2012.

So while there is a philosophy that underlies this bill in terms of divestment, that divestment impacts the pension funds, and my amendment addresses the employer contribution rate as to those funds, so it is certainly germane to this bill. Thank you.

The SPEAKER pro tempore. Those who believe the amendment is germane— The Chair rescinds.

The Chair recognizes the gentleman on germaneness, Representative Gerber.

Mr. GERBER. Thank you, Mr. Speaker.

I applaud the Representative for his considerations with this amendment, but I do not believe it is germane. Certainly we are concerned about the health of our pension funds, and as a member of the SERS Board, I am particularly interested in making sure that we are adequately funded to take care of all the members of that fund. But an increase that is of this size, the one that is suggested here, is very significant, and it is something that should not be done willy-nilly, should not be done just as an attachment to a bill that it really is not that closely related to, but rather should be part of a much more focused budget discussion.

I recommend to all the members that we be mindful of the issues that are raised with this amendment, but we should address it at a different time and with a different bill. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question of germaneness, the Chair recognizes the gentleman, Representative Nickol.

Mr. NICKOL. Thank you, Mr. Speaker.

I would like to purport that this amendment is as germane as taking a Fiscal Code bill and gutting it and including the two pension funds in it.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. Those who believe the Dally amendment is germane—

Mr. DeWEESE. Mr. Speaker—

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

Mr. DeWEESE. Quickly, Mr. Speaker, I would just ask that the membership support Mr. Frankel's motion and vote that this is not germane.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Those who believe the Dally amendment is germane will vote "aye"; those believing the amendment is not germane will vote "nay."

On the question recurring,

Will the House sustain the germaneness of the amendment?

The following roll call was recorded:

### YEAS—94

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

### NAYS—100

Belfanti	George	Markosek	Siptroth
Bennington	Gerber	McCall	Smith, K.
Biancucci	Gergely	McGeehan	Smith, M.
Bishop	Gibbons	McI. Smith	Solobay
Blackwell	Goodman	Melio	Staback
Brennan	Grucela	Mundy	Sturla
Buxton	Haluska	Myers	Surra
Caltagirone	Hanna	O'Brien, M.	Tangretti
Carroll	Harhai	Oliver	Taylor, R.
Casorio	Harkins	Pallone	Thomas
Cohen	Hornaman	Parker	Vitali
Conklin	James	Pashinski	Wagner
Costa	Josephs	Payton	Walko
Cruz	Keller, W.	Petrarca	Wansacz
Daley	Kessler	Preston	Waters
DeLuca	King	Ramaley	Wheatley
DePasquale	Kirkland	Readshaw	White
Dermody	Kortz	Roebuck	Williams
DeWeese	Kula	Sabatina	Wojnaroski
Donatucci	Leach	Sainato	Yewcic
Eachus	Lentz	Samuelson	Youngblood
Evans, D.	Levdansky	Santoni	Yudichak
Fabrizio	Longietti	Seip	

Frankel  
Freeman  
Galloway

Mahoney  
Manderino  
Mann

Shapiro  
Shimkus

O'Brien, D.,  
Speaker

#### NOT VOTING—0

#### EXCUSED—9

Barrar  
Civera  
Curry

Harper  
Mustio

Petrone  
Pyle

Raymond  
Rubley

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

On the question recurring,

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

### PARLIAMENTARY INQUIRY

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

Mr. DALLY. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. DALLY. If I file a motion for reconsideration to that vote within 5 days, when would the vote be scheduled for that motion of reconsideration?

The SPEAKER pro tempore. At the discretion of the majority.

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

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

The House will come to order.

### LEAVE OF ABSENCE

The SPEAKER pro tempore. Returning to leaves of absence, the Chair recognizes the minority leader, who requests that the gentleman from Lycoming, Representative EVERETT, be placed on leave for the remainder of the day. That leave is so granted.

### CONSIDERATION OF HB 1086 CONTINUED

On the question recurring,

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

Mr. REICHLEY offered the following amendment No. **A07715**:

Amend Title, page 1, line 7 (A07762), by striking out "and Sudan" and inserting

, Sudan and the People's Republic of China

Amend Sec. 2, page 3, by inserting between lines 39 and 40 (A07762)

(21.1) The government of China has engaged in repressive policies and actions, particularly in the areas of free speech and religious expression, and continues irresponsible

manufacturing practices which have led to environmental degradation and the exportation of unsafe consumer goods.

(21.2) Nineteen years have passed since the tragic and brutal events of Tiananmen Square. According to the United States Department of State, between 50 and 200 Chinese citizens who participated in the protests at Tiananmen Square are still imprisoned today.

(21.3) President Bush has consistently encouraged the Chinese government to engage in substantive dialogue with the Dalai Lama directly to resolve long-standing issues with Tibet. On March 15, 2008, Secretary of State Condoleezza Rice called on China to respect the fundamental and universally recognized right of all of its citizens to peacefully express their political and religious views and urged China to release monks and others who have been detained solely for the peaceful expression of their views.

(21.4) On May 21, 2007, the United States House of Representatives agreed to H.R. 422, which calls on the Government of the People's Republic of China to use its unique influence and economic leverage to stop genocide and violence in Darfur, Sudan.

(21.5) Millions of toys were imported into the United States from the People's Republic of China and recalled in 2007 after the discovery that the paint in the toys contained high levels of lead.

(21.6) China engages in socially unacceptable business practices, including the manufacturing and exportation of unsafe products, disregard for the environment and exploitative employment practices.

Amend Sec. 2, page 3, line 50 (A07762), by striking out "and Sudan" and inserting

, Sudan and China

Amend Sec. 2, page 4, line 1 (A07762), by striking out "and Sudan" and inserting

, Sudan and China

Amend Sec. 2, page 4, line 18 (A07762), by striking out "and Sudan" and inserting

, Sudan and China

Amend Sec. 3, page 4, line 33 (A07762), by inserting after "Sudan" where it appears the first time

or China

Amend Sec. 3, page 4, line 33 (A07762), by striking out "or Sudan" and inserting

, Sudan or China

Amend Sec. 3, page 4, by inserting between lines 34 and 35 (A07762)

"China." The People's Republic of China.

Amend Sec. 3, page 4, by inserting between lines 42 and 43 (A07762)

"Government of China." The Government of China and its instrumentalities and companies owned or controlled by the Government of China.

Amend Sec. 3, page 7, by inserting between lines 3 and 4 (A07762)

(3) Any foreign company that has business activities with a value of at least \$20,000,000 in China in any 12-month period or that has knowingly or willfully violated United States trade agreements with China.

Amend Sec. 3, page 7, line 7 (A07762), by striking out "or Sudan" and inserting

, Sudan or China

Amend Sec. 3, page 7, by inserting between lines 13 and 14 (A07762)

"Substantial action specific to China." Adopting, publicizing and implementing a formal plan to cease scrutinized business activities within one year and to refrain from any such new business activities in China.

Amend Sec. 4, page 7, line 46 (A07762), by striking out "and" and inserting a comma

Amend Sec. 4, page 7, line 49 (A07762), by removing the period after "List" and inserting  
and shall assemble all scrutinized companies that fit criteria specified in paragraph (3) of the definition of "scrutinized company" into a Scrutinized Companies with Activities in China List.

Amend Sec. 4, page 7, line 52 (A07762), by striking out "and" and inserting a comma

Amend Sec. 4, page 7, line 53 (A07762), by inserting after "List" and Scrutinized Companies with Activities in China List

Amend Sec. 5, page 8, line 2 (A07762), by striking out "and" and inserting a comma

Amend Sec. 5, page 8, line 3 (A07762), by inserting after "List" or Scrutinized Companies with Activities in China List

Amend Sec. 5, page 8, line 6 (A07762), by striking out "or" and inserting a comma

Amend Sec. 5, page 8, line 7 (A07762), by inserting after "List" or Scrutinized Companies with Activities in China List

Amend Sec. 5, page 8, line 17 (A07762), by striking out "both" and inserting

China or all three

Amend Sec. 5, page 8, line 23 (A07762), by striking out "or" and inserting a comma

Amend Sec. 5, page 8, line 25 (A07762), by inserting after "Sudan"

or substantial action specific to China

Amend Sec. 5, page 8, line 26 (A07762), by striking out "or" and inserting a comma

Amend Sec. 5, page 8, line 27 (A07762), by inserting after "List" or Scrutinized Companies with Activities in China List

Amend Sec. 5, page 8, line 32 (A07762), by striking out "or" and inserting a comma

Amend Sec. 5, page 8, line 32 (A07762), by inserting after "List" or Scrutinized Companies with Activities in China List

Amend Sec. 5, page 8, lines 37 and 38 (A07762), by striking out "or both" and inserting

, substantial action specific to China or all three

Amend Sec. 5, page 8, line 50 (A07762), by striking out "or" and inserting a comma

Amend Sec. 5, page 8, line 51 (A07762), by inserting after "List" or Scrutinized Companies with Activities in China List

Amend Sec. 5, page 8, lines 54 and 55 (A07762), by striking out "or both" and inserting

, substantial action specific to China or all three

Amend Sec. 5, page 9, line 3 (A07762), by striking out "or" and inserting a comma

Amend Sec. 5, page 9, line 4 (A07762), by inserting after "List" or Scrutinized Companies with Activities in China List

Amend Sec. 6, page 9, line 14 (A07762), by striking out "and" and inserting a comma

Amend Sec. 6, page 9, line 15 (A07762), by inserting after "List" and Scrutinized Companies with Activities in China List

Amend Sec. 6, page 9, line 24 (A07762), by striking out "and" and inserting a comma

Amend Sec. 6, page 9, line 24 (A07762), by inserting after "List" and Scrutinized Companies with Activities in China List

Amend Sec. 7, page 10, by inserting between lines 4 and 5 (A07762)

(c) Recurrence of investment in China.—A public fund shall have no obligations under this act with respect to a company engaged in business in China upon the occurrence of any of the following:

(1) The United States Department of State determines that the Government of China has made substantial positive changes in its policies regarding human rights, free speech, religious expression, environmental protection and the manufacture and export of consumer goods and that the Government of China has entered into a substantive dialogue with the Dalai Lama regarding the future of the Tibet Autonomous Region and its people.

(2) The President of the United States, through Executive Order, or the Congress, through legislation, declares that the mandatory divestment of the type provided for under this act concerning China interferes with the conduct of United States foreign policy.

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On the question, the Chair recognizes the gentleman, Representative Reichley.

MR. REICHLEY. Thank you, Mr. Speaker.

Mr. Speaker, I think that the comments that were offered for the Shapiro and Josephs amendment roughly an hour ago, which decried the plight of those who are being persecuted in Darfur, in Sudan, and in criticizing the sponsorship of terrorism by Iran and thereby depriving investment in those two countries, it is strictly appropriate for my amendment, which would seek to prevent investment in businesses doing operations in the People's Republic of China.

And while this may be something which we have read about or heard about in the media very often, I think it is worth recounting for the members of the House and for the general public, just the extent by which the People's Republic of China is engaged in a battle against our own country. Most recently, Human Rights Watch listed the fact that construction of the facilities for the 2008 Olympic Games in Beijing has involved the forced eviction of thousands of citizens in or around Beijing, often without adequate compensation or access to new housing. For our friends who often extol the necessity of preserving labor rights, thousands of migrant workers employed on Olympic and other construction sites across Beijing do not receive legally mandated pay and benefits, including labor insurance, and are often compelled to do dangerous work without adequate safeguards. China continues to use the, quote, "War on Terrorism" to justify policies to eradicate the three evil forces, allegedly prevalent among the Uighurs, a Turkic-speaking Muslim population in China's Xinjiang autonomous region.

And finally, for those of the House who have been so vocal in their opposition to the death penalty, the Chinese government does not publicize figures for the death penalty, but it is mandated for no fewer than 68 crimes. Though the exact number is a state secret, it is estimated that as many as 10,000 executions are carried out each year. China maintains relations with and provides aid to regimes including Sudan, mentioned previously in the Josephs-Shapiro amendment, the site of egregious human rights violations in Darfur, and continues to persecute those in Tibet, religious missionaries in China, and the Falun Gong activists, some of whom I believe do

their exercises in some of our communities here in Pennsylvania.

Freedom House, which was founded by Eleanor Roosevelt in 1941, has estimated that one-half of the world's population living in countries designated "not free" reside in China. I think that this is also evident in the repression of the free press. Just yesterday the Washington Post wrote in an editorial "Return to Repression" that China has simultaneously and systematically prevented the disclosure or reporting by the press of inadequate construction facilities that were damaged and destroyed during the recent earthquakes that killed so many thousands of people. They were more than willing to have the reports of the actual deaths initially, but when the journalists started investigating the shoddy construction that went into those same facilities, particularly school buildings where children were killed by the structures falling down upon them, that is when the Chinese Propaganda Ministry issued directives to state-run media banning reports on school construction and protests by parents.

Last but not least, Mr. Speaker, I think it is evident that our country is under attack in many nefarious ways. Some of you are familiar with the double steel wall being built along the Rio Grande. They have estimated that that steel being used is produced by the Chinese, not by United States steel manufacturers; that the efforts to hack into Congressmen's computers and possibly even steal computer information from our Commerce Secretary during his visit there last year, all is meant to infiltrate our information systems and to utilize this information to our detriment.

I realize this creates some degree of discomfort for individuals here. There is no doubt that this amendment would create a—

The SPEAKER pro tempore. The gentleman will suspend. The House will come to order. The gentleman is in order and may proceed.

Mr. REICHLEY. Thank you, Mr. Speaker. I appreciate your consideration.

Just recently, two Congressmen, Frank Wolf from Virginia and Christopher Smith from New Jersey, revealed that over objections from our foreign intelligence community, their computers had been hacked starting in 2006. These two gentlemen have long histories of protesting the abuse of human rights violations by the Chinese government. And last July, our Commerce Secretary, Carlos Gutierrez, was visiting China when it is believed that his computer was hacked. Most recently, Richard Clarke, who became famous as the counterterrorism expert involved in the White House when the 9/11 attacks occurred, has disclosed that Chinese screensavers, which people can purchase, is actually a way for the information to be downloaded and sent back to China. So that is creating sort of ghost computer e-mail locations for the Chinese to be obtaining information.

This all sounds wild, perhaps, conspiratorial and crazy, but it is documented in the press. And I think that no matter what way you look at what is going on in the nation of China as opposed to our country, this is the most significant national security threat we have today.

If I read you these examples from 10 and 20 and 30 years ago, you would say, well, that is the Soviet Union and we are in a cold war with the Soviet Union. The same thing is occurring today with the Chinese government.

So I encourage the members to think about your American constituencies, think about the American workers who are being

displaced by the use of investment in China. This is not meant to prevent private companies from going to China, from investing in China, or from private individuals investing in China. It is just that tax dollars should not be used for that. I think this is blood money when you take a look at the horrendous record of human rights violations by China.

I ask the members, if you thought that things were bad in Sudan, if you think things are bad in Iran, I do not see how you say, those are actions we condemn but with the Chinese violations we are going to turn a blind eye. Vote for this amendment. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

## GERMANENESS QUESTIONED

The SPEAKER pro tempore. On the question, the Chair recognizes the gentleman from Philadelphia, Representative Thomas.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, for all of the reasons previously advanced by my colleagues on the question of whether or not this amendment is relevant, it is not germane, and I move to declare this amendment not germane to the bill in question.

The SPEAKER pro tempore. The gentleman, Representative Thomas, raises a point of order that amendment No. 7715 to HB 1086 is not germane.

The Speaker, under rule 27, is required to submit questions of germaneness of an amendment to the House for decision.

On the question,

Will the House sustain the germaneness of the amendment?

## QUESTION OF GERMANENESS WITHDRAWN

The SPEAKER pro tempore. On the point of order, the Chair recognizes the gentleman, Representative Thomas.

Mr. THOMAS. Mr. Speaker, I am going to withdraw my motion of germaneness. I feel confident that the amendment is going to die on its own.

Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the amendment?

The SPEAKER pro tempore. On the question, the Chair recognizes the gentleman from Allegheny, Representative Frankel.

Mr. FRANKEL. Thank you, Mr. Speaker.

Look, we are all certainly concerned with the human rights abuses in China, but there is a great difference here between these – China and Iran and the Sudan. Iran and Sudan are designated sponsors of terrorism. We do not even have a dialogue with them. China certainly has a history of human rights abuses and we need to be firm with them, but we do have a dialogue with them. We do notice that they respond to public pressure. They are concerned about their image; they are concerned about their position in the world. We have an opportunity with the Olympics coming on to put them under

light and to have that dialogue and to continue to work to make sure that China continues the path to reform and democracy. They are a long way from it now, but they are certainly a long way from where Iran and Sudan are, who are perpetrating crimes against their people without any opportunity to have any dialogue with their leadership. I think this is very different.

We should join what has already taken place in 18 other States and focus on these two countries that are designated sponsors of terrorism, sponsors of genocide. That is the consensus that is developing. We ought to deal firmly with China, but this is not the place to do it, this is not the time. We need to be dialoguing with them. We need to take the opportunity as the Olympics are coming there to work with China, because many of us believe that there is an opportunity to press them to reform, to loosen the abuses that they have been obviously taking, particularly in the area of Tibet. They need to be dealt with firmly, but this is not the time, this is not the place, and this is not the legislation. This is a very different course of action against sponsors, known sponsors, designated sponsors of terrorism. This is where the Federal government, President Bush, and 18 other States are. Let us limit this focus to this piece of legislation just to these two countries.

To be quite honest with you, I think the sponsor again is trying to add an amendment that is going to weigh this bill down and not allow it to move forward out of the Senate. We need to send this very clear message on Iran and Sudan, and that is what this bill does. We should limit it there.

Thank you very much. Please defeat this amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question, the Chair recognizes the gentleman from Philadelphia, Representative Cohen.

Mr. COHEN. Thank you, Mr. Speaker.

One of the great things about having laptops on our desks is we can do quick Internet research. So I asked the Internet through Google, how many of the Fortune 500 companies invest in China? Somebody yells, "A lot." The answer is almost 480 of the 500 Fortune 500 corporations have invested in China. This figure comes from Du Ying, the deputy minister in charge of China's National Development and Reform Commission. Four hundred and eighty or so of the 500 Fortune 500 corporations investing in China basically means that our pension fund cannot invest in major corporations if this amendment passes.

Now, we have had— You know, a lot of people throw around the term "antibusiness," that some pieces of legislation are antibusiness. This amendment probably wins the contest of being the most antibusiness piece of legislation ever introduced in the Pennsylvania General Assembly. This is the first amendment ever introduced—

The SPEAKER pro tempore. Will the gentleman suspend.

The gentleman is in order and may proceed.

Mr. COHEN. Mr. Speaker, I am told that perhaps this amendment is going to be withdrawn. If that is the case, I will yield to the gentleman, Mr. Reichley, to withdraw it.

The SPEAKER pro tempore. The gentleman yields to the gentleman from Lehigh, Representative Reichley.

Mr. REICHLEY. Is this the last bill of the day, Mr. Speaker?

The SPEAKER pro tempore. It is the Chair's understanding at this moment that it is not the last bill of the day.

Mr. REICHLEY. I am not withdrawing. No; I am not withdrawing.

Mr. COHEN. Okay.

The SPEAKER pro tempore. The Chair recognizes the gentleman, Representative Cohen.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, the 480 out of the 500 Fortune 500 corporations, rightly or wrongly, invest in China. This investment means that the pension fund cannot invest in virtually all the Fortune 500 corporations. I am certain that other major corporations who are not of the rank of the Fortune 500 also invest in China.

This amendment represents the greatest attack on American business in the history of the House of Representatives. This is the most antibusiness amendment ever introduced in the House of Representatives. The idea that a pension fund cannot invest in American business is revolutionary. This is an unbelievably sweeping attack on American business. Perhaps the attack is justified, but this is unbelievably sweeping, and it has very, very little to do with this amendment. It is not germane to this amendment. It is not a wise amendment.

I am assured a second time that the gentleman's intention is to withdraw this amendment. I again will yield to the gentleman to offer him that opportunity.

The SPEAKER pro tempore. For the second time, the gentleman from Lehigh is recognized, Representative Reichley.

Mr. REICHLEY. The one thing the gentleman from Philadelphia can be assured of is I will stop talking if he is going to stop, and I was assured from the other side of the aisle that this is the last bill we are doing. Now, if there are all sorts of affirmative nods of the head coming from over there, that is fine. I will stick with my word, but it is going to take them to do it.

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

Mr. DeWEESE. Mr. Speaker?

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

Mr. DeWEESE. This is a long day, this is a long week, and we are on the precipice of concluding the day's deliberations. So if we are able to have some additional colloquy, I believe it is the intention of our leadership team to recommence tomorrow at the conclusion of the current debate.

Thank you very much.

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

Mr. REICHLEY. Mr. Speaker, let me just say it is certainly not my intention, woe be it for me to prevent people from getting to other things. This is going to be a long week, and the tempers are getting a little short already.

Let me point out I think it was highly interesting to hear so many members on the other side of the aisle suddenly decrying the fact that because there is so much money going to China, that means we cannot consider this amendment. When there is so much investment going into these companies, that is the reason why we stop. Because we do not have that much money going to Iran, we do not have that much money going to Sudan, then it is okay. Then we have got to come down on those countries about their human rights abuses, but the country which is the most prolific in human rights abuses in the world right now, the country which is engaged in the most systematic, insidious efforts at undermining our democracy and our economy, somehow or another we can engage them. This is the country that has been moving people out of their housing in preparation for the Beijing Olympics with no consideration for

alternative housing, with no consideration for labor rights accords, and I think it is incredibly shortsighted on the part of the legislature to not want to deal with this issue at full length when we have a country which is poisoning our pet food, tainting our toys. Just recently, last year, it was revealed in the Washington Post that there are over— Excuse me; I will just point it out for you here, so everyone knows the full extent of this. I think it is a thousand violations – excuse me; 107 violations per month in tainted food coming in from China. That was July of last year.

#### AMENDMENT WITHDRAWN

Mr. REICHLEY. So I think this is highly relevant, highly germane. I will respect the wishes of the Assembly here tonight and withdraw this amendment, but this issue will come back.

Thank you very much.

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

On the question recurring,

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

The SPEAKER pro tempore. It is the Chair's understanding that the remainder of Representative Nickol's amendments are withdrawn?

On the question recurring,

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

Mr. MAHER offered the following amendment No. **A07974**:

Amend Title, page 1, line 7 (A07762), by removing the period after "Sudan" and inserting

; and protecting investments by requiring application of investment protection standards.

Amend Bill, page 10, by inserting between lines 42 and 43 (A07762)

Section 10. Investment protection standards.

(a) General rule.—The Treasury Department shall apply investment protection standards that aim to safeguard investments by setting minimum standards of financial conduct for investment banks, brokers and dealers which do business with the Commonwealth.

(b) List.—The Treasury Department shall maintain a list of firms that have certified to the State Treasurer compliance with the investment protection standards in this section. The certifications from firms shall have a duration of one year and shall lapse if not affirmatively renewed by the firm annually.

(c) Prohibition.—The Treasury Department shall not conduct business with any investment banks, brokers or dealers that are not certified at the time of the transaction.

(d) Separation.—The following shall apply:

(1) Research and investment banking shall be separate units with entirely separate reporting lines within the firm, that is, research shall not report directly or indirectly to or through investment banking. For these purposes, the head of research may report to or through a person or persons to whom the head of investment banking also reports, provided that the person or persons have no direct responsibility for investment banking or investment banking activities.

(2) Research shall have its own dedicated legal and compliance staff, who may be a part of the firm's overall compliance or legal infrastructure.

(3) Beginning with the firm's next fiscal year and thereafter, research budget and allocation of research expenses shall be determined by the firm's senior management without input from investment banking and without regard to specific revenues or results derived from investment banking, though revenues and results of the firm as a whole may be considered in determining research budget and allocation of research expenses. On an annual basis thereafter, the audit committee of the firm's holding or parent company, or comparable independent persons or group without management responsibilities, shall review the budgeting and expense allocation process with respect to research to ensure compliance with this requirement.

(4) Research and investment banking shall be physically separated. The physical separation shall be reasonably designed to prevent the intentional and unintentional flow of information between research and investment banking.

(5) Compensation of professional research personnel shall be determined exclusively by research management and the firm's senior management, but not including investment banking personnel, using the following principles:

(i) Investment banking will have no input into compensation decisions.

(ii) Compensation may not be based directly or indirectly on investment banking revenues or results. However, compensation may relate to the revenues or results of the firm as a whole.

(iii) A significant portion of the compensation of anyone principally engaged in the preparation of research reports that the individual is required to certify pursuant to Securities and Exchange Commission Regulation AC must be based on quantifiable measures of the quality and accuracy of the lead analyst's research and analysis, including the analyst's ratings and price targets, if any. In assessing quality, the firm may rely on, among other things, evaluations by the firm's investing customers, evaluations by the firm's sales personnel and rankings in independent surveys. In assessing accuracy, the firm may use the actual performance of a company, or its equity securities to rank its own lead analysts ratings and price targets, if any, and forecasts, if any, against those of other firms, as well as against benchmarks such as market or sector indices.

(iv) Other factors that may be taken into consideration in determining lead analyst compensation include:

(A) market capitalization of and the potential interest of the firm's investing clients in research with respect to the industry covered by the analyst;

(B) research management's assessment of the analyst's overall performance of job duties, abilities and leadership;

(C) the analyst's seniority and experience;

(D) the analyst's productivity; and

(E) the market for the hiring and retention of analysts.

(v) The criteria to be used for compensation decisions will be determined by research management and the firm's senior management, not including investment banking, and set forth in writing in advance.

(vi) Research management will document the basis for each compensation decision made with respect to:

(A) anyone who, in the last twelve months, has been required to certify a research report pursuant to Securities and Exchange Commission Regulation AC; and

(B) anyone who is a member of research management, except in the case of senior-most research management, in which case the basis for each compensation decision will be documented by the firm's senior management.

(6) On an annual basis, the compensation committee of the firm's holding or parent company, or comparable independent persons or group without management responsibilities, shall review the compensation process for research personnel. The review shall be reasonably designed to ensure that compensation decisions have been made in a manner that is consistent with these requirements.

(7) Evaluations of research personnel shall not be done by, nor shall there be input from, investment banking personnel.

(8) Investment banking shall have no input into company-specific coverage decisions, that is, whether or not to initiate or terminate coverage of a particular company in research reports furnished by the firm, and investment banking revenues or potential revenues will not be taken into account in making company-specific coverage decisions. However, this requirement does not apply to category-by-category coverage decisions.

(9) When a decision is made to terminate coverage of a particular company in the firm's research reports, whether as a result of a company-specific or category-by-category decision, the firm shall make available a final research report on the company using the means of dissemination equivalent to those it ordinarily uses. However, no final report is required for any company as to which the firm's prior coverage has been limited to purely quantitative analysis. The report shall be comparable to prior reports, unless it is impracticable for the firm to produce a comparable report. In any event, the final research report must disclose the firm's termination of coverage and the rationale for the decision to terminate coverage.

(10) Research is prohibited from participating in efforts to solicit investment banking business. Accordingly, research may not, among other things, participate in any "pitches" for investment banking business to prospective investment banking clients or have other communications with companies for the purpose of soliciting investment banking business.

(11) So as to reduce further the potential for conflicts of interest or the appearance of conflicts of interest, the firm must create and enforce firewalls between research and investment banking reasonably designed to prohibit all communications between the two except as expressly described as follows:

(i) Investment banking personnel may seek, through research management or an appropriate designee with comparable management or control responsibilities or in the presence of internal legal or compliance staff, the views of research personnel about the merits of a proposed transaction, a potential candidate for a transaction or market or industry trends, conditions or developments. Research personnel may respond to inquiries on these subjects through research management or its designee or in the presence of internal legal or compliance staff. In addition, research personnel, through research management or its designee or in the presence of internal legal or compliance staff, may initiate communications with investment banking personnel relating to market or industry trends, conditions or developments, provided that communications are consistent in nature with the types of communications that an analyst might have with investing customers. Any communications between research and investment banking personnel must not be made for the specific

purpose of having research personnel identify specific potential investment banking transactions.

(ii) In response to a request by a commitment or similar committee or subgroup thereof, research personnel may communicate their views about a proposed transaction or potential candidate for a transaction to the committee or subgroup thereof in connection with the review of such transaction or candidate by the committee. Investment banking personnel working on the proposed transaction may participate with the research personnel in these discussions with the committee or subgroup. However, the research personnel also must have an opportunity to express their views to the committee or subgroup outside the presence of investment banking personnel.

(iii) Research personnel may assist the firm in confirming the adequacy of disclosure in offering or other disclosure documents for a transaction based on the analyst's communications with the company and other vetting conducted outside the presence of investment banking personnel, but to the extent communicated to investment banking personnel, communication shall only be made in the presence of underwriters or other counsel on the transaction or internal legal or compliance staff.

(iv) After the firm receives an investment banking mandate, or in connection with a block bid or similar transaction, research personnel may:

(A) communicate their views on the structuring and pricing of the transaction to personnel in the firm's equity capital markets group, which group's principal job responsibility is the pricing and structuring of transactions, including by participating with the firm's equity capital markets group in the preparation of internal-use memoranda and other efforts to educate the sales force; and

(B) provide to personnel other information obtained from investing customers relevant to the pricing and structuring of the transaction.

(v) Research personnel may attend or participate in a widely attended conference attended by investment banking personnel or in which investment banking personnel participate if the research personnel do not participate in activities otherwise prohibited in this subsection.

(vi) Research and investment banking personnel may attend or participate in widely attended firm or regional meetings at which matters of general firm interest are discussed. Research management and investment banking management may attend meetings or sit on firm management, risk or similar committees at which general business and plans, including those of investment banking and research, and other matters of general firm interest are discussed. Research and investment banking personnel may communicate with each other with respect to legal or compliance issues, provided that internal legal or compliance staff are present.

(vii) Communications between research and investment banking personnel that are not related to investment banking or research activities may take place without restriction.

(12) (i) Research personnel are prohibited from participating in company or investment banking sponsored road shows related to a public offering or other investment banking transaction.

(ii) Investment banking personnel are prohibited from directing research personnel to engage in marketing or selling efforts to investors with respect to an investment banking transaction.

(13) (i) An oversight or monitoring committee or committees, which will be comprised of representatives of research management and may include others, but not personnel from investment banking, shall be created to:

(A) review beforehand, where practicable, all changes in ratings, if any, and material changes in price targets, if any, contained in the firm's research reports;

(B) conduct periodic reviews of research reports to determine whether changes in ratings or price targets, if any, should be considered; and

(C) monitor the overall quality and accuracy of the firm's research reports;

(ii) subparagraph (i)(A) and (B) shall not apply with respect to research reports limited to purely quantitative analysis.

(e) Disclosure.—The following shall apply:

(1) In addition to other disclosures required by rule, the firm must disclose prominently on the first page of any research report and any summary or listing of recommendations or ratings contained in previously issued research reports, in type no smaller than the type used for the text of the report or summary or listing, that:

(i) The firm does and seeks to do business with companies covered in its research reports. As a result, investors should be aware that the firm may have a conflict of interest that could affect the objectivity of this report.

(ii) Investors should consider this report as only a single factor in making their investment decision.

(2) The firm shall make publicly available via its Internet website, in a downloadable format, no later than ninety days after the conclusion of each quarter, the following information, if the information is included in any research report, other than any research report limited to purely quantitative analysis, prepared and furnished by the firm during the prior quarter:

- (i) subject company;
- (ii) name or names of analysts responsible for certification of the report pursuant to Securities and Exchange Commission Regulation AC;
- (iii) date of report;
- (iv) rating;
- (v) price target;
- (vi) period within which the price target is to be achieved;
- (vii) earnings per share forecast;
- (viii) period for which such forecast is applicable; and
- (ix) definition and explanation of ratings used by the firm.

(3) (i) Except as otherwise specified in this paragraph, the restrictions and requirements set forth in subsection (c) and this subsection shall only apply in respect of a research report that is both:

(A) prepared by the firm; and

(B) that relates to either:

(I) a United States company; or

(II) a non-United States company for which a United States market is the principal equity trading market.

(ii) The restrictions and requirements under subparagraph (i) do not apply to research activities

relating to a non-United States company until the second calendar quarter following the calendar quarter in which the United States market became the principal equity trading market for the company. Notwithstanding the foregoing, subsection (d)(8) shall also apply to any research report that has been furnished by the firm to investors in the United States, but not prepared by the firm, only to the extent that the report relates to either a United States company or a non-United States company for which a United States market is the principal equity trading market. Also, notwithstanding the provisions of this paragraph, paragraph (1) shall apply to any research report that has been furnished by the firm to investors in the United States, but not prepared by the firm, including a report that relates to a non-United States company for which a United States market is not the principal equity trading market, but only to the extent that the report has been furnished under the firm's name, has been prepared for the exclusive or sole use of the firm or its customers or has been customized in any material respect for the firm or its customers. The following shall apply:

(A) For purposes of this paragraph, the firm will be deemed to have furnished a research report to investors in the United States if the firm has made the research report available to investors in the United States or has arranged for someone else to make it available to investors in the United States.

(B) For purposes of this paragraph, a "United States company" means any company incorporated in the United States or whose principal place of business or headquarters is in the United States.

(C) For purposes of this paragraph, the calendar quarter in which a non-United States company's principal equity trading market becomes the United States market is a quarter when more than fifty per centum of worldwide trading in the company's common stock and equivalents, such as ordinary shares or common stock or ordinary shares represented by American Depositary Receipts, takes place in the United States. Trading volume shall be measured by publicly reported share volume.

(f) Additional requirements.—

(1) A firm may not knowingly do indirectly that which it cannot do directly under subsection (d) or (e).

(2) A firm shall adopt and implement policies and procedures reasonably designed to ensure that its associated persons, including, but not limited to, the firm's investment banking personnel, cannot and do not seek to influence the contents of a research report or the activities of research personnel for purposes of obtaining or retaining investment banking business. The firm will adopt and implement procedures instructing firm personnel to report immediately to a member of the firm's legal or compliance staff any attempt to influence the contents of a research report or the activities of research personnel for such a purpose.

(3) In limited circumstances a firm may propose a specific alternative method for complying with one or more of the requirements of subsection (d) or (e), which will be considered only if the alternative method is consistent with the intent of subsection (d) or (e) and achieves the same substantive objective.

(g) Compliance.—The Treasury Department reserves the right to request an independent audit or confirmation of compliance with subsections (d), (e) and (f).

(h) Federal rule.—In the event that the Securities and Exchange Commission adopts a rule or approves a self-regulatory organization (SRO) rule or interpretation that supersedes any of the provisions of subsection (d), (e) or (f), the Securities and Exchange Commission or SRO rule or interpretation shall govern with respect to that provision of this section.

(i) Other law.—Except as otherwise specified, the requirements and prohibitions of this section shall not relieve the firm of any other applicable legal obligation or requirement.

(j) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Exempt investment adviser affiliate." An investment adviser affiliate, including, for these purposes, a separately identifiable department or division that is principally engaged in the provision of investment advice to managed accounts as governed by the Investment Advisers Act of 1940 (54 Stat. 847, 15 U.S.C. § 80b-1 et seq.) or investment companies under the Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. § 80a-1 et seq.) having no officers or persons performing similar functions or employees in common with the firm, which, for purposes of this section shall not include the investment adviser affiliate, who can influence the activities of the firm's research personnel or the content of the firm's research reports if the firm:

(1) maintains and enforces written policies and procedures reasonably designed to prevent the firm, and controlling persons, officers or persons performing similar functions, or employees of the firm from influencing or seeking to influence the activities of research personnel of, or the content of research reports prepared by, the investment adviser affiliate;

(2) obtains an annual independent assessment of the operation of policies and procedures; and

(3) does not furnish to its customers research reports prepared by the investment adviser affiliate or otherwise use the investment adviser affiliate to do indirectly what the firm may not do directly under subsection (d), (e) or (f).

"Firm." The financial organization, the financial organization's successors and assigns, which, for these purposes, shall include a successor or assign to financial organizations investment banking and research operations, and their affiliates, other than exempt investment adviser affiliates.

"Investment banking." All firm personnel engaged principally in investment banking activities, including the solicitation of issuers and structuring of public offering and other investment banking transactions. The term includes all firm personnel who are directly or indirectly supervised by persons and all personnel who directly or indirectly supervise persons, up to and including investment banking management.

"Lead analyst." An individual principally engaged in the preparation of research reports that the individual is required to certify pursuant to regulations of the Securities and Exchange Commission.

"Research." All firm personnel engaged principally in the preparation or publication of research reports, including firm personnel who are directly or indirectly supervised by persons and those who directly and indirectly supervise persons, up to and including research management.

"Research report." Any written, including electronic, communication that is furnished by the firm to investors in the United States and that includes an analysis of the common stock, any security convertible into common stock, or any derivative thereof, including American Depositary Receipts, of an issuer or issuers and provides information reasonably sufficient upon which to base an investment decision. The term does not include:

(1) The following communications, if they do not include, except as otherwise specified, an analysis, recommendation or rating of individual securities or issuers:

(i) reports discussing broad-based indices, such as the Russell 2000 or S&P 500 index;

(ii) reports commenting on economic, political or market, including trading, conditions;

(iii) technical or quantitative analysis concerning the demand and supply for a sector, index or industry based on trading volume and price;

(iv) reports that recommend increasing or decreasing holdings in particular industries or sectors or types of securities; and

(v) statistical summaries of multiple companies' financial data and broad-based summaries or listings of recommendations or ratings contained in previously issued research reports, provided that such summaries or listings do not include any analysis of individual companies.

(2) The following communications, even if they include information reasonably sufficient upon which to base an investment decision or a recommendation or rating of individual securities or companies:

(i) an analysis prepared for a current or prospective investing customer or group of current or prospective investing customers by a registered salesperson or trader who is, or group of registered salespersons or traders who are, not principally engaged in the preparation or publication of research reports; and

(ii) periodic reports, solicitations or other communications prepared for current or prospective investment company shareholders, or similar beneficial owners of trusts and limited partnerships, or discretionary investment account clients, provided that communications discuss past performance or the basis for previously made discretionary investment decisions.

Amend Sec. 10, page 10, line 43 (A07762), by striking out "10" and inserting

11

Amend Sec. 11, page 10, line 48 (A07762), by striking out "11" and inserting

12

Amend Sec. 11, page 10, line 49 (A07762), by striking out "immediately" and inserting

January 1, 2009

On the question,

Will the House agree to the amendment?

#### AMENDMENT WITHDRAWN

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

Mr. MAHER. Thank you, Mr. Speaker.

This amendment deals with creating a mechanism for integrity that separates those offering advice from also profiting from their advice to the State, but recognizing the hour and appreciating there will be other opportunities in the days ahead to visit on this subject, I will withdraw this amendment.

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

The Chair sees no other amendments on the bill.

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.)

### ANNOUNCEMENTS BY SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair wishes to extend and ask the House to join us in wishing Representative Jesse White a happy birthday today. Happy birthday, Representative.

And a belated birthday celebrated yesterday to Representative Daylin Leach. Happy birthday, Representative Leach.

The House will be at ease.

The House will come to order.

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

**HB 2347, PN 4038** (Amended) By Rep. HANNA

An Act amending Title 3 (Agriculture) of the Pennsylvania Consolidated Statutes, providing for an organic farming transition program; and establishing the Organic Agriculture Development Fund.

AGRICULTURE AND RURAL AFFAIRS.

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

The House will come to order.

### BILLS ON SECOND CONSIDERATION

The House proceeded to second consideration of **HB 1596, PN 3574**, entitled:

An Act amending the act of July 2, 2004 (P.L.492, No.57), known as the Sign Language Interpreter and Transliterator State Registration Act, further providing for definitions, for responsibilities of Office for the Deaf and Hard of Hearing and for State registration required; providing for provisional registration; and further providing for change of personal information, for registration violations and for suspension, denial, nonrenewal or revocation of State registration.

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

\* \* \*

The House proceeded to second consideration of **HB 983, PN 1980**, entitled:

An Act amending the act of January 19, 1967 (1968, P.L.992, No.442), entitled "An act authorizing the Commonwealth of Pennsylvania and the local government units thereof to preserve, acquire or hold land for open space uses," further providing for acquisition of interests in real property, for local taxing options and for exercise of eminent domain.

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

Mr. **STEIL** offered the following amendment No. **A07457**:

Amend Sec. 2 (Sec. 7.1), page 5, lines 11 through 18, by striking out all of said lines

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

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

Mr. **STEIL**. Thank you, Mr. Speaker.

This amendment simply removes a section of the bill relating to existing law that the Farm Bureau and the Department of Agriculture felt was duplicative and not necessary.

Thank you.

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

The following roll call was recorded:

#### YEAS—193

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

#### NAYS—0

#### NOT VOTING—0

## EXCUSED—10

Barrar	Everett	Petrone	Raymond
Civera	Harper	Pyle	Rubley
Curry	Mustio		

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.)

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

**SENATE MESSAGE**

**HOUSE BILL  
CONCURRED IN BY SENATE**

The clerk of the Senate, being introduced, returned **HB 2496, PN 3687**, with information that the Senate has passed the same without amendment.

**BILL SIGNED BY SPEAKER**

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

**HB 2496, PN 3687**

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.

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

**THE SPEAKER PRO TEMPORE  
(MICHAEL P. McGEEHAN) PRESIDING**

**BILLS REMOVED FROM TABLE**

The SPEAKER pro tempore. The Chair recognizes the majority leader, who moves that SB 1000 and SB 1116 be removed from the tabled bill calendar.

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

**BILLS RECOMMITTED**

The SPEAKER pro tempore. The Chair recognizes the majority leader, who moves that SB 1000 and SB 1116 be recommitted to the Committee on Appropriations.

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

**CALENDAR CONTINUED**

**BILL ON SECOND CONSIDERATION**

The House proceeded to second consideration of **HB 2231, PN 3191**, entitled:

An Act amending the act of February 9, 1999 (P.L.1, No.1), known as the Capital Facilities Debt Enabling Act, further providing for appropriation for and limitation on redevelopment assistance capital projects.

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

**BILL TABLED**

The SPEAKER pro tempore. The Chair recognizes the majority leader, who moves that HB 2231 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.

**BILL REMOVED FROM TABLE**

The SPEAKER pro tempore. The Chair recognizes the majority leader, who moves that HB 2231 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.

**RESOLUTIONS**

Mr. DeWEESE called up **HR 484, PN 2753**, entitled:

A Resolution directing the Joint State Government Commission to study the Uniform Power of Attorney Act and Pennsylvania's current power of attorney statute to determine whether any amendments should be made to Pennsylvania's current statute.

On the question,  
Will the House adopt the resolution?

**RESOLUTION TABLED**

The SPEAKER pro tempore. The Chair recognizes the majority leader, who moves that HR 484 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 pro tempore. The Chair recognizes the majority leader, who moves that HR 484 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.

\* \* \*

Mr. DeWEESE called up **HR 568, PN 3149**, entitled:

A Resolution directing the Legislative Budget and Finance Committee to study and make recommendations for the establishment and administration of a voluntary, opt-in Statewide system for health care and other employment-related benefits, including and excluding pensions for purposes of comparison, for uniformed and nonuniformed employees of local government units.

On the question,  
Will the House adopt the resolution?

### RESOLUTION TABLED

The SPEAKER pro tempore. The Chair recognizes the majority leader, who moves that HR 568 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 pro tempore. The Chair recognizes the majority leader, who moves that HR 568 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.

The SPEAKER pro tempore. It is the intention of the Chair to recess regular session and go into special session as of 7:26 p.m.

### RECESS

The SPEAKER pro tempore. Regular session is recessed.

### AFTER RECESS

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

## AGRICULTURE AND RURAL AFFAIRS COMMITTEE MEETING

The SPEAKER pro tempore. The Chair recognizes the gentleman, Representative Hanna.

Mr. HANNA. Thank you, Mr. Speaker.

An announcement. The Agriculture Committee meeting that began today and was recessed will reconvene tomorrow at 9:30 a.m. The notice that we sent out says room 39, East Wing, but because of the need for additional space, we have just been able to obtain the majority caucus room. So we will reconvene tomorrow, 9:30 a.m., continue our votes on HB 2525. The meeting will be in the majority caucus room.

The SPEAKER pro tempore. There will be an Agriculture and Rural Affairs Committee meeting at 9:30 a.m. tomorrow in the majority caucus room.

### COMMITTEE MEETING CANCELED

The SPEAKER pro tempore. The Chair recognizes the gentleman from Allegheny, Representative Preston, for an announcement.

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

The Consumer Affairs Committee meeting that was scheduled at 9:30 tomorrow has been canceled.

The SPEAKER pro tempore. The Chair thanks the gentleman.

### COMMERCE COMMITTEE MEETING

The SPEAKER pro tempore. The Chair recognizes the gentleman, Chairman Daley, for an announcement.

Mr. DALEY. Thank you, Mr. Speaker.

The Commerce Committee meeting tomorrow morning at 9 o'clock will be held in my office in our conference room. It is an informational meeting with the Pennsylvania Housing Finance Agency.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Chairman Daley, will you announce the room number that that meeting is to be held in?

Mr. DALEY. It is room 208.

The SPEAKER pro tempore. Of the Irvis Office Building.

Thank you, Mr. Chairman.

A Commerce Committee meeting will be held tomorrow at 9 a.m. in room 208, Irvis Office Building.

### HOUSE SCHEDULE

The SPEAKER pro tempore. The Chair recognizes the majority leader for an announcement.

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

Relative to schedule, we will reconvene at 11, and we will be debating a variety of measures throughout the afternoon. The budget negotiators – Mr. Smith and his team, Mr. Evans and our team – will probably be meeting at 1.

My own view is that we are making progress. One of you football aficionados, maybe young Yudichak or someone with a gridiron history knowledge, will tell me whether it was Woody Hayes or Vince Lombardi, but three yards and a cloud of dust is the way I would describe our progress, but it is

forward motion, and I feel rather sanguinary about our negotiations at this stage. So we will be debating tomorrow, and we should be prepared to do as Mr. McCall and I admonished last week, be here throughout the week, potentially into the weekend, so that we might realize a budget by June 30 midnight.

Thank you.

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

Are there any other announcements?

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

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

### **ADJOURNMENT**

The SPEAKER pro tempore. The Chair recognizes Representative Bear of Lancaster County, who now moves that this House do now adjourn until Wednesday, June 25, 2008, at 11 a.m., e.d.t., unless sooner recalled by the Speaker.

On the question,

Will the House agree to the motion?

Motion was agreed to, and at 7:31 p.m., e.d.t., the House adjourned.