

# COMMONWEALTH OF PENNSYLVANIA

## LEGISLATIVE JOURNAL

TUESDAY, OCTOBER 7, 2008

SESSION OF 2008

192D OF THE GENERAL ASSEMBLY

No. 64

### HOUSE OF REPRESENTATIVES

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

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

#### PRAYER

REV. LOUISE WILLIAMS BISHOP, member of the House of Representatives, offered the following prayer:

Thank you, Mr. Speaker.

Let us pray:

O God, our Heavenly Father, Thou who art the creator of every living thing, Thou who stood on the edges of time and spat out the Seven Seas and commanded the darkness and the light and flung the stars to the furthest corners of the night and set the sun ablazing in the heaven and waved Your hand over everything and commanded that it come forth – the fish, the fowl, the birds, the bees, and all that there is – and we now stand in this House of Representatives today asking that the same wisdom that You gave to our Founding Forefathers, that You will allow it to rest with us, and bring to us, as we come today to do the business of the Commonwealth of Pennsylvania and its people, give us that same wisdom that was here in the beginning with our Founding Forefathers.

Allow the lines that separate us to become closer together so that we may come in harmony on those things that benefit our people, those things that have our people concerned. Let us come together. Grant unto us Your grace and Your mercy that will keep us in perfect peace.

We ask these and all blessings in Your mighty name. Amen.

#### PLEDGE OF ALLEGIANCE

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

#### JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, approval of the Journal of Monday, October 6, 2008, will be postponed until printed. The Chair hears no objection.

### APPROPRIATIONS COMMITTEE MEETING

The SPEAKER. The Chair gives permission for the Appropriations Committee to meet.

Will Representative Keller approach the rostrum, please.

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

Mr. W. KELLER. Thank you, Mr. Speaker.

I would like to announce an immediate Appropriations Committee meeting in the majority caucus room.

The SPEAKER. The Chair thanks the gentleman. The Chair gives permission for the Appropriations Committee to meet.

The House will be at ease.

The House will come to order.

#### GUESTS INTRODUCED

The SPEAKER. The gentleman from Clearfield County, Representative Camille "Bud" George, has two special guests joining us in the gallery today. Dr. and Susan Aboosi, now residing in Pittsburgh, are in town as part of the Pennsylvania Dental Association delegation. Mrs. Aboosi is from Bud George's hometown, Houtzdale, and is a graduate of Moshannon Valley High School, home of the Black Knights. The House welcomes you. Would you please stand and be recognized.

Serving as a guest page today, as the guest of Representative Payne, is John Miller. John is the son of Dr. Jeffrey and Kathleen Miller of Hershey. John is an eighth grade student at Hershey Middle School. Would you please stand to be recognized.

On the House floor, seated to the left of the Speaker, is the guest of Representative Gabig, Dashell Fittry. Dashell is a senior at Big Spring High School and is an intern in Representative Gabig's district office. Would you please stand and be recognized.

Today we have with us Carol Armstrong and Margaret Marvin. They are seated on the House floor and are the guests of Representative Carole Rubley from the 157th Legislative District. Please join me in welcoming them to Harrisburg. Would you please stand and be recognized.

Please welcome Patricia McIntosh and Anna Benson, eighth graders from St. Michael's School in Greenville, Pennsylvania. They are the guest pages of Representative Michele Brooks from the 17th District. Patricia plays on the varsity girls basketball team and soccer team. Her hobby is golf. Anna is a member of the varsity girls basketball team and soccer team. She also is a varsity cheerleader. Accompanying

the guest pages is David McIntosh of Greenville, father of Patricia. Would you please stand to be recognized.

### **UNDERGRADUATE RESEARCH POSTER CONFERENCE PARTICIPANTS INTRODUCED**

The SPEAKER. We have some very special guests here in the chamber this morning. Among them are some of Pennsylvania's best and brightest college students. They are the students, faculty, and administrators who are participating in today's undergraduate poster conference in the East Wing. The poster conference features 36 outstanding, award-winning research projects conducted by student research teams from 23 colleges and universities throughout the Commonwealth. I encourage members and staff to meet with these student researchers and their faculty advisors this afternoon in the East Wing Rotunda and Atrium where they have set up their posters to showcase their research. Stop by and let them explain these projects and tell you how this research experience has contributed to their undergraduate education.

I am impressed with the high level of scholarship and intellectual curiosity of these students. I am also impressed with the high standards imposed by their faculty advisors. The schools they represent truly can be proud of their achievements. The poster conference was organized by Dr. Carl Salter of Moravian College with the assistance of faculty members from Penn State Hazleton, Widener University, Cabrini College, Indiana University of Pennsylvania, Westminster College, Dickinson College, Carnegie Mellon University, and Susquehanna University. The Association of Independent Colleges and Universities of Pennsylvania, AICUP, and the Pennsylvania Association of Colleges and Universities, PACU, and the Legislative Office of Research Liaison, LORL, join me in sponsoring today's event.

Would the students, faculty members, and administrators seated in the rear of the House who are participating in today's poster conference on undergraduate research please stand and be recognized.

### **NATIONAL BURSARS ASSOCIATION MEMBERS INTRODUCED**

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

Mr. STAIRS. Thank you, Mr. Speaker.

Representative Roebuck and I would like to introduce some special guests to our Commonwealth, and they are being hosted by the Pennsylvania Association of School Business Officials. The group that we are welcoming to Pennsylvania is from the United Kingdom, and they are members of the National Bursars Association. They are traveling throughout the Commonwealth, visiting different education facilities, and I would hope that we could give this group, our good friends from the United Kingdom, a very hearty Pennsylvania welcome. So if they would stand, we would please welcome them.

And, Mr. Speaker, if we could, could we have a picture with you if we possibly could do that?

### **ANNOUNCEMENT BY MR. GODSHALL**

The SPEAKER. The Chair recognizes Representative Godshall.

Mr. GODSHALL. Thank you, Mr. Speaker.

I would like to alert the members that PECO and PPL are in the area next to the cafeteria with a display pertaining to energy theft. Energy theft costs us, at minimum, \$6 billion a year that is paid, actually, by your and my constituents, law-abiding constituents. The display is of techniques that are used in the energy theft, and it already has cost lives and is an extremely dangerous situation for our first responders. I would appreciate the members maybe taking the time, just stopping by, and looking at what these people are doing to steal the energy that you and I pay the full price for.

Thank you, Mr. Speaker.

### **ANNOUNCEMENT BY MR. HARHAI**

The SPEAKER. For what purpose does Representative Harhai rise?

Mr. HARHAI. Mr. Speaker, I would like to announce a meeting of the Steel Caucus at the first recess in 39 East Wing for all of the members. Thank you.

The SPEAKER. The Chair thanks the gentleman.

### **EMILY PATTERSON AND GUESTS INTRODUCED**

The SPEAKER. The Chair recognizes the majority leader, Representative DeWeese, for an introduction.

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

On behalf of exceedingly scientific minds like Nick Kotik and Tim Mahoney and myself, Flo Fabrizio, people who were chemistry majors in college, or not, I would like to introduce Emily Patterson from Waynesburg University; her mom and dad, Brad and Erin; and her professor, Jack Halow, from Waynesburg University. She just gave some of us a commentary on fluidized bed combustion and how it is used in biomass ethanol research, and Kotik and Mahoney and DeWeese are going to take our second class here later on down in the East Wing Rotunda.

But I want to introduce a young scholar from Waynesburg University, Emily Patterson, of Waynesburg, Pennsylvania. Emily, please give a wave.

### **GUESTS INTRODUCED**

The SPEAKER. Seated in the gallery is Jacob Romberger. He is the son of Kenneth and Rene Romberger of Middletown. Jacob, a senior at Middletown Area High School, has been named Pennsylvania Students Against Destructive Decisions "Student of the Year" by the Pennsylvania Driving Under the Influence Association. Cathy Tress, of the Pennsylvania DUI Association and SADD, is accompanying Jacob.

Congratulations, Jacob. Would you please stand and be recognized.

The Chair announces its intention to recess regular session and go into special session at 11:29.

**RECESS**

The SPEAKER. Regular session of the House is now in recess.

**AFTER RECESS**

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

The SPEAKER. The House will be at ease.

The House will come to order.

**LEAVES OF ABSENCE**

The SPEAKER. The leaves of absence granted in today's special session will be granted in today's regular session.

**MASTER ROLL CALL**

The SPEAKER. The master roll call taken in today's special session will also be the master roll call for today's regular session. Are there any changes to the master roll call for the regular session? The Chair sees none.

**SENATE BILLS FOR CONCURRENCE**

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

**SB 739, PN 2424**

Referred to Committee on VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS, October 7, 2008.

**SB 1544, PN 2334**

Referred to Committee on TRANSPORTATION, October 7, 2008.

**RESOLUTIONS REPORTED  
FROM COMMITTEE****HR 713, PN 3599**

By Rep. MELIO

A Resolution urging the Congress of the United States to appoint an independent counsel to investigate the Prisoner of War - Missing in Action issue.

VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS.

**HR 867, PN 4288**

By Rep. MELIO

A Resolution recognizing December 2, 2008, as "The Order of the Silver Rose Day" in Pennsylvania.

VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS.

**HR 915, PN 4491**

By Rep. MELIO

A Resolution memorializing the Congress of the United States to award Terry Calandra the Medal of Honor for valorous service during the Vietnam Conflict.

VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS.

**HR 929, PN 4490**

By Rep. MELIO

A Resolution urging the Congress of the United States to restore full funding for fiscal year 2009-2010 and to provide the necessary \$2 million in the Federal fiscal year 2010-2011 budget and beyond for the National Oceanic and Atmospheric Administration to fully fund the Susquehanna Flood Forecasting and Warning System.

VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS.

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

**STATEMENT BY MR. PYLE**

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

Mr. PYLE. I ask for unanimous consent, Mr. Speaker.

The SPEAKER. Has the gentleman spoken to the majority and minority leaders?

Mr. PYLE. I have. They have agreed.

The SPEAKER. Members will please take their seats.

Under the provision of unanimous consent, the Chair recognizes Representative Pyle.

Mr. PYLE. Thank you, Mr. Speaker.

Last week, Mr. Speaker, Ford City suffered a pretty bad fire that engulfed over half a city block. During the course of this engulfment, which was pretty sizable, it became apparent that Ford City Volunteer Fire and Hose Company could not handle it themselves and sent out a volunteer call for mutual aid, and it was eventually responded to by 37 fire companies in over 5 counties, as far away as Sardis in Westmoreland County, Butler in Butler County, 35 miles away.

Mr. Speaker, as we deal with the issues of the day today, I think it is important that we keep in mind that there are these brave volunteers out there who literally did run into burning buildings and, contrary to what the news initially reported, got everyone out. Twenty people were affected by this, four families that occupied apartments above those burning storefronts. Mr. Speaker, I appreciate this personal privilege. As a Ford Citian, I am thankful. And as a Representative for Armstrong County and Indiana County, and to the Representatives of all the counties surrounding that sent help, thank you very much. I am very proud of our firemen, Mr. Speaker, and they deserve our every accolade.

Thank you, Mr. Speaker.

**BILLS SIGNED BY SPEAKER**

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

**SB 1023, PN 1350**

An Act amending the act of February 14, 1986 (P.L.2, No.2), known as the Acupuncture Registration Act, redesignating registration as licensure.

**SB 1376, PN 1962**

An Act repealing the act of March 1, 1799 (16 Sm.L.181, No.221), entitled "An act to incorporate and endow an academy or public school in the town of York, and for other purposes therein mentioned."

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

The SPEAKER. The House will come to order.

**CALENDAR****BILL ON THIRD CONSIDERATION**

The House proceeded to third consideration of **HB 2043, PN 4442**, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for the definition of "all-terrain vehicle."

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?

Representative Haluska.

Mr. HALUSKA. Thank you, Mr. Speaker.

Mr. Speaker, is there an amendment to this bill in place?

May I approach the rostrum?

The SPEAKER. The gentleman is welcome to the rostrum.

**BILL PASSED OVER TEMPORARILY**

The SPEAKER. This bill will be over temporarily.

**LEAVE OF ABSENCE**

The SPEAKER. The Chair recognizes the minority whip, who requests that Representative BASTIAN be placed on leave. The Chair hears no objection. Leave will be granted.

**BILLS ON THIRD CONSIDERATION**

The House proceeded to third consideration of **SB 263, PN 2453**, entitled:

An Act amending the act of June 21, 1939 (P.L.566, No.284), known as The Pennsylvania Occupational Disease Act, providing further benefits.

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—199**

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

NAYS—0

NOT VOTING—0

## EXCUSED—4

Bastian Benninghoff Ramaley Roebuck

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

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

\* \* \*

The House proceeded to third consideration of **SB 1093, PN 2038**, entitled:

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.

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—199

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Barrar	Gerber	McCall	Sainato
Bear	Gergely	McGeehan	Samuelson
Belfanti	Gibbons	McI. Smith	Santoni
Bennington	Gillespie	McIlhattan	Saylor
Beyer	Gingrich	Melio	Scavello
Bianucci	Godshall	Mensch	Schroder
Bishop	Goodman	Metcalfe	Seip
Blackwell	Grell	Micozzie	Shapiro
Boback	Grucela	Millard	Shimkus
Boyd	Haluska	Miller	Siptroth
Brennan	Hanna	Milne	Smith, K.
Brooks	Harhai	Moul	Smith, M.
Buxton	Harhart	Moyer	Smith, S.
Caltagirone	Harkins	Mundy	Solobay
Cappelli	Harper	Murt	Sonney
Carroll	Harris	Mustio	Staback
Casorio	Helm	Myers	Stairs

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

## NAYS—0

## NOT VOTING—0

## EXCUSED—4

Bastian Benninghoff Ramaley Roebuck

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

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same without amendment.

## ANNOUNCEMENT BY SPEAKER

The SPEAKER. The Chair would like to recognize the passage of a half century by Representative Scott Conklin. The Chair congratulates him. And sitting right next to him, we understand that Representative Jaret Gibbons is also celebrating a birthday today. We wish you a happy birthday.

The House will be at ease.

The House will come to order.

## BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **SB 763, PN 1444**, entitled:

An Act amending the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, further providing for delegation of taxing powers and restrictions.

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

### MOTION TO SUSPEND RULES 21 AND 24

The SPEAKER. The Chair recognizes the gentleman from Beaver County, Representative Biancucci, who makes a motion to suspend the rules for the purpose of offering A09712, which the clerk will read.

The clerk read the following amendment No. **A09712**:

Amend Title, page 1, line 23, by removing the period after "restrictions" and inserting  
; further providing for the levying of the mercantile or business privilege tax; transferring the Optional Occupation Tax Elimination Act and further providing for definitions, for earned income tax rate limits, for resolutions and for binding referendums and providing for applicability of income tax on personal income; and repealing the Optional Occupation Tax Elimination Act and provisions of the Taxpayer Relief Act.

Amend Bill, page 15, lines 11 through 30; page 16, lines 1 through 30; page 17, lines 1 through 15, by striking out all of said lines on said pages and inserting

Section 1. Sections 301.1 and 311(2) of the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, amended July 2, 2008 (P.L.197, No.32), are amended to read:

Section 301.1. Delegation of Taxing Powers and Restrictions Thereon.—(a) The duly constituted authorities of the following political subdivisions, cities of the second class, cities of the second class A, cities of the third class, boroughs, towns, townships of the first class, townships of the second class, school districts of the second class, school districts of the third class, and school districts of the fourth class, in all cases including independent school districts may, in their discretion, by ordinance or resolution, for general revenue purposes, levy, assess and collect or provide for the levying, assessment and collection of such taxes as they shall determine on persons, transactions, occupations, privileges, subjects and personal property within the limits of such political subdivisions, and upon the transfer of real property, or of any interest in real property, situate within the political subdivision levying and assessing the tax, regardless of where the instruments making the transfers are made, executed or delivered or where the actual settlements on such transfer take place. The taxing authority may provide that the transferee shall remain liable for any unpaid realty transfer taxes imposed by virtue of this chapter.

(b) Each local taxing authority may, by ordinance or resolution, exempt any person whose total income from all sources is less than twelve thousand dollars (\$12,000) per annum from the per capita or similar head tax, occupation tax or earned income tax, or any portion thereof, and may adopt regulations for the processing of claims for exemptions.

(c) (1) Each political subdivision levying the local services tax shall exempt the following persons from the local services tax:

(i) Any person who has served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service if, as a result of military service, the person is blind, paraplegic or a double or quadruple amputee or has a service-connected disability declared by the United States Veterans' Administration or its successor to be a total one hundred percent permanent disability.

(ii) Any person who serves as a member of a reserve component of the armed forces and is called to active duty at any time during the taxable year.

(2) For purposes of this subsection, "reserve component of the armed forces" shall mean the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve,

United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.

(d) Each political subdivision levying the local services tax at a rate exceeding ten dollars (\$10) shall, and each political subdivision levying the local services tax at a rate of ten dollars (\$10) or less may, by ordinance or resolution, exempt any person from the local services tax whose total earned income and net profits from all sources within the political subdivision is less than twelve thousand dollars (\$12,000) for the calendar year in which the local services tax is levied.

(e) (1) A person seeking to claim an exemption from the local services tax may annually file an exemption certificate with the political subdivision levying the tax and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the political subdivision of less than twelve thousand dollars (\$12,000) in the calendar year for which the exemption certificate is filed. In the event the political subdivision utilizes a tax collection officer pursuant to section 10 of this act, the political subdivision shall provide a copy of the exemption certificate to that officer. The exemption certificate shall have attached to it a copy of all the employee's last pay stubs or W-2 forms from employment within the political subdivision for the year prior to the fiscal year for which the employee is requesting to be exempted from the local services tax. Upon receipt of the exemption certificate and until otherwise instructed by the political subdivision levying the tax or except as required by clause (2), the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which the exemption certificate applies. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring. The Department of Community and Economic Development shall develop and make available to political subdivisions and employers uniform exemption certificates required by this clause.

(2) With respect to a person who claimed an exemption for a given calendar year from the local services tax, upon notification to an employer by the person or by the political subdivision that the person has received earned income and net profits from all sources within that political subdivision equal to or in excess of twelve thousand dollars (\$12,000) in that calendar year or that the person is otherwise ineligible for the tax exemption for that calendar year, or upon an employer's payment to the person of earned income within that political subdivision in an amount equal to or in excess of twelve thousand dollars (\$12,000) in that calendar year, an employer shall withhold the local services tax from the person under clause (3).

(3) If a person who claimed an exemption for a given calendar year from the local services tax becomes subject to the tax for the calendar year under clause (2), the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification under clause (2), a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person under this subsection, plus the per payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a person subject to withholding of the tax under this clause is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and the political subdivision levying the tax may pursue collection under this act.

(4) Except as provided in clause (2), it is the intent of this subsection that employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employee from a local services tax.

(f) Such local authorities shall not have authority by virtue of this act:

(1) To levy, assess and collect or provide for the levying, assessment and collection of any tax on the transfer of real property when the transfer is by will or mortgage or the intestate laws of this

Commonwealth or on a transfer by the owner of previously occupied residential premises to a builder of new residential premises when such previously occupied residential premises is taken in trade by such builder as part of the consideration from the purchaser of a new previously unoccupied single family residential premises or on a transfer between corporations operating housing projects pursuant to the housing and redevelopment assistance law and the shareholders thereof, or on a transfer between nonprofit industrial development agencies and industrial corporations purchasing from them, or on transfer to or from nonprofit industrial development agencies, or on a transfer between husband and wife, or on a transfer between persons who were previously husband and wife but who have since been divorced; provided such transfer is made within three months of the date of the granting of the final decree in divorce, or the decree of equitable distribution of marital property, whichever is later, and the property or interest therein, subject to such transfer, was acquired by the husband and wife, or husband or wife, prior to the granting of the final decree in divorce, or on a transfer between parent and child or the spouse of such a child, or between parent and trustee for the benefit of a child or the spouse of such child, or on a transfer between a grandparent and grandchild or the spouse of such grandchild, or on a transfer between brother and sister or brother and brother or sister and sister or the spouse of such brother or sister, or on a transfer to a conservancy which possesses a tax-exempt status pursuant to section 501(c)(3) of the Internal Revenue Code, and which has as its primary purpose the preservation of land for historic, recreational, scenic, agricultural or open space opportunities, by and between a principal and straw party for the purpose of placing a mortgage or ground rent upon the premises, or on a correctional deed without consideration, or on a transfer to the United States, the Commonwealth of Pennsylvania, or to any of their instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation, or deed of confirmation in connection with condemnation proceedings, or reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation which reconveyance may include property line adjustments provided said reconveyance is made within one year from the date of condemnation[, leases,]; or leases or lease transactions; or on a conveyance to a trustee under a recorded trust agreement for the express purpose of holding title in trust as security for a debt contracted at the time of the conveyance under which the trustee is not the lender and requiring the trustee to make reconveyance to the grantor-borrower upon the repayment of the debt, or a transfer within a family from a sole proprietor family member to a family farm corporation, or in any sheriff sale instituted by a mortgagee in which the purchaser of said sheriff sale is the mortgagee who instituted said sale, or on a privilege, transaction, subject, occupation or personal property which is now or does hereafter become subject to a State tax or license fee;

(2) To levy, assess or collect a tax on the gross receipts from utility service of any person or company whose rates and services are fixed and regulated by the Pennsylvania Public Utility Commission or on any public utility services rendered by any such person or company or on any privilege or transaction involving the rendering of any such public utility service;

(3) Except on sales of admission to places of amusement, other than on sales of admission to professional baseball events in a city of the third class with a population of not less than one hundred six thousand and not more than one hundred seven thousand based on the 2000 Federal decennial census, or on sales or other transfers of title or possession of property, to levy, assess or collect a tax on the privilege of employing such tangible property as is now or does hereafter become subject to a State tax; and for the purposes of this clause, real property rented for camping purposes shall not be considered a place of amusement;

(4) To levy, assess and collect a tax on goods and articles manufactured in such political subdivision or on the by-products of manufacture, or on minerals, timber, natural resources and farm products produced in such political subdivision or on the preparation or

processing thereof for use or market, or on any privilege, act or transaction related to the business of manufacturing, the production, preparation or processing of minerals, timber and natural resources, or farm products, by manufacturers, by producers and by farmers with respect to the goods, articles and products of their own manufacture, production or growth, or on any privilege, act or transaction relating to the business of processing by-products of manufacture, or on the transportation, loading, unloading or dumping or storage of such goods, articles, products or by-products; except that local authorities may levy, assess and collect a local services tax and taxes on the occupation, per capita and earned income or net profits of natural persons engaged in the above activities whether doing business as individual proprietorship or as members of partnerships or other associations;

(5) To levy, assess or collect a tax on salaries, wages, commissions, compensation and earned income of nonresidents of the political subdivisions: Provided, That this limitation (5) shall apply only to school districts of the second, third and fourth classes;

(6) To levy, assess or collect a tax on personal property subject to taxation by counties or on personal property owned by persons, associations and corporations specifically exempted by law from taxation under the county personal property tax law: Provided, That this limitation (6) shall not apply to cities of the second class;

(7) To levy, assess or collect a tax on membership in or membership dues, fees or assessment of charitable, religious, beneficial or nonprofit organizations including but not limited to sportsmens, recreational, golf and tennis clubs, girl and boy scout troops and councils;

(8) To levy, assess or collect any tax on a mobilehome or house trailer subject to a real property tax unless the same tax is levied, assessed and collected on other real property in the political subdivision.

(9) To levy, assess or collect any tax on individuals for the privilege of engaging in an occupation except that such a tax, to be known as the local services tax, may be levied, assessed and collected only by the political subdivision of the taxpayer's place of employment. The following apply:

(i) If a local services tax is levied at a combined rate exceeding ten dollars (\$10) in a calendar year, a person subject to the local services tax shall be assessed a pro rata share of the tax for each payroll period in which the person is engaging in an occupation. The pro rata share of the tax assessed on the person for a payroll period shall be determined by dividing the combined rate of the local services tax levied for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro rata share, an employer shall round down the amount of the tax collected each payroll period to the nearest one-hundredth of a dollar. Collection of the local services tax levied under this subclause shall be made on a payroll period basis for each payroll period in which the person is engaging in an occupation, except as provided in subclause (v).

(ii) If a school district levied an emergency and municipal services tax on the effective date of this subclause, the school district may continue to levy the local services tax in the same amount the school district collected on the effective date of this subclause. However, if a municipality located in whole or in part within the school district subsequently levies the local services tax, the school district may only collect five dollars (\$5) on persons employed within the municipality each calendar year. A school district that did not levy an emergency and municipal services tax on the effective date of this subclause shall be prohibited from levying the local services tax. If a school district and a municipality located in whole or in part within the school district both levy a local services tax at a combined rate exceeding ten dollars (\$10), the school district's pro rata share of the aggregate local services taxes levied on persons employed within the municipality shall be collected by the municipality or its tax officer based on payroll periods as provided under subclause (i) and shall be paid to the school district on a quarterly basis within sixty days of receipt by the municipality or its tax officer.

(iii) Except as provided in subclause (ii), no person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period as established by subclause (iv).

(iv) With respect to a person subject to the local services tax at a combined rate exceeding ten dollars (\$10), the situs of the tax shall be the place of employment on the first day the person becomes subject to the tax during each payroll period. With respect to a person subject to the local services tax at a combined rate of not more than ten dollars (\$10), the situs of the tax shall be the place of employment determined as of the day the person first becomes subject to the tax during the calendar year. In the event a person is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the person working in more than one political subdivision during a payroll period, the priority of claim to collect the local services tax shall be in the following order: first, the political subdivision in which a person maintains the person's principal office or is principally employed; second, the political subdivision in which the person resides and works, if the tax is levied by that political subdivision; and third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.

(v) In the case of concurrent employment, an employer shall refrain from withholding the local services tax if the employee provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the local services tax withheld and a statement from the employee that the pay statement is from the employee's principal employer and the employee will notify other employers of a change in principal place of employment within two weeks of its occurrence. The Department of Community and Economic Development shall develop a uniform employee statement form.

(vi) The local services tax shall be no more than fifty-two dollars (\$52) on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed. A political subdivision shall provide a taxpayer a receipt of payment upon request by the taxpayer.

(vii) Political subdivisions shall adopt regulations for the processing of refund claims for overpaid local services taxes for any calendar year. The regulations shall be consistent with 53 Pa.C.S. §§ 8425 (relating to refunds of overpayments) and 8426 (relating to interest on overpayment). Refunds made within seventy-five days of a refund request or seventy-five days after the last day the employer is required to remit the local services tax for the last quarter of the calendar year under section 312 of this act, whichever is later, shall not be subject to interest imposed under 53 Pa.C.S. § 8426. Political subdivisions shall only provide refunds for amounts overpaid in a calendar year that exceed one dollar (\$1).

(viii) The Department of Community and Economic Development shall provide suggested forms and technical assistance to facilitate the administration of the local services tax for political subdivisions and reduce the burden of implementation, accounting and compliance for employers and taxpayers.

(ix) For purposes of this clause, "combined rate" shall mean the aggregate annual rate of the local services tax levied by a school district and a municipality located in whole or in part within the school district.

(10) To levy, assess or collect a tax on admissions to motion picture theatres: Provided, That this limitation (10) shall not apply to cities of the second class.

(11) To levy, assess or collect a tax on the construction of or improvement to residential dwellings or upon the application for or issuance of permits for the construction of or improvements to residential dwellings.

(12) To levy, assess and collect a mercantile or business privilege tax on gross receipts or part thereof which are: (i) discounts allowed to purchasers as cash discounts for prompt payment of their bills; (ii) charges advanced by a seller for freight, delivery or other

transportation for the purchaser in accordance with the terms of a contract of sale; (iii) received upon the sale of an article of personal property which was acquired by the seller as a trade-in to the extent that the gross receipts in the sale of the article taken in trade does not exceed the amount of trade-in allowance made in acquiring such article; (iv) refunds, credits or allowances given to a purchaser on account of defects in goods sold or merchandise returned; (v) Pennsylvania sales tax; (vi) based on the value of exchanges or transfers between one seller and another seller who transfers property with the understanding that property of an identical description will be returned at a subsequent date; however, when sellers engaged in similar lines of business exchange property and one of them makes payment to the other in addition to the property exchanged, the additional payment received may be included in the gross receipts of the seller receiving such additional cash payments; (vii) of sellers from sales to other sellers in the same line where the seller transfers the title or possession at the same price for which the seller acquired the merchandise; or (viii) transfers between one department, branch or division of a corporation or other business entity of goods, wares and merchandise to another department, branch or division of the same corporation or business entity and which are recorded on the books to reflect such interdepartmental transactions.

(13) To levy, assess or collect an amusement or admissions tax on membership, membership dues, fees or assessments, donations, contributions or monetary charges of any character whatsoever paid by the general public, or a limited or selected number thereof, for such persons to enter into any place, indoors or outdoors, to engage in any activities, the predominant purpose or nature of which is exercise, fitness, health maintenance, improvement or rehabilitation, health or nutrition education, or weight control.

(14) Except by cities of the second class, to levy, assess or collect a tax on payroll amounts generated as a result of business activity.

(15) Except by cities of the second class in which a sports stadium or arena that has received public funds in connection with its construction or maintenance is located, to levy, assess and collect a publicly funded facility usage fee upon those nonresident individuals who use such facility to engage in an athletic event or otherwise render a performance for which they receive remuneration.

(16) To levy, assess or collect an amusement or admissions tax on the charge imposed upon a patron for the sale of admission to or for the privilege of admission to a bowling alley or bowling lane to engage in one or more games of bowling.

Section 311. Limitations on Rates of Specific Taxes.—No taxes levied under the provisions of this chapter shall be levied by any political subdivision on the following subjects exceeding the rates specified in this section:

\* \* \*

(2) On each dollar of the whole volume of business transacted by wholesale dealers in goods, wares and merchandise, one mill, by retail dealers in goods, wares and merchandise and by proprietors of restaurants or other places where food, drink and refreshments are served, one and one-half mills; except in cities of the second class, where rates shall not exceed one mill on wholesale dealers and two mills on retail dealers and proprietors. No such tax shall be levied on the dollar volume of business transacted by wholesale and retail dealers derived from the resale of goods, wares and merchandise, taken by any dealer as a trade-in or as part payment for other goods, wares and merchandise, except to the extent that the resale price exceeds the trade-in allowance. When a political subdivision which currently levies, assesses or collects a mercantile or business privilege tax on gross receipts under section 533 of the act of December 13, 1988 (P.L.1121, No.145), known as the "Local Tax Reform Act," merges with one or more political subdivisions to form a new political subdivision on or after August 1, 2008, the new political subdivision may levy that mercantile or business privilege tax but not at a rate greater than the rate necessary to generate the same revenues generated in the last fiscal year that the merging political subdivision generated



before the merger. If the merging political subdivision had previously shared the rate of taxation with another political subdivision, the nonmerging political subdivision which had shared the rate is capped at the rate it was previously levying.

\* \* \*

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

#### CHAPTER 4

#### OPTIONAL OCCUPATION TAX ELIMINATION

##### Section 401. Scope.

This act relates to optional occupation tax elimination.

##### Section 402. Definitions.

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

"Earned income tax." A tax on earned income and net profits levied under this act or a tax on earned income and net profits levied under the act of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act.

"Election officials." The county board of elections of a county.

"Governing body." A city council, borough council, incorporated town council, board of township commissioners, board of township supervisors, a governing council of a home rule municipality or optional plan municipality, a governing council of any similar general purpose unit of government which may hereafter be created by statute or a board of school directors of a school district.

"Income tax." An earned income tax or a personal income tax imposed under this chapter.

"Occupation tax." A tax based upon an assessed valuation of a particular trade, occupation or profession. The term includes a tax imposed on a flat rate on all trades, occupations or professions. The term does not include a tax upon persons employed in a taxing district, commonly known as an occupational privilege tax.

"Personal income tax." A tax on income enumerated under section 303 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, as determined by the Department of Revenue, subject to any correction or fraud, evasion or error as finally determined by the Commonwealth and levied pursuant to the act of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act.

"Political subdivision." Any city, borough, incorporated town, township or school district.

"Taxpayer Relief Act." The act of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act.

##### Section 403. Occupation tax replacement generally.

A political subdivision that levies an occupation tax may replace the revenues provided by the occupation tax by increasing the rate of the income tax as provided in this chapter.

##### Section 404. Income tax rate limits.

(a) Income tax rate limits.—For the first fiscal year beginning after approval of the referendum under section 407 and each fiscal year thereafter, the governing body of a political subdivision using the procedures authorized by this chapter shall be authorized to impose an income tax at a rate not exceeding the maximum income tax rate as calculated under subsection (b) or (b.1).

(b) Calculation of maximum earned income tax rate.—The maximum earned income tax rate shall be determined by taking the sum of the rates calculated under paragraphs (1) and (2) and limited by paragraph (3):

(1) The rate of the earned income tax that would have resulted in the collection by the political subdivision of an amount equal to the amount collected from the occupation tax. The calculation by a school district under this paragraph shall be made using actual revenue collections for the fiscal year ending in 2002. The calculation by a municipality under this paragraph shall be made using actual revenue collections for the calendar year ending December 31, 2001.

(2) The rate at which the earned income tax was collected by a school district for the fiscal year ending in 2002 or

the rate at which the earned income tax was collected by a municipality for the calendar year ending December 31, 2001.

(3) The tax rate determined under paragraphs (1) and (2) shall be rounded off to the nearest increment of ten hundredths of one percent.

The maximum rate of the earned income tax calculated under this subsection shall not be subject to the limits on the earned income tax specified in section 311(3).

(b.1) Calculation of maximum income tax rate.—The maximum income tax rate for a school district that levied an occupation tax for the fiscal year ending in 2009 or a municipality that levied an occupation tax for the calendar year ending December 31, 2008, shall be determined by taking the sum of the rates calculated under paragraphs (1) and (2) and limited by paragraph (3):

(1) The rate of the income tax that would have resulted in the collection by the political subdivision of an amount equal to the amount collected from the occupation tax. The calculation by a school district under this paragraph shall be made using actual revenue collections for the fiscal year ending in 2009. The calculation by a municipality under this paragraph shall be made using actual revenue collections for the calendar year ending December 31, 2008.

(2) The rate at which the income tax was collected by a school district for the fiscal year ending in 2009 or the rate at which an earned income tax was collected by a municipality for the calendar year ending December 31, 2008.

(3) The tax rate determined under paragraphs (1) and (2) shall be rounded off to the nearest increment of ten hundredths of one percent.

The maximum rate of the income tax calculated under this subsection shall not be subject to the limits on the earned income tax specified under section 311(3).

(c) Other rates of taxation.—If a municipality or school district, both of which impose an earned income tax on the same individual under this act or the Taxpayer Relief Act and both of which are limited to or have agreed upon a division of the tax rate in accordance with section 311 or 304 of the Taxpayer Relief Act, and the municipality or school district receives voter approval under section 407 and opts to increase the rate of income tax in excess of that limit or agreement, then the municipality or school district which does not receive voter approval shall remain subject to that limit or agreement.

##### Section 405. Occupation tax prohibited.

(a) General rule.—For the first fiscal year beginning after approval of the referendum required under section 407 and each fiscal year thereafter, a political subdivision is prohibited from levying, assessing or collecting an occupation tax.

(b) Occupation assessment tax roll.—In a county where no political subdivision levies the tax, the county shall not be required under the provisions of this or another statute to maintain the occupation assessment tax roll.

(c) Applicability.—This section shall not apply to the collection of delinquent occupation taxes.

##### Section 406. Resolution required.

The governing body may seek authority to increase the maximum limits of the income tax by adopting a resolution to place a referendum on the ballot pursuant to section 407. The governing body shall transmit a copy of the resolution to the appropriate election officials. Prior to approving the resolution, the governing body shall:

(1) Give public notice of its intent to adopt the resolution in the manner provided by section 306.

(2) Conduct at least one public hearing regarding eliminating the occupation tax and increasing the maximum rate of the income tax.

##### Section 407. Binding referendum.

(a) Referendum to be held.—A political subdivision may increase the maximum rate of the income tax only by obtaining the approval of the electorate of the affected political subdivision in a public referendum at the general or municipal election preceding the fiscal

year when the maximum rate of the income tax will be increased. The election officials shall cause a question to be placed on the ballot at the first general or municipal election occurring at least 90 days after their receipt of the resolution required in section 406.

(b) Contents of question.—The referendum question must state the maximum rate of the income tax calculated under section 404 and that the additional revenue generated by an increase in the income tax will be used to eliminate the occupation tax. The question shall be in clear language that is readily understandable by a layperson. For the purpose of illustration, a referendum question may be framed as follows:

Do you favor increasing the rate of the (earned or personal) income tax to a maximum of X%, with the requirement that the increase be used to eliminate the occupation tax?

(c) Vote.—If a majority of the electors voting on the question vote "yes," then the governing body shall be authorized to implement an increase in the income tax pursuant to section 404 and shall be required to eliminate the occupation tax as required by section 405. If a majority of the electors voting on the question vote "no," the governing body shall have no authority to increase the rate of the income tax above the maximum rate otherwise provided by law.

(d) Voting proceedings.—Proceedings under this section shall be in accordance with the provisions of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code.

#### Section 408. Applicability.

This chapter shall apply to political subdivisions which levy an occupation tax on the date of enactment of this section.

#### Section 409. Applicability of personal income tax.

Nothing in this chapter shall be construed to authorize a municipality to levy, assess or collect a personal income tax. The authority to levy, assess or collect a personal income tax shall only apply to a school district in which a board of school directors sought to impose a personal income tax under section 321(c) of the Taxpayer Relief Act and the referendum under section 331.2 or 332 of the Taxpayer Relief Act is approved by the electorate under the Taxpayer Relief Act.

Section 3. Repeals are as follows:

(1) The General Assembly declares that the repeals under paragraphs (2) and (3) are necessary to effectuate the provisions of this act.

(2) The act of June 22, 2001 (P.L.374, No.24), known as the Optional Occupation Tax Elimination Act, is repealed.

(3) The last sentence of section 303(1) of the act of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act, is repealed.

Amend Sec. 2, page 17, line 16, by striking out "2" where it appears the first time and inserting

4

Amend Sec. 2, page 17, line 16, by striking out "2" where it appears the second time and inserting

301.1(f)(1)

Amend Sec. 2, page 17, line 18, by striking out "2007" and inserting

2008

Amend Sec. 3, page 17, line 19, by striking out "3" and inserting

5

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

The SPEAKER. The Chair recognizes Representative Biancucci on the motion to suspend the rules.

Mr. BIANCUCCI. Thank you, Mr. Speaker.

My motion to suspend the rules today is the posting requirements of rule 21 and a portion of rule 24 so that we can consider the amendment—

The SPEAKER. The gentleman will suspend. The Chair will restate the gentleman's motion.

The gentleman is moving to suspend the posting requirements of rule 21 and a portion of rule 24 so that we can consider amendment A09712 on third consideration and vote the bill on final passage today.

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

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

The House will be at ease as the clerk will post this on the board.

The Chair recognizes Representative Biancucci on the motion to suspend.

Mr. BIANCUCCI. Mr. Speaker, I am asking for this suspension because yesterday my colleagues from the other side of the aisle had some concerns about my amendment, so this is a different amendment. What this amendment does is it caps the revenue. It allows the taxing jurisdiction—

The SPEAKER. The gentleman will suspend. The gentleman will suspend. The Chair will ask all conferences on the floor to break up. Members will take their seats.

Representative Biancucci is in order.

Mr. BIANCUCCI. Thank you, Mr. Speaker.

Mr. Speaker, I am asking for a suspension of the rules because members on the other side of the aisle had expressed a concern with my amendment. My amendment simply states that a taxing jurisdiction can levy this tax at no greater a rate than currently generates certain revenues, and that is it. So the revenues stay the same. They cannot tax it at a greater revenue. So I am asking for the suspension of the rules for that particular reason.

Thank you very much.

The SPEAKER. The Chair thanks the gentleman.

Representative Nickol, on the motion to suspend the rules.

Mr. NICKOL. Thank you, Mr. Speaker.

The SPEAKER. The gentleman will suspend.

Because this is a Senate bill, only the maker of the amendment, the minority and majority leaders are permitted to speak on suspension of the rules.

The House will be at ease.

The House will come to order.

### **BILL PASSED OVER TEMPORARILY**

The SPEAKER. This bill will be over temporarily.

### **CONSIDERATION OF HB 2043 CONTINUED**

On the question recurring,  
Shall the bill pass finally?

(Bill analysis was read.)

On the question recurring,  
Shall the bill pass finally?

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

The following roll call was recorded:

### YEAS—199

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

### NAYS—0

### NOT VOTING—0

### EXCUSED—4

Bastian	Benninghoff	Ramaley	Roebuck
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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.

## DEMOCRATIC CAUCUS

### RULES AND APPROPRIATIONS COMMITTEE MEETINGS

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

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, I would like to call an immediate meeting of the House Democratic Caucus. I would like to announce a Rules Committee meeting will be held at 12:45 in the House Democratic caucus room, room 140, Main Capitol Building, and an Appropriations Committee meeting will be held immediately after the caucus. Because of the tight time delays, the tight time schedule, rather, I would urge the immediate presence of all members. Thank you.

The SPEAKER. Does the gentleman have an appropriate time for the Appropriations Committee meeting?

Mr. COHEN. Roughly, 12:50, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

Mr. COHEN. Our goal is to be back on the floor at 1 o'clock.

The SPEAKER. The Chair thanks the gentleman.

There will be an immediate meeting of the House Democratic Caucus, a Rules Committee meeting at 12:45, and an Appropriations Committee meeting will be held at 12:50.

## REPUBLICAN CAUCUS

The SPEAKER. Representative Major.

Miss MAJOR. Thank you, Mr. Speaker.

I would like to call a Republican caucus immediately at the call of the recess. I would ask Republicans to please report to caucus immediately. Thank you.

The SPEAKER. The Chair thanks the lady.

### PROFESSIONAL LICENSURE COMMITTEE MEETING

The SPEAKER. Representative Sturla.

Mr. STURLA. Thank you, Mr. Speaker.

The House Professional Licensure Committee will meet immediately in G-50, Irvis Office Building. I would urge members to attend this. We only have one bill to move. That way we can do it quickly and we can get members back to their respective caucuses, but it is one bill we need to move, immediately, G-50, Irvis Office Building.

The SPEAKER. The Chair thanks the gentleman.

The House Professional Licensure Committee will meet immediately in G-50, Irvis Office Building.

## ANNOUNCEMENT BY MR. HENNESSEY

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

Mr. HENNESSEY. Thank you, Mr. Speaker.

Just to remind the members, the Steel Caucus is meeting presently in room 39 of the East Wing. Thank you.

The SPEAKER. The Chair thanks the gentleman.

**ANNOUNCEMENT BY MR. COHEN**

The SPEAKER. Are there any further announcements?  
Representative Cohen.

The Chair recognizes Representative Cohen.

Mr. COHEN. Mr. Speaker, apparently I did not enunciate the time for the Appropriations Committee meeting clearly enough. It is 12:50. That is 10 of 1, not 12:15; 12:50 or 10 of 1.

The SPEAKER. The Chair thanks the gentleman.

Mr. COHEN. Thank you, Mr. Speaker.

**RECESS**

The SPEAKER. This House will now stand in recess until 1 p.m., unless sooner recalled by the Speaker.

**AFTER RECESS**

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

**RESOLUTIONS PURSUANT TO RULE 35**

Mr. DePASQUALE called up **HR 924, PN 4496**, entitled:

A Resolution designating the month of November 2008 as "Hydrocephalus Awareness Month" in Pennsylvania.

On the question,

Will the House adopt the resolution?

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

Mr. DePASQUALE. Thank you, Mr. Speaker.

I would like my colleagues to support HR 924, which would recognize November as Hydrocephalus Month.

**DRAKE MANTHEY INTRODUCED**

Mr. DePASQUALE. With us today is one of my constituents. He is a little younger so his parents will have to hold him up. His name is Drake Manthey. Drake, want to be recognized?

Drake is an absolute bundle of joy, and I want to obviously thank him and his family for being tireless champions for the cause of hydrocephalus awareness. It is certainly something that, to be honest, I did not have that much awareness of prior to my serving in the State House, but having met with the Manthey family and certainly getting to know Drake and his parents, I just wanted to take this opportunity to recognize them. I want to thank the leadership on both sides for helping bring this resolution to the floor, and I ask for an affirmative vote on this resolution.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

Will the House adopt the resolution?

The following roll call was recorded:

**YEAS—199**

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

**NAYS—0****NOT VOTING—0****EXCUSED—4**

Bastian	Benninghoff	Ramaley	Roebuck
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The majority having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

**THE SPEAKER PRO TEMPORE  
(MATTHEW E. BAKER) PRESIDING**

\* \* \*

Mr. MURT called up **HR 381, PN 4469**, entitled:

A Resolution designating the month of October 2008 as "Food Allergy Awareness Month" in Pennsylvania.

On the question,  
Will the House adopt the resolution?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman, Mr. Murt.

Mr. MURT. Thank you, Mr. Speaker.

Mr. Speaker, today I rise to urge our support for HR 381, which would declare October 2008 "Food Allergy Awareness Month" in Pennsylvania. Mr. Speaker, between 6 and 7 million Americans, or 2 to 2 1/2 percent of the general population, suffer from food allergies. Food allergies are believed to be the leading cause of anaphylaxis outside of a hospital setting, causing an estimated 30,000 emergency department visits each year in the United States, and it is estimated that as many 100 to 200 people die each year from food allergic reactions.

Often, a food allergy occurs when someone ate something they thought was safe. Currently, Mr. Speaker, there are no medications that cure food allergies. Strict avoidance is the only way to prevent a reaction. By supporting my resolution, we will help to make people aware of the potential food allergies and to focus attention that may result in a cure to this serious public health concern. Therefore, Mr. Speaker, I urge my colleagues to join me in supporting this resolution.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

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

The following roll call was recorded:

YEAS—199

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

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

NAYS—0

NOT VOTING—0

EXCUSED—4

Bastian                      Benninghoff                      Ramaley                      Roebuck

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

\* \* \*

Mr. KENNEY called up **HR 548, PN 4470**, entitled:

A Resolution recognizing the month of October 2008 as "Breast Cancer Awareness Month" in Pennsylvania.

On the question,  
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—199

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

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

NAYS—0

NOT VOTING—0

EXCUSED—4

Bastian	Benninghoff	Ramaley	Roebuck
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The majority having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

\* \* \*

Mr. GRUCELA called up **HR 607, PN 3259**, entitled:

A Resolution designating October 11, 2008, as "Pulaski Day" in Pennsylvania.

On the question,  
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—199

Adolph	Galloway	Markosek	Ross
Argall	Geist	Marshall	Rubley
Baker	George	Marsico	Sabatina
Barrar	Gerber	McCall	Sainato
Bear	Gergely	McGeehan	Samuelson
Belfanti	Gibbons	McI. Smith	Santoni
Bennington	Gillespie	McIlhattan	Saylor
Beyer	Gingrich	Melio	Scavello

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

NAYS—0

NOT VOTING—0

EXCUSED—4

Bastian	Benninghoff	Ramaley	Roebuck
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The majority having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

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Mrs. WATSON called up **HR 859, PN 4270**, entitled:

A Resolution recognizing the week of October 19 through 25, 2008, as "National Teen Driving Safety Week" in Pennsylvania.

On the question,  
Will the House adopt the resolution?

The following roll call was recorded:

## YEAS—199

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

## NAYS—0

## NOT VOTING—0

## EXCUSED—4

Bastian	Benninghoff	Ramaley	Roebuck
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The majority having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

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Mr. BUXTON called up **HR 900, PN 4400**, entitled:

A Resolution recognizing October 16, 2008, as "National Feral Cat Day."

On the question,  
Will the House adopt the resolution?

The following roll call was recorded:

## YEAS—199

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

## NAYS—0

## NOT VOTING—0

## EXCUSED—4

Bastian	Benninghoff	Ramaley	Roebuck
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The majority having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

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

**SB 147, PN 2373**

By Rep. STURLA

An Act amending the act of July 2, 1993 (P.L.345, No.48), entitled "An act empowering the General Counsel or his designee to issue subpoenas for certain licensing board activities; providing for hearing examiners in the Bureau of Professional and Occupational Affairs; providing additional powers to the Commissioner of Professional and Occupational Affairs; and further providing for civil penalties and license suspension," further providing for civil penalties; and making related repeals.

PROFESSIONAL LICENSURE.

**BILLS ON CONCURRENCE  
REPORTED FROM COMMITTEE**

**HB 44, PN 4414**

By Rep. DeWEESE

An Act prohibiting the sale, installation and disposal of mercury thermostats; and prescribing penalties.

RULES.

**HB 949, PN 4428**

By Rep. DeWEESE

An Act amending the act of July 10, 1990 (P.L.404, No.98), known as the Real Estate Appraisers Certification Act, further providing for real estate appraiser certification required, for application and qualifications and for certification renewal, licensure renewal and records.

RULES.

**HB 1177, PN 4345**

By Rep. DeWEESE

An Act amending Title 40 (Insurance) of the Pennsylvania Consolidated Statutes, further providing for definitions, for scope of service and for rights of health service doctors.

RULES.

**HB 1742, PN 4350**

By Rep. DeWEESE

An Act requiring scrap processors and recycling facility operators to collect certain information relating to the purchase of scrap material; requiring commercial accounts; and restricting scrap processors and recycling facility operators from purchasing certain materials.

RULES.

The SPEAKER pro tempore. These bills will be reported to the supplemental calendar.

**BILL REREPORTED FROM COMMITTEE**

**HB 120, PN 4514 (Amended)**

By Rep. D. EVANS

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, further providing for compulsory school attendance and for exceptions to compulsory school attendance; and requiring all public school districts in this Commonwealth to conduct interviews for all students who withdraw or are illegally absent from school.

APPROPRIATIONS.

The SPEAKER pro tempore. That bill will be reported to the active calendar.

**BILLS REREPORTED FROM COMMITTEE**

**HB 1929, PN 2682**

By Rep. D. EVANS

An Act amending Title 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, providing for the offense of violation of Fort Indiantown Gap regulations and providing for the powers and duties of police officers employed at State military installations.

APPROPRIATIONS.

**SB 100, PN 2428**

By Rep. D. EVANS

An Act providing for the regulation of home improvement contracts and for the registration of certain contractors; prohibiting certain acts; and providing for penalties.

APPROPRIATIONS.

**SB 295, PN 2432**

By Rep. D. EVANS

An Act providing for idling restrictions on diesel-powered motor vehicles; and imposing a penalty.

APPROPRIATIONS.

**SB 768, PN 2431**

By Rep. D. EVANS

An Act amending Title 64 (Public Authorities and Quasi-Public Corporations) of the Pennsylvania Consolidated Statutes, further providing for the definitions of "commercial lending activities" and "commercial lending institutions" and for the First Industries Program.

APPROPRIATIONS.

**SB 908, PN 2374**

By Rep. D. EVANS

An Act amending the act of December 22, 1983 (P.L.327, No.85), known as the Auctioneer and Auction Licensing Act, further providing for auctioneer and apprentice auctioneer licenses.

APPROPRIATIONS.

**SB 1019, PN 1711**

By Rep. D. EVANS

An Act amending the act of December 22, 1983 (P.L.306, No.84), known as the Board of Vehicles Act, further providing for definitions, for grounds for disciplinary proceedings for vehicle shows, off-premise sales and exhibitions; providing for recreational vehicle shows, recreational vehicle off-premise sales, recreational vehicle exhibitions and recreational vehicle rallies; and further providing for vehicle shows, off-premise sales and exhibitions on Sundays.

APPROPRIATIONS.

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

**FILMING PERMISSION**

The SPEAKER pro tempore. The Chair wishes to advise members that he has given permission to Carl Silverstein of the news organization Silverstein.com. He has been given permission for approximately a 10-minute period of time to take still photographs.



**BILL ON SECOND CONSIDERATION**

The House proceeded to second consideration of **HB 2518, PN 4440**, entitled:

An Act authorizing the Commonwealth of Pennsylvania to join the Interstate Compact on Educational Opportunity for Military Children; providing for the form of the compact; imposing additional powers and duties on the Governor, the Secretary of the Commonwealth and the compact commissioner; and establishing the State Council on Interstate Educational Opportunity for Military Children.

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

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

The House proceeded to second consideration of **SB 100, PN 2428**, entitled:

An Act providing for the regulation of home improvement contracts and for the registration of certain contractors; prohibiting certain acts; and providing for penalties.

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

Mr. **McCALL** offered the following amendment No. **A09610**:

Amend Sec. 2, page 1, by inserting between lines 12 and 13 "Advertisement." A statement promoting home improvement services in a newspaper, periodical, pamphlet, circular, billboard, sign, letterhead, business card or other printed materials; or in announcements to the public on radio, television or the Internet. The term shall not include the following:

(1) Sponsorship or recognition of sponsorships of civic, charitable or nonprofit events, teams or purposes.

(2) Writings or graphics on promotional clothing, pens, pencils, notepads or similar items.

Amend Sec. 6, page 12, line 15, by striking out ", INCLUDING BUSINESS CARDS,"

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

The **SPEAKER** pro tempore. On the amendment, the Chair recognizes the gentleman, Mr. McCall.

Mr. **McCALL**. Thank you, Mr. Speaker.

Mr. Speaker, this amendment just clarifies the term of "advertisement" in the bill. We just want to clarify that promotional items, such as pens or pins or shirts, do not fall under the advertisement requirements; that if you put an advertisement in the newspaper or if you advertise on television, that you should have a registration number. This simply clarifies that language in the legislation. I would ask for an affirmative 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—199**

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

**NAYS—0****NOT VOTING—0****EXCUSED—4**

Bastian	Benninghoff	Ramaley	Roebuck
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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. DALEY offered the following amendment No. **A09338**:

Amend Sec. 2, page 3, line 28, by removing the comma after "Act" and inserting a period

Amend Sec. 2, page 3, lines 29 and 30; page 4, lines 1 through 8, by striking out all of said lines on said pages

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On the amendment, the Chair recognizes the gentleman, Mr. Daley.

Mr. DALEY. Thank you, Mr. Speaker.

I believe that this bill has some notable flaws that could have been actually remedied with a more open conversation during the deliberative process in the Senate with the regulated industry, specifically the landscaping industry, one of the most promising and expanding sectors of the agricultural economy.

There are significant practical problems in that regard with sections that will hinder normal established business practices such as the rigid prescription for change orders and the interference with established court decisions on legal fees.

There is an exception for new home construction, which is puzzling. Are builders of new homes and those companies so virtuous that building new homes, when they build new homes, is actually different than when people make improvements and those companies that improve homes?

This amendment, A09338, would remove the landscape industry from any oversight for construction-related services. I sincerely do believe that the landscape industry should be subject to oversight for construction services as well as the builders, but I cannot, in good conscience, see them swept into the bill that will impair their normal functioning. My wish is that the makers would have seen fit to add the oversight authority to that industry, to the Department of Agriculture, rather than imposing yet another license on our already licensed industry.

That having been said, Mr. Speaker, I believe that the overall goal of accountability and consumer protection underlying in this bill is a good concept, but I do not believe it is the way to deal with the landscape industry and ask that that particular industry be removed from this bill.

I am firmly committed to seeking and supporting an oversight solution for that industry in the upcoming legislative session that is more custom-fitted to the manner and modes that they do business. One-size-fits-all should not be the way we do business here. It is not necessary and it is not smart and it is not good government.

I ask for an affirmative vote on amendment 9338. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Representative Hanna, on the amendment.

Mr. HANNA. Thank you, Mr. Speaker.

I rise to join Representative Daley in urging a favorable vote for amendment A09338.

As chairman of the House Ag Committee, we have reviewed this legislation, and we share Representative Daley's concern

that while landscapers already have a relationship with the Department of Agriculture, under this bill they will be required to establish a new licensing process that is not necessary. It is better for them to remain with the Department of Agriculture, and I will work with Representative Daley and others to try and see that their relationship with Ag continues and that Ag be the one to regulate them.

But I would urge a favorable vote for removing them from the provisions of this bill so that we can continue their regulation by the Department of Ag. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. Marsico.

Mr. MARSICO. Thank you, Mr. Speaker.

The SPEAKER pro tempore. Mr. Marsico, would you suspend, please.

Mr. MARSICO. Sure.

The SPEAKER pro tempore. Mr. McCall, are you yielding to the gentleman, Mr. Marsico?

Mr. Marsico, you may proceed.

Mr. MARSICO. Thank you, Mr. Speaker.

I rise to support the Daley amendment as well. You may or may not know this, but landscapers are already required to be certified by the Department of Agriculture, and there is no need to have a duplicate certification of landscape contractors. And under the existing certification program, the Secretary of Agriculture and the Attorney General have broad authority to remove bad actors from the trade and to impose penalties.

Landscapers were never the target of this program; fly-by-night building contractors were. Landscapers got grouped into this with bad actors that are targeted here. Landscapers in my district, landscapers in your district are being forced to lay off workers because the economy is slowing, and with the financial crisis looming, now is not the time to impose a duplicate system on our landscapers in Pennsylvania.

So I ask for support of this amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, let me be perfectly clear about this legislation. We have already heard the word "licensure" three times. This bill has absolutely nothing at all to do with licensure, zero; again, zero to do with licensure. This bill is about registering home contractors. They are very, very different terms between registration and licensure, and we could have that argument somewhere else down the road, but this bill specifically speaks to registration of home improvement contractors.

As a matter of fact, the gentleman's amendment and the arguments made by the previous speakers I agree with, and I will refer you to page 3 of the legislation that specifically exempts, specifically exempts, "Any work performed by a landscaper certified by the Department of Agriculture under the act of December 16, 1992...known as the Plant Pest Act, except to the extent that the work involves any of the following at a private residence...." I will tell you that they are already exempt under the law, under the provisions of this legislation if we enact this legislation.

Let me read what general counsel has to say about this legislation: "...the Department has no such authority and can offer no protections against the consumer fraud issues sought to be remedied by Senate Bill 100." Further, "The Plant Pest Act...; and...The Pennsylvania Pesticide Control Act...that impose certification or licensure requirements on certain

contractors and landscapers. Both of these statutes are consumer protection statutes, but neither of these statutes are consumer fraud statutes. Nor do they regulate the type of activity that Senate Bill 100 seeks to address."

Further, the general counsel writes that "the authority of the Department applies only to the regulation of matters involving pesticides and does not extend to the contract between the homeowner and the licensed pesticide applicator. While the Department may revoke or suspend a license to apply a pesticide for a violation of a provision of the PPCA, the Department has no authority to regulate the terms of any contract or to impose a penalty or revoke or deny a certificate because of the preparation of fraud against a homeowner by the licensed pesticide applicator."

These are two separate and distinct activities. One activity is for the application of pesticides. What we say we want licensed under here is if they are doing buildings, driveways, porches, garages, roofs, sidings, insulation, and those types of things, and if they are doing that work, they should have to be registered. They should be registered under this act, and I am going to give you an example. We got a phone call from the Attorney General's Office. They said they recently received a complaint in Bucks County. A woman hired a landscaper. The landscaper went in and did all the landscaping work, put new walls in, new retaining walls at her home. The woman paid \$35,000. She has no recourse. She has been trying to find that contractor for the last 5 months.

This is the perfect reason why we want landscapers – and not just landscapers; we are not singling them out – but they should register. We are not saying we want you to be licensed. We are just saying we want you to register under the act; that if you do perpetrate fraud, there should be recourse. We should be able to track you down. What about the woman in Bucks County who lost \$35,000 and cannot even find the contractor?

This is not about licensure. Do not use the word "licensure," because there is no licensure in this bill whatsoever. It is all about registration.

I would ask that we defeat the Daley amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. Hershey.

Mr. HERSHEY. Thank you, Mr. Speaker.

I rise to support the Daley amendment, 09338. Apparently, there is a disagreement with the previous speaker because there will be a permit fee, the way I understand it.

Landscapers are not an industry for general home improvement. They are an industry that installs and maintains plant material and the surroundings of the home and business landscape.

Therefore, Mr. Speaker, I ask for your support of this amendment. Thank you very much.

The SPEAKER pro tempore. Thank you, Mr. Hershey.

The Chair recognizes the gentleman, Mr. Stern.

Mr. STERN. Thank you, Mr. Speaker.

I rise in support of the Daley amendment. I think it is a good amendment.

With the registration that is out there already, and as the prior speaker already mentioned, landscapers are already certified under the law and under the Department of Ag regulations. What we are doing here is discouraging small business, small enterprise. From dealing with many of the landscapers back in my district, with the state of the economy and what we are facing right now, we should not be attempting to register more

businesses out there in Pennsylvania that are already certified under a prior department, under supervision of the Attorney General's Office.

So I think the Daley amendment is a good amendment, and I would ask for members to support it. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. Petri.

Mr. PETRI. Thank you, Mr. Speaker.

I believe that this amendment and the ones that follow create some interesting debates for us, and the issue before us is really fairness. The fairness is, how do we treat people who are landscapers and other types of professionals who are really doing home building and remodeling as defined under the new act? If we require one group to register that builds walls, how do we exempt out any other group?

And when we examine this amendment and the ones to follow, I think whatever path a member chooses, we ought to be consistent and we ought to be on that same path. In other words, perhaps as a member you do not think registration is important; perhaps as a member you think that registration is a bad idea. In that case, perhaps you ought to just vote "no" on the bill, ultimately, and set the record straight. But as we go through these amendments, I would ask the members to pay attention to the substance and decide, when is a landscaper a landscaper and when is a landscaper a home contractor, because that is the issue before you.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Representative Stairs.

Mr. STAIRS. Thank you, Mr. Speaker.

I certainly want to add my name to the list of people, the legislators who are supporting this amendment. So I hope that you will concur with me and support this amendment.

But just a moment to reflect a little bit. You know, sometimes we do get it right around here, not all the time but sometimes, and we have had the landscape people being under the auspices of the Department of Agriculture, and certainly, I do not see a need to double-regulate.

You know, it reminds me of a couple years ago, and with all good intentions on the Uniform Construction Code, we all wanted to do what was right, we all wanted to keep it simple, but we wanted to protect Pennsylvanians, but in the process, as it went through the regulatory review, we made it very cumbersome and a burden on many people. So I would hope that we would keep our minds clear and not try to overburden our people who are trying to make a living serving their fellow Pennsylvanians.

We have a regulation in effect now where the landscapers are under the authority of the Department of Agriculture. It has worked well. Let us not overburden them and then certainly move on with this bill to protect the consumers.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Are there any other speakers seeking recognition?

Seeing none, the Chair recognizes the gentleman, Mr. McCall, for the second time. Oh; strike that.

The Chair recognizes the gentleman, Mr. Melio.

Mr. MELIO. Thank you, Mr. Speaker.

Senator Tomlinson put a lot of work into this bill, and it is very important. Certainly, many of the residents in my area need this bill for their protection, and I urge that you listen to

Representative McCall and his argument and support a "no" vote on this amendment. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. Preston.

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

Somewhere along the line we have to stop excluding people when we are thinking about a specific industry and being able to protect our citizens. Now, I understand that because someone is certified does not mean that we can track them from a registration, and I do not think that there is a legislator here who has not had a problem over the last 3 or 4 years where someone has come by and gotten a deposit from them who supposedly is a landscaper, takes the money, and you cannot find them. Now, I am not talking about because someone is certified, they know how to do the job, but just the registration of keeping people from putting these metal signs, the magnet signs on their doors and then the next week they are on to someone else, and we have all had that happen.

This is about registration and it is not about licensure, as you have heard someone else say, and I think from a consumer standpoint— And I understand, because I have had some of my close friends and I had a gentleman by the name of Mr. Seppi, who is part of my community and is very special to me, who asked me to support this Daley amendment, but we really cannot, because what we are trying to do is to be able to protect the Mr. Seppis, to be able to give those landscapers who are doing a really good job, who have a good qualified business, of not giving them a bad name. We need to be able to deal with registration, to be able to protect our senior citizens from those people who knock on their doors.

I ask you, please, let us vote down the Daley amendment and let us get SB 100 on the track to the Senate so we can get the Governor to sign it. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

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

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, simply put, fraud is fraud. The woman who lost the \$35,000 in Bucks County, she could not go, as a landscaper, she could not go to the Department of Agriculture and get recourse. He is licensed under the plant pesticide act. She went to the Attorney General's Office. The Attorney General tried to track him down and cannot.

This is a grandma. Come on. We all know, we all know the instances in our districts when people come to our offices where they have been scammed. This legislation will allow for that landscape contractor that does work outside of the plant and pest control act, that does concrete work, that does retaining-wall work, it just simply says you are going to be licensed.

We should not be exempting landscapers from the auspices of this language. I would ask that you vote "no" on the Daley amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the maker of the amendment, Mr. Daley, for the second time.

Mr. DALEY. Thank you, Mr. Speaker.

One gentleman said we have to stop excluding people, but the people we exclude from this bill are new home construction. I have seen case after case after case where I have seen a contractor build a home and end up being sued because they

fraudulently misrepresented a part of the project or they did not do something in the project. They are excluded. Now, if we are going to exclude people, why are we excluding the people who most people have to deal with, with the most money that they have to deal with regarding a contract?

Some people call it registration; some people call it licensure. You call it a potato; some people call it a potato. I call it just bad public policy.

I ask you to pass this amendment, 9338. 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—99

Adolph	Gabig	Mahoney	Rapp
Argall	Geist	Major	Raymond
Baker	Gillespie	Mantz	Reed
Barrar	Gingrich	Marshall	Reichley
Bear	Grell	Marsico	Roae
Bennington	Haluska	McIlhattan	Rock
Beyer	Hanna	Mensch	Rohrer
Boback	Harhart	Metcalfe	Rubley
Boyd	Harper	Micozzie	Saylor
Brooks	Harris	Millard	Scavello
Causar	Helm	Miller	Schroder
Civera	Hennessey	Moyer	Siptroth
Clymer	Hershey	Murt	Smith, S.
Cox	Hess	Mustio	Sonney
Creighton	Hickernell	Nailor	Stairs
Cutler	Hutchinson	Nickol	Stern
Daley	Kauffman	Payne	Stevenson
Dally	Keller, M.K.	Peifer	Surra
Denlinger	Kessler	Perry	Taylor, J.
Dermody	Killion	Perzel	True
Ellis	Kirkland	Petrarca	Turzai
Evans, J.	Kotik	Phillips	Vulakovich
Everett	Leach	Pickett	Wagner
Fairchild	Mackereth	Pyle	Yewcic
Fleck	Maher	Quigley	

#### NAYS—99

Belfanti	George	McI. Smith	Smith, K.
Biancucci	Gerber	Melio	Smith, M.
Bishop	Gergely	Milne	Solobay
Blackwell	Gibbons	Moul	Staback
Brennan	Godshall	Mundy	Steil
Buxton	Goodman	Myers	Sturla
Caltagirone	Grucela	O'Brien, M.	Swanger
Cappelli	Harhai	O'Neill	Tangretti
Carroll	Harkins	Oliver	Taylor, R.
Casorio	Hornaman	Parker	Thomas
Cohen	James	Pashinski	Vereb
Conklin	Josephs	Payton	Vitali
Costa	Keller, W.	Petri	Walko
Cruz	Kenney	Petrone	Wansacz
Curry	King	Preston	Waters
DeLuca	Kortz	Quinn	Watson
DePasquale	Kula	Readshaw	Wheatley
DeWeese	Lentz	Ross	White
DiGirolamo	Levdansky	Sabatina	Williams
Donatucci	Longietti	Sainato	Wojnaroski
Eachus	Manderino	Samuelson	Youngblood
Evans, D.	Mann	Santoni	Yudichak
Fabrizio	Markosek	Seip	

Frankel  
Freeman  
Galloway

McCall  
McGeehan

Shapiro  
Shimkus

O'Brien, D.,  
Speaker

#### NOT VOTING—1

Pallone

#### EXCUSED—4

Bastian

Benninghoff

Ramaley

Roebuck

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

On the question recurring,

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

Mr. **DALEY** offered the following amendment No. **A09339**:

Amend Sec. 2, page 5, line 22, by inserting after "contract."

The term includes perishable products such as plants.

On the question,

Will the House agree to the amendment?

#### AMENDMENT WITHDRAWN

The SPEAKER pro tempore. The gentleman, Mr. Daley, has indicated he has withdrawn the amendment and all other amendments that he has offered. The Chair thanks the gentleman.

On the question recurring,

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

Mr. **MARSICO** offered the following amendment No. **A09537**:

Amend Sec. 9, page 22, line 16, by striking out all of said line and inserting

(10) (i) Except as provided under subparagraph (ii), for a home improvement contract in which the total

Amend Sec. 9, page 22, line 18, by striking out all of said line and inserting

(A) one-third of the home improvement contract

Amend Sec. 9, page 22, line 20, by striking out all of said line and inserting

(B) one-third of the home improvement contract

Amend Sec. 9, page 22, by inserting between lines 22 and 23

(ii) The provisions of this paragraph shall not apply to a person furnishing a performance and payment bond, lien and completion bond or a bond equivalent or joint control approved by the bureau that covers full performance and payment.

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On the amendment, the Chair recognizes the gentleman, Mr. Marsico.

Mr. **MARSICO**. Thank you, Mr. Speaker.

As I had mentioned before when I spoke previously, this bill is intended to address the problems of home improvement contractors who take people's money and leave town without doing the work. That is the intention of this bill.

We have dealt with this concept over the last 10 to 15 years here in the General Assembly, and what is happening is, we are going after some of these that are reputable businesses in Pennsylvania. Let me give you an example. Home Depot and Lowe's, which offer home improvement services, they are different from these independent home improvement contractors because they collect the money up front and hold it until they know that the consumer is satisfied. Then they pay the contractor who actually did the work. Unfortunately, this bill treats all home improvement contractors the same, large retailers like Home Depot and Lowe's and the small independent contractors, when it comes to the partial-payment requirements, only collecting one-third up front. Many Home Depot and Lowe's customers want to pay for the entire project instead of having to make a second trip to the store to settle the account. While it is true that in surrounding States the one-third partial-payment provision exists, in these States some customers have found ways to game the system, to get home improvements without paying the rest of the bill.

Home Depot does approximately 80,000 home improvement contracts a year. Mr. Speaker, let me repeat that. They do 80,000 home improvement contracts a year. Now, according to the Bureau of Consumer Protection, the Office of Attorney General, last year there were only 70 complaints filed against Home Depot and not all of these were home improvement related. That means that 99.92 percent of the people who use Home Depot were satisfied enough with Home Depot's guarantee satisfaction program not to file a complaint with the Office of Attorney General.

Mr. Speaker, do not get me wrong. This bill has many good components, and the time has come for it to be law so that consumers are protected from the unscrupulous home improvement contractors. That is who we should be after, but we should not punish good actors with those that are bad.

My amendment solves this problem of making sure that consumers have access to money through a performance and payment bond if something goes wrong in the home improvement project. This model has been used in other States and it works. The bottom line is protecting consumers, and this amendment would do that. Home Depot would be required to post a performance and payment bond and lien and completion bond or a bond equivalent as approved by the Consumer Protection of the Office of Attorney General that covers full performance and payment.

Mr. Speaker, once again, at a time when our economy is hurting, let us not put an additional burden on good Pennsylvania businesses. I ask for an affirmative vote on this amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Representative Maher.

Mr. **MAHER**. I thank Representative Marsico for offering this amendment. I think it is important that Pennsylvanians be able to shop for home improvements the same as residents of other States, and that when we are dealing with protecting Pennsylvanians from fly-by-night operators, we should not get

that confused with firms that have invested substantial money in buildings and premises here in Pennsylvania.

It is a good amendment. It is a commonsense amendment. Let us allow our constituents to go shopping just like anyone else elsewhere in the country. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, I would ask that the members vote "no" on the Marsico amendment.

The bottom line is, we are really trying to keep this legislation as simple as possible. We contacted the Attorney General's Office and asked them for comment on the Marsico amendment. Number one, they said there is going to be an added cost. There is no question that they are going to have to hire additional staff to administer the language of this amendment. The second thing they told us, that it would give them unfettered discretion in determining the amount of the bond that would have to be carried; unfettered discretion. It could be a number that is astronomical, and they said they very well may use and utilize that discretion. There are really no standards in place in the language. It does not spell out anything in the language.

And the other problem is that there is going to be a cost to the consumer and the contractor on both of these things. People are going to have to hire experts to work their way through the bonding requirements that are required under this bill. There is going to be a cost both to the consumer and a cost to the contractor, precisely what we do not want to happen.

For those reasons I would ask, on behalf of the Attorney General and all of us, to vote against the Marsico amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. Preston.

Mr. PRESTON. Thank you, Mr. Speaker.

Will the maker of the amendment stand for interrogation?

The SPEAKER pro tempore. The gentleman has agreed, and you may proceed, Mr. Preston.

Mr. PRESTON. Thank you, Mr. Speaker.

On your bond performance program, who would handle the funds of the bond?

Mr. MARSICO. As I mentioned before, the performance bond has to be approved by the Attorney General, the Office of Attorney General, the Bureau of Consumer Protection.

Mr. PRESTON. So what we are saying is we are creating another program under the Attorney General for him to be able to monitor and inspect and to also be responsible for keeping track of the bonds all across this State?

Mr. MARSICO. Options for people, for customers, for the home improvement contractors, it may be another step, but I think it is something that actually should be done. Not doing this is going to be a burden on these companies, and I do not think we want to do that at this time.

Mr. PRESTON. We are bordered by New York, Ohio, West Virginia, Maryland, and Delaware. What about those people who do contracting with stores that are across our lines? How will the Attorney General have the authority to be able to maintain that bond?

Mr. MARSICO. It is actually no different than people who are doing the work now. They still have to be registered. The same concept, the same concept would apply to the bond, the performance bond as well.

Mr. PRESTON. Washington County and across the river, there is a major chain store like what you have mentioned before. I am having my kitchen or my house remodeled, and they are assigning a contractor, and that store is across and outside the State of Pennsylvania. What authority then would the Attorney General for the Commonwealth of Pennsylvania have over that store that the resident has got a contract under?

Mr. MARSICO. One of the things is the retailers exist in all of these surrounding States, so they would have the power to go into the other States, to the retailers that are in those States. In other words, the Home Depots in West Virginia, they would have the opportunity to go into the State of West Virginia, to Home Depot, which is situated across the State line. I do not think that— That does not matter.

Mr. PRESTON. Could it be possible that any of these could be franchises and be privately contracted and using the name of the individuals? And the other issue is, what about some of the large chains that we have had in this State that have gone out of business? What would happen if one of the stores that you have right now decides to pull out of the State of Pennsylvania? What guarantee can you say and be able to provide that the consumers – and even if it is just one person in this Commonwealth – would be able to guarantee that their work will be done?

Mr. MARSICO. Let me repeat, Home Depot or Lowe's or whoever, they have an option to post a bond. If they do not post a bond, then they are under the one-third payment provision. I mean, it is that clear.

Mr. PRESTON. Even if that store is not in the State of Pennsylvania, is that what you are saying, and can you give me proof of that?

Mr. MARSICO. Mr. Speaker, once again, if they are going to do business in Pennsylvania, they would have to follow the laws of Pennsylvania.

Mr. PRESTON. Is there a fiscal note on this amendment from the Attorney General's Office?

Mr. MARSICO. No. We do not have a fiscal note, sir.

Mr. Speaker, actually, the Appropriations chairman should provide a fiscal note for this amendment, and if we need to wait for a fiscal note, I am willing to do that and ask the House to do the same.

The SPEAKER pro tempore. Thank you, Mr. Marsico.

We will temporarily go over this amendment for the time being.

The Chair rescinds that prior pronouncement. It is our understanding that there is, in fact, a fiscal note on the screen and on the record.

Mr. Marsico, would you like to proceed with your amendment?

Mr. MARSICO. Mr. Speaker, with all due respect, I would like to wait to see the fiscal note. I have not had time to look at that from the Appropriations chair. Thanks.

The SPEAKER pro tempore. The Chair thanks the gentleman.

#### AMENDMENT PASSED OVER TEMPORARILY

The SPEAKER pro tempore. This amendment will be over temporarily.

On the question recurring,

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

Mr. **ELLIS** offered the following amendment No. **A09590**:

Amend Sec. 9, page 22, line 16, by striking out all of said line and inserting

(10) (i) Except as provided under subparagraph (ii), for a home improvement contract in which the total

Amend Sec. 9, page 22, line 18, by striking out all of said line and inserting

(A) one-third of the home improvement contract

Amend Sec. 9, page 22, line 20, by striking out all of said line and inserting

(B) one-third of the home improvement contract

Amend Sec. 9, page 22, by inserting between lines 22 and 23

(ii) The provisions of this paragraph shall not apply to a home improvement retailer having a net worth of more than \$50,000,000 in which the total home improvement contract price is paid. The following shall apply:

(A) Upon notification by the owner that the home improvement contract has been fulfilled, the home improvement retailer may make payment to the contractor.

(B) Upon written notification by the owner that the home improvement contract has not been fulfilled, the following shall apply:

(I) The home improvement retailer shall resolve the dispute within 30 days of receipt of the notification under clause (B).

(II) If the home improvement retailer fails to resolve the dispute within 30 days of receipt of the notification under clause (B) and upon judgment against the home improvement retailer by a court of competent jurisdiction the owner shall, in addition to any civil penalties provided for under this act, be awarded court costs, applicable attorney fees and treble damages.

On the question,

Will the House agree to the amendment?

The **SPEAKER** pro tempore. On the amendment, the Chair recognizes the gentleman, Mr. Ellis.

Mr. **ELLIS**. Thank you very much, Mr. Speaker.

In a much similar way to the previous amendment offered, the one we were just considering, this is also another attempt to solve the problem that we are creating by this legislation.

Simply put, SB 100 is certainly, what many people feel, a good step in the right direction for consumer protection, and I am not going to disagree with the merits of the bill right now, but one of the problems we have is that it is a 24-page document, and the document itself acknowledges that there is a difference between a small contractor, there is a difference between them and a large retailer. In Pennsylvania certainly we have both. Home Depot and Lowe's certainly do a lion's share of the home improvement work in Pennsylvania, and since we are already taking the time to acknowledge that there is a difference between what they do and the way they do business and the small contractor, what this amendment will do will simply make the entire document consistent. We cannot say

they are different in one portion and say they are the same in another portion.

Mr. Speaker, what this amendment does, the large retailers have a system in place already of what they do to make sure that their customers are protected, and it is a very simple concept. They collect the money for the work and they do not pay the subcontractor until the customer has let them know that they are satisfied with the completion of the job. My amendment will not just make this a practice. This will make it the law that they have to do that, and therefore this amendment actually makes it tougher on the large retailers than with the one-third payment provision in there.

So I urge an affirmative vote on this amendment.

The **SPEAKER** pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. McCall.

Mr. **McCALL**. Thank you, Mr. Speaker.

Mr. Speaker, respectfully, here we go again taking care of corporate America, and I am going to stand on the side of Joe Six-pack this time. Why would we exempt home improvement retailers that have a net worth of \$50 million from the provisions of this law and still require the small contractor who makes \$40,000 and \$50,000 apply to this law? It does not make any sense.

Every State around us – Maryland, Tennessee, Indiana, Massachusetts, New Jersey, I think New York – all require partial payments on these contracts. The fact of the matter is that this amendment would essentially make these retailers – Home Depot, Lowe's, et cetera – the judge as to whether or not the customer is satisfied or not. They would hold all the money and they are going to make a decision against a contractor whom they hire, and that contractor works for them and they have a relationship with them. Generally, they are their friends. We are going to say to Home Depot, you could hold that money, and you determine, you are the judge and the jury, whether or not that money should be paid out or not, to their friend, their contractor friend. I do not think that is right, and I do not think that is what we want for the consumers of Pennsylvania. It is going to force the homeowner to hire an attorney to obtain a judgment against Home Depot or Lowe's. We are trying to keep this bill simple, very simple. Now you are going to throw another line of bureaucracy on and force consumers to spend money, hire attorneys for recourse to get their money back.

Although this amendment also appears to provide the consumer with additional remedies, under current law they can also seek remedies under the Unfair Trade Practices and Consumer Protection Law. However, unlike the Consumer Protection Law, this will require the consumer to wait for 30 days. There is a 30-day requirement in this amendment. There is no time period specified in the amendment as to how long the retailer can hold that money. Again, an anticonsumer provision of this amendment.

Mr. Speaker, I think I have said enough. This is really an anticonsumer measure. We should be voting against the Ellis amendment, and I would ask for a "no" vote.

The **SPEAKER** pro tempore. The Chair thanks the gentleman and recognizes the gentlelady, Mrs. Brooks, on the amendment.

Mrs. **BROOKS**. I have a question for the maker of the amendment.

The SPEAKER pro tempore. Does the gentleman, Mr. Ellis, agree to interrogation? He has agreed and you may proceed.

Mrs. BROOKS. Can you explain the protections for the consumer if your amendment passes?

Mr. ELLIS. Yes, Mr. Speaker, I can. It is a very simple process. If you go in and you contract with one of the large retailers in Pennsylvania, the service is provided. At that point if you are not satisfied, then what happens is you notify the store that you are dissatisfied. When you have notified the store, the home improvement retailer will resolve the issue within 30 days. If the home improvement retailer fails to resolve the dispute within 30 days of receipt and upon judgment against the home improvement retailer by a court of competent jurisdiction, the owner shall, in addition to any civil penalties, receive compensation three times the damages.

Mrs. BROOKS. Thank you, Mr. Speaker.

I had not planned on speaking on this amendment, and I most—

The SPEAKER pro tempore. Will the lady suspend.

Have you ended your interrogation, Mrs. Brooks?

Mrs. BROOKS. Yes.

The SPEAKER pro tempore. Thank you. You may proceed.

Mrs. BROOKS. As I had mentioned, I had not planned on speaking on this amendment, and most certainly, I think that we need to protect the consumers out there against fraud and recklessness, especially our senior citizens that are more vulnerable to this. With aging parents and other friends and relatives that are seniors, we do need to put safeguards in place.

But something caught my ear in this discussion in regard to corporate America, and that phrase really caught my ear, because I have a business in my legislative district that employs hundreds and hundreds of employees that depend on Lowe's and Home Depot. So it is not just about Home Depot and Lowe's. It is also about the trickle-down effect and all of the everyday, average, hardworking employees of the other businesses that depend on Home Depot and Lowe's. A ladder company in my district holds contracts with those different stores. Those stores are very, very important to them.

So this is not about corporate America. It should be about consumer protection, but it also is about the hardworking, everyday person who needs that job, and we need to protect their job. Thank you.

The SPEAKER pro tempore. The Chair thanks the lady and recognizes the gentleman, Mr. Melio.

Mr. MELIO. Thank you, Mr. Speaker.

As the last two speakers stated, they are concerned about the giants giving the consumer protection. They will get the consumer protection from SB 100 without amendments, and I think that they would be happy to see that this is the result of SB 100, and I would request a "no" vote on this amendment.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. Gabig.

Mr. GABIG. Thank you, Mr. Speaker, from the great county of Cumberland.

I want to start off by, first of all, thanking and congratulating the gentleman from Carbon County, Mr. McCall, for his hard work on this issue.

I was first elected in the year 2000, and I know this is an issue that he has been working very hard on before I got up here, and it was an issue of great concern to me when I got up here. I worked in the D.A.'s office for many, many years, and

I saw many of these rip-off artists come up and especially our elderly population just being taken advantage of. So there are a couple of bad actors. It is a good industry and a lot of people who are doing a lot of good work, but there are some people out there who just prey on, prey on especially the elderly with these situations.

Quite frankly, I had some concerns with Mr. Marsico's amendment, but I have less concern with the amendment that is up here on the substance. I heard a rather what I would call an oratorical flare from the gentleman from Carbon County, sort of corporate America, big business, et cetera, and he is a very good orator. But I want to ask him a question, and I really have not made up my mind on the amendment, to be honest with you. I will preface it— So will the gentleman stand for interrogation?

The SPEAKER pro tempore. Mr. Gabig, are you asking for a moment—

Mr. GABIG. Mr. McCall.

The SPEAKER pro tempore. —of interrogation of Mr. Ellis or Mr. McCall?

Mr. GABIG. McCall, McCall.

The SPEAKER pro tempore. Mr. McCall, will you agree to interrogation?

He has agreed, and you may proceed.

Mr. GABIG. All right. Again, I want to thank the gentleman for his hard work on the issue.

What I need, quite frankly, is I do not need the big business is bad and the little business, and I think there are probably some others in my situation that do have concerns about the Ellis amendment, but that particular line of argument just is not all that persuasive. I know there are some others it probably is.

What is the difference, when "contractor" is defined in the bill, under the current "contractor," I think Mr. Ellis mentioned this in his— So I would refer you to the definition under section 2 definitions. I think it is on page 2 maybe, the definition of "contractor," and there is a (1), which has to do with real small, under \$5,000, and there is a (2), which has to do with this \$50 million, saying that does not include contractors, the big people. What is the difference between that exception, if you will, and the broader exception that Mr. Ellis is doing? What is the difference on the overall bill, the impact of the overall bill, if you follow my question?

Mr. McCALL. They are exempt from the registration provisions of the bill, of SB 100, but they still have to follow the contractual provisions and requirements of the bill.

Mr. GABIG. So currently, as the bill is written without the Ellis amendment, the Home Depots, et cetera, would be exempted from registration but not from contractual, or is that vice versa? Do I have that mixed up?

Mr. McCALL. We exempt them from registration because we know where they are. They made the argument to us that we are not going to move our \$50 million store and go somewhere else. Therefore, we could track them down. So they are exempt from the registration provision, but they do, in fact, have to follow the contractual provisions of the statute.

Mr. GABIG. And what Mr. Ellis' amendment would do was fully exempt them both from the registration part of it and from the additional contractual obligations that might be in here.

Mr. McCALL. No. He would not exempt them from the contractual requirements. However, he would exempt them from the partial-payment requirements that we have included in the legislation, the one-third up front.



Mr. GABIG. Okay. And then your main argument against that is we should treat all businesses equally, not small businesses and big businesses—

Mr. McCALL. Correct.

Mr. GABIG. —getting an exemption, even though I am sure you and I would agree that it is mostly quote, unquote, these "fly-by-night" places that are committing the crimes and the fraud, not the big businesses.

So here is what I need. I need an argument other than that. Is there a financial, for example, argument that they have to contribute to some fund that only the small businesses would contribute to, if you are following me, in terms of the enforcement and compliance? Is there something else other than just this argument? In Lowe's and Home Depot, they are not the ones committing this fraud in my district. There are these groups, Joe Shmoe, and they are fraudulent groups. They are primarily from out of State, and they come down and they rip a bunch of people off and you would never see them again.

So I really want to again commend you for your hard work on this, and it is tough, but is there something else that I am missing that we need to include these big boxes into this bill?

Mr. McCALL. Well, the facts speak for themselves. There have already been 10,000 complaints filed against Home Depot nationwide regarding this issue. So there have been complaints with the Better Business Bureau. There have been complaints with the Federal Trade Commission. There have been complaints with local agencies. So all of the complaints that you may say it is 1 percent, but that 1 percent is not true. There are other agencies that are reported to from the Better Business Bureau to the Federal Trade Commission, but the fact is that there are over 10,000 complaints. I think it is something that we should not turn our back on, and they should comply with the requirements of this act.

Mr. GABIG. Okay. I want to thank the gentleman, Mr. Speaker, for that response.

I want to ask a different question, and I do not want to take too much time, but I am sort of struggling with the issue, to be honest with you.

If we are excluding the big boxes from the registration and from certain of the contractual, we want them in on the one-third, if I am following the gentleman's response, and we are saying because there have been some consumer complaints against them, you mentioned in the dialogue earlier on the Marsico amendment that you had spoken to the Attorney General's Office regarding that, and I believe you said they had concerns about that, and I have heard that from other people that the Attorney General's Office had some concerns about the Marsico amendment.

Mr. McCALL. We are on the Ellis amendment, Mr. Speaker.

Mr. GABIG. Oh, I know, but this is going to tie it in on relevancy.

I heard what you said, Mr. Speaker, about the concerns they had on the Marsico amendment. Have you heard — and I know you have been working hard and your staff has been working hard on this issue — what, if anything, have you heard from the Attorney General's Office regarding the Ellis amendment in terms of what, if any, concerns they might have?

Mr. McCALL. They are in opposition, and they think everyone should be treated the same.

Mr. GABIG. I am sorry. I did not hear that, Mr. Speaker.

Mr. McCALL. They are in opposition to the amendment. They feel that everyone should be treated the same.

Mr. GABIG. Okay. So that is an important thing for some of us, for maybe many of us, I do not know, but you are saying, Mr. Speaker, that the Pennsylvania Attorney General is opposed to the Ellis amendment as written, according to the communication that you have had. Is that correct, Mr. Speaker?

Mr. McCALL. Yes; that is correct.

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

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. Preston.

Mr. PRESTON. Thank you, Mr. Speaker.

I was going to interrogate the person, but after the last statement, I do not think that is necessary.

But here is something we need to think about and no one is really addressing. I do not see any of these large big boxes using any difference in the contractors, because some of the contractors I know do business with Sears, Lowe's, or they go out and they independently contract. And no one has defined that and said that they use someone differently. This is about consumers; this is about protecting.

I had someone else talk about the jobs. Well, we are protecting those jobs because those same people are getting ripped off by the subcontractors, and not only that, a lot of the contractors, whether it is the big box or the independent contractors, they also have subcontractors below them. We need these forms of protection so that people's money is protected.

And let us think about something else. Now, I am not an attorney. I am just a country kid out of Vandergrift, Pennsylvania, but all I know is it takes 3 to 7 years sometimes for someone if, by a lucky chance, whether it is Lowe's, Home Depot, or an independent contractor, God forbid, that contractor rips someone off. I have people who cannot retire from their job, and they dealt with subcontractors from Sears, because their kitchens are not finished, and they still had, while they were going through court, to hire another contractor while they are arguing 4 or 5 years later.

There are no protections, there are no protections, and we are trying to take it away, of trying to protect someone's job when those are the same people who have a chance of being ripped off. Let us protect the consumers, let us protect the people who are doing the contracting, and let us be able to deal with it. We should not be excluding people.

Let us run this bill. Let us vote down the Ellis amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. Maher.

The gentleman, Mr. Maher, are you waiving off? Thank you.

Is anyone else seeking recognition?

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

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

Mr. Speaker, this amendment is trying to do exactly what the bill is going to do, and that is going to protect the consumer. This amendment does not in any form or fashion take any protections away from the consumer as enumerated in the bill itself.

The statement that the Attorney General is opposed to my amendment is false. That is not an accurate statement.

But moving on, the arguments are very simple. Now, my colleague certainly mentioned that this may affect Joe Six-pack. Well, the last time I checked, Joe Six-pack lives in my district, too. And you know what? The funny thing about Joe Six-pack is, he works for small businesses. And you know, Mr. Speaker, certainly as a third-generation small businessman, I appreciate

the work that they do for our economy, creating over 80 percent of the jobs that are being created right now. Ninety-eight percent of all businesses in Pennsylvania are small business. And you know what? A lot of them do business with the large retailers – Home Depot, Lowe's.

As a matter of fact, there is a place called Elk Lighting, which is in Summit Hill, Pennsylvania. And you know what? Joe Six-pack works there. He also works at Mitchell Plumbing and Heating in Elizabethtown. He works at Air Systems Mechanical Contractors in Beaver. He works at a lot of places across this Commonwealth, Mr. Speaker, and he is going to be affected by this legislation. So I think we need to move forward and make sure that Joe Six-pack is protected.

But in all seriousness, long before any screening was in place, long before this bill was even thought of, the large retailers in Pennsylvania were doing something that is good for consumers. You know what they are doing? They are doing background checks on anybody that they send out to your house right now as policy. They are doing that now, Mr. Speaker. This amendment makes it tougher on Home Depot and Lowe's than on the small contractor.

So the argument about us worrying about the large corporations is false, because 100 percent of their work is done by small business men and women across Pennsylvania, so we cannot buy that. But what we can do here, Mr. Speaker, is make sure that these small business men and women have an opportunity to keep working in the system that they are working right now, one that is not causing any problems through Home Depot or Lowe's. They do 160,000 home improvements a year with less than a .08-percent complaint ratio. Now, I will tell you what; that is probably a little better rating than the legislature gets. But certainly it is very warranted in letting them to continue to serve the people that, A, want to pay for it up front, the people that want to do the work in the system that they are in.

We need to support this amendment. I understand that we are in a time issue and we want to get this legislation through. It has been 10 years, Mr. Speaker, and I would love to see the consumers protected under this legislation. But we have to do it fairly to everybody, and this treats the large retailers fairly throughout the entire piece of legislation.

I urge a "yes" vote on this amendment. Thank you very much, 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, Mr. Roebuck, on the floor of the House, and he will be added to the master roll call.

### CONSIDERATION OF SB 100 CONTINUED

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

The following roll call was recorded:

### YEAS—83

Argall	Gergely	McIlhattan	Raymond
Baker	Gillespie	Mensch	Reed
Barrar	Gingrich	Metcalfe	Reichley
Beyer	Grell	Micozzie	Roae
Bishop	Haluska	Millard	Rock
Boback	Hanna	Miller	Rohrer
Brennan	Harhart	Milne	Ross
Brooks	Harris	Moul	Rubley
Causar	Helm	Nailor	Saylor
Civera	Hennessey	Nickol	Smith, K.
Clymer	Hershey	Payne	Smith, S.
Costa	Hess	Payton	Sonney
Cox	Hutchinson	Peifer	Stairs
Daley	Kauffman	Perry	Stern
Dally	Keller, M.K.	Perzel	Stevenson
Denlinger	Kenney	Petrarca	Taylor, J.
Ellis	Killion	Phillips	Turzai
Evans, J.	Mackereth	Pickett	Vereb
Everett	Maher	Pyle	Vulakovich
Fleck	Major	Quigley	Yewcic
Geist	Marsico	Rapp	

### NAYS—117

Adolph	Gabig	Markosek	Shapiro
Bear	Galloway	Marshall	Shimkus
Belfanti	George	McCall	Siptroth
Bennington	Gerber	McGeehan	Smith, M.
Bianucci	Gibbons	McI. Smith	Solobay
Blackwell	Godshall	Melio	Staback
Boyd	Goodman	Moyer	Steil
Buxton	Grucela	Mundy	Sturla
Caltagirone	Harhai	Murt	Surra
Cappelli	Harkins	Mustio	Swanger
Carroll	Harper	Myers	Tangretti
Casorio	Hickernell	O'Brien, M.	Taylor, R.
Cohen	Hornaman	O'Neill	Thomas
Conklin	James	Oliver	True
Creighton	Josephs	Pallone	Vitali
Cruz	Keller, W.	Parker	Wagner
Curry	Kessler	Pashinski	Walko
Cutler	King	Petri	Wansacz
DeLuca	Kirkland	Petrone	Waters
DePasquale	Kortz	Preston	Watson
Dermody	Kotik	Quinn	Wheatley
DeWeese	Kula	Readshaw	White
DiGirolamo	Leach	Roebuck	Williams
Donatucci	Lentz	Sabatina	Wojnaroski
Eachus	Levdansky	Sainato	Youngblood
Evans, D.	Longietti	Samuelson	Yudichak
Fabrizio	Mahoney	Santoni	
Fairchild	Manderino	Scavello	O'Brien, D., Speaker
Frankel	Mann	Schroder	
Freeman	Mantz	Seip	

### NOT VOTING—0

### EXCUSED—3

Bastian	Benninghoff	Ramaley
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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.

## FORMER UNITED STATES SENATOR HARRIS WOFFORD INTRODUCED

The SPEAKER pro tempore. The Chair at this time recognizes the gentleman, Mr. DeWeese.

Members, kindly take your seats. Members, kindly take your seats.

The Chair recognizes the gentleman, Mr. DeWeese.

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

We have the esteemed pleasure as a chamber, both Democrats and Republicans alike, to welcome a guest to our chamber, a man born in 1926, campaigned as a 10-year-old for F.D.R. (Franklin Delano Roosevelt) in 1936, joined the U.S. Army Air Corps at the end of World War II, marched with Dr. Martin Luther King in the sixties, served as John F. Kennedy's civil rights adviser, served in the Cabinet of Bob Casey, defeated Richard Thornburgh in a bare-knuckled United States Senate race in 1991, was defeated in a bare-knuckled Senate race by Rick Santorum in 1995, and is here today to celebrate the ONE campaign for the development of an attack by the Western World, especially the United States, on malaria and AIDS and poverty. He is working with Senator Santorum. They are the statewide cochairmen of this Bono project. They were here in the Capitol Complex the last day or two, and I would like to give a round of applause to former United States Senator Harris Wofford.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Welcome to the hall of the House, Senator.

## CONSIDERATION OF SB 100 CONTINUED

On the question recurring,

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

Mr. **ELLIS** offered the following amendment No. **A09658**:

Amend Sec. 9, page 22, line 16, by striking out all of said line and inserting

(10) (i) Except as provided under subparagraph (ii), for a home improvement contract in which the total

Amend Sec. 9, page 22, line 18, by striking out all of said line and inserting

(A) one-third of the home improvement contract

Amend Sec. 9, page 22, line 20, by striking out all of said line and inserting

(B) one-third of the home improvement contract

Amend Sec. 9, page 22, by inserting between lines 22 and 23

(ii) The provisions of this paragraph shall not apply to a home improvement retailer having a net worth of more than \$50,000,000 if no payments are made to the contractors performing the home improvement until the owner is satisfied that the terms of the home improvement contract have been met.

On the question,

Will the House agree to the amendment?

## AMENDMENT WITHDRAWN

The SPEAKER pro tempore. On the amendment, the gentleman, Mr. Ellis, is recognized.

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

At this time I am going to withdraw amendment A09658.

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?

Mr. **ELLIS** offered the following amendment No. **A09665**:

Amend Sec. 9, page 22, line 16, by striking out all of said line and inserting

(10) (i) Except as provided under subparagraph (ii), for a home improvement contract in which the total

Amend Sec. 9, page 22, line 18, by striking out all of said line and inserting

(A) one-third of the home improvement contract

Amend Sec. 9, page 22, line 20, by striking out all of said line and inserting

(B) one-third of the home improvement contract

Amend Sec. 9, page 22, by inserting between lines 22 and 23

(ii) The provisions of this paragraph shall not apply to a person who has held a business license in this Commonwealth for ten continuous years and the bureau has not received formal complaints on more than 1% regarding the person's annual home improvement contracts executed in this Commonwealth for the prior calendar year.

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On the amendment, the Chair recognizes the gentleman, Mr. Ellis.

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

This amendment again attempts to achieve the same goal as previous amendments, but it does it in a different fashion. Now, one of the main arguments against the last amendment which I thought was worthy of consideration was that it only helps the big guys. Well, this amendment does something very simple: It gets rid of the one-third partial-payment provision for anybody that has been doing business here in Pennsylvania for 10 years and has less than a 1-percent complaint ratio in the past year.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman, Mr. Maher, on the Ellis amendment.

Mr. MAHER. Mr. Speaker, I would like to ask for the gentleman, the majority whip from Carbon County, to stand to provide some information.

The SPEAKER pro tempore. On the amendment?

Mr. MAHER. That is correct.

The SPEAKER pro tempore. Will the gentleman, Mr. McCall, stand for interrogation? The gentleman has declined.

Mr. MAHER. Then, Mr. Speaker, I might ask, is there anyone who would be willing to stand to explain this bill and how it would be affected by this amendment, who is opposed to the amendment? Is there anyone who is prepared to answer questions to understand how this bill stands absent this amendment? Anyone? Anyone?

It is this new open era of transparency and so on and so forth, and no one will even stand to explain this legislation to the public. It is embarrassing.

Mr. McCALL. Mr. Speaker?

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. McCall.

Mr. McCALL. Mr. Speaker, the question before the House is the Ellis amendment, not SB 100. So the questions by the gentleman should be addressed to the maker of the amendment, and the questions should be addressed to the amendment itself and not the legislation. Final passage will come tomorrow, where all of those questions would become appropriate.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The gentleman is correct. What is before us is the Ellis amendment.

Mr. Maher.

Mr. MAHER. And, Mr. Speaker, once again my questions were precisely relevant to the Ellis amendment. I wanted to ascertain perspective on how the maker or the supporter of this legislation as it is views the Ellis amendment vis-à-vis the bill itself.

Now, obviously if the gentleman is unwilling to answer questions, if he does not want the people of Pennsylvania to have this information about his perspective, there is nothing I can do about that, and I will certainly accept his hiding on this point and speak on the amendment.

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

Mr. MAHER. Thank you, Mr. Speaker.

I do not know of any field where Pennsylvania interferes with the way that consumers can agree to purchase goods and services from stores. You know, I believe that Pennsylvanians are actually very bright, but the bill as drafted assumes that Pennsylvanians are not smart enough to make their own deal. The bill as drafted says that you cannot offer to pay more than one-third of a cost of a contract at the front end, and the cost of the contract includes all the materials. So let me offer you an example.

Someone who wants to put a new roof on their home and does not have much of a mind to be tacking up all the shingles themselves goes to a store, picks out some shingles, and says, gee whiz, can I buy these shingles and have somebody install them? Well, nowadays you go to the register, you pay for the shingles, and you make an agreement about how you are going to pay for the work to put them up. But if this bill is not amended, this would say that you cannot do that.

Now, I do not know about you, but I am not aware of too many stores that are going to let you truck off a palate of shingles without paying for them. I do not understand how stores will stay in business if they are required under Pennsylvania law to allow customers to depart the premises with all the materials that they might desire and be prohibited from actually charging for them. It is foolish.

Now, you might think in some odd way that this helps consumers, but I will say to you it is going to hurt consumers. It is going to hurt consumers, because there will be stores that will say, we are not going to take the risk of letting Joe Six-pack leave the premises with these windows or with these shingles or with whatever the materials are in the hope that someday you will pay us. So there are going to be fewer stores, and when there are fewer stores, there is less competition; when there is less competition, there will be higher prices. Everybody at home understands that. Anybody who has ever shopped for home improvements understands that. The fewer your choices, the higher the prices.

What Mr. Ellis is doing is saying, you know, not every store is evil. My friend across the aisle apparently believes that all businesses are evil, but Mr. Ellis is saying, you know what? If you have a 10-year track record of serving the public with less than 1 percent resulting complaints, we are going to reward good behavior. If this bill is actually intended to capture the fly-by-nights without interfering with the rights of consumers, then it needs to be repaired, and the Ellis amendment is a darn good way to go about that repair.

Let us not punish the innocent in the hopes of tracking down the crooks. Let us reward the innocent, those who are committed to good business, and recognize that they should not be interfered with and their customers should not be interfered with and let consumers have the choices that they can have in other States. Pennsylvania consumers should not be second-class citizens, and this amendment will help ensure that they are not.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. Melio, on the Ellis amendment.

Mr. MELIO. Thank you, Mr. Speaker.

Let us get down to the nitty-gritty. In my township, anybody that could put a belt on with a hammer hanging out of his pocket could go in and tell his persons that they are a contractor. We have had actual people who ripped holes in the wall and took shingles off the side of the house and went in to see the homeowner and told them they needed work done on their house, then the people would give them \$5,000 to cover their costs and never see them again.

You know, this is kind of crazy. We have people that are really suffering because they do not know a bona fide contractor from somebody who walks in the house and tells them "I'm a contractor." Now, this bill is going to help that, and you are talking about Home Depot and Lowe's? You got to be out of your mind. We are talking about the people that are suffering because they do not know who the contractors are.

Mr. Speaker, I hope you defeat this amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman.

## LEAVE OF ABSENCE

The SPEAKER pro tempore. The Chair is in receipt of a request from the minority whip for a leave of absence for the gentleman, Mr. MUSTIO. Without objection, the leave will be so granted.

## CONSIDERATION OF SB 100 CONTINUED

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, it goes back to the adage, why are we treating corporate America differently in this amendment than anyone else? The fact of the matter is that if 1 percent of the airlines, if there were crashes in 1 percent of the airlines, would we exempt them from regulation? Or toy manufacturers for that matter. If 1 percent of their products were defective, should we exempt them from government oversight and regulation? The answer to that is no. If 1 percent of bank deposits fails, would we be exempting the banks from Federal regulations? The answer to that is no.

The 1-percent language in the Ellis amendment is ambiguous. We do not know if it is 1 percent of the total contract revenues, 1 percent of the contracts. It is 1 percent of what? It is not defined. It is too ambiguous. The reality is, we want to treat everybody the same and fairly. That is all we are asking.

I would ask that we defeat the Ellis amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Anyone else seeking recognition on the Ellis amendment?

Seeing none, the Chair recognizes the gentleman, Mr. Ellis, for the second time.

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

Again, we heard an argument from the majority whip. He offered that this is bailing out corporate America. I made it pretty simple: This is any contractor who has been in business in Pennsylvania for 10 years and does not have a history of complaints with the Bureau of Consumer Protection.

So while he does offer those arguments, Mr. Speaker, I have to tell you, as my mother says, the gentleman from Carbon County is a great man, but he is just dead wrong on this issue. And I will tell you what, Mr. Speaker: This is the fairest amendment that we have heard so far. This is the one that is going to make this a better bill. This is going to continue to protect the consumers of Pennsylvania.

I urge a "yes" vote on this amendment.

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—93

Adolph	Gabig	Marshall	Quigley
Argall	Geist	Marsico	Rapp
Baker	Gergely	McIlhattan	Raymond
Barrar	Gillespie	Mensch	Reed
Bear	Gingrich	Metcalfe	Reichley
Beyer	Godshall	Micozzie	Roae
Boback	Grell	Millard	Rock
Boyd	Harhart	Miller	Rohrer
Brooks	Harris	Milne	Ross
Causar	Helm	Moul	Rubley
Civera	Hennessey	Murt	Saylor
Clymer	Hershey	Nailor	Smith, S.
Costa	Hess	Nickol	Sonney

Cox	Hickernell	O'Neill	Stairs
Creighton	Hutchinson	Payne	Stern
Cutler	Kauffman	Payton	Stevenson
Daley	Keller, M.K.	Peifer	Swanger
Dally	Kenney	Perry	Taylor, J.
Denlinger	Killion	Perzel	True
Ellis	Mackereth	Petrarca	Turzai
Evans, J.	Maher	Phillips	Vereb
Everett	Major	Pickett	Vulakovich
Fairchild	Mantz	Pyle	Yewcic
Fleck			

## NAYS—106

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

## NOT VOTING—0

## EXCUSED—4

Bastian	Benninghoff	Mustio	Ramaley
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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.

On the question recurring,

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

Mr. ELLIS offered the following amendment No. **A09666**:

Amend Sec. 9, page 22, line 16, by striking out all of said line and inserting

(10) (i) Except as provided under subparagraph (ii), for a home improvement contract in which the total

Amend Sec. 9, page 22, line 18, by striking out all of said line and inserting

(A) one-third of the home improvement contract

Amend Sec. 9, page 22, line 20, by striking out all of said line and inserting

(B) one-third of the home improvement contract

Amend Sec. 9, page 22, by inserting between lines 22 and 23

(ii) The provisions of this paragraph shall not apply to a home improvement retailer having a net worth of more than \$50,000,000.

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

The SPEAKER pro tempore. On the amendment, the Chair recognizes the gentleman, Mr. Ellis.

Mr. ELLIS. Thank you, Mr. Speaker.

We are going to make it very simple for this body. This amendment exempts the large retailers, which are treated differently throughout this legislation, and just says they are exempt from the one-third payment.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman, Mr. McCall.

Mr. McCALL. Mr. Speaker, for all the reasons articulated in my prior comments, I would ask the members to vote against the Ellis amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. Melio.

Mr. MELIO. Thank you, Mr. Speaker.

I say the same. I wish we would all vote "no." Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Anyone else seeking recognition?

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

Mr. ELLIS. Thank you, Mr. Speaker.

Again, I rise to ask for an affirmative vote on this amendment. But what I want to point out to you is that I understand this is a long time coming for this legislation, and we have been here— Before I got here, they were working on it, and certainly I applaud the work that has been done. But I do not think anywhere during the process we asked the home retailers, the home improvement retailers which employ thousands and thousands of Pennsylvanians, "Joe Six-pack" as they were referred to earlier, we never asked them, how does this one-third payment, partial payment, work in other States where they have it? What conflict does it have? What trouble does it cause? We have never asked the suppliers to Home Depot or Lowe's, are they affected by it? How does it affect them?

Again, Mr. Speaker, when we do not ask these kinds of questions, we rush through legislation, and I know that 10 years may seem like it is not being rushed, but at the end of this session, as we get down to our final days as has been determined by the preset House calendar that we are not going to be here next week, certainly this is not the time to be rushing a decision and not asking the questions.

We are going to put forth SB 100, if this amendment is not put into place, that is a faulty piece of legislation. Now, I have been here for 4 years; I have seen a lot of that come through, and I was just hoping that maybe on this occasion we could actually do the right thing and put a system in place that is fair for the consumers, that is going to protect them, without hurting the small business men and women in Pennsylvania like we routinely do.

I urge an affirmative vote. Thank you very much, 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—74

Argall	Frankel	Marsico	Rapp
Baker	Gabig	McIlhattan	Raymond
Barrar	Geist	Mensch	Roae
Beyer	Gillespie	Metcalfe	Rock
Boback	Gingrich	Millard	Rohrer
Brennan	Grell	Miller	Ross
Brooks	Harris	Milne	Rubley
Causer	Helm	Moul	Saylor
Civera	Hennessey	Nailor	Smith, M.
Clymer	Hershey	Nickol	Smith, S.
Costa	Hess	Payton	Sonney
Cox	Hutchinson	Perry	Stairs
Creighton	Kauffman	Perzel	Stern
Daley	Keller, M.K.	Petrarca	Stevenson
Denlinger	Killion	Phillips	Taylor, J.
Ellis	Mackereth	Pickett	Turzai
Evans, J.	Maher	Pyle	Vereb
Everett	Major	Quigley	Yewcic
Fleck	Mann		

#### NAYS—125

Adolph	Gerber	Marshall	Seip
Bear	Gergely	McCall	Shapiro
Belfanti	Gibbons	McGeehan	Shimkus
Bennington	Godshall	McI. Smith	Siptroth
Biancucci	Goodman	Melio	Smith, K.
Bishop	Gruclera	Micozzie	Solobay
Blackwell	Haluska	Moyer	Staback
Boyd	Hanna	Mundy	Steil
Buxton	Harhai	Murt	Sturla
Caltagirone	Harhart	Myers	Surra
Cappelli	Harkins	O'Brien, M.	Swanger
Carroll	Harper	O'Neill	Tangretti
Casorio	Hickernell	Oliver	Taylor, R.
Cohen	Hornaman	Pallone	Thomas
Conklin	James	Parker	True
Cruz	Josephs	Pashinski	Vitali
Curry	Keller, W.	Payne	Vulakovich
Cutler	Kenney	Peifer	Wagner
Dally	Kessler	Petri	Walko
DeLuca	King	Petrone	Wansacz
DePasquale	Kirkland	Preston	Waters
Dermoddy	Kortz	Quinn	Watson
DeWeese	Kotik	Readshaw	Wheatley
DiGirolamo	Kula	Reed	White
Donatucci	Leach	Reichley	Williams
Eachus	Lentz	Roebuck	Wojnaroski
Evans, D.	Levdansky	Sabatina	Youngblood
Fabrizio	Longietti	Sainato	Yudichak
Fairchild	Mahoney	Samuelson	
Freeman	Manderino	Santoni	O'Brien, D., Speaker
Galloway	Mantz	Scavello	
George	Markosek	Schroder	

#### NOT VOTING—0

#### EXCUSED—4

Bastian	Benninghoff	Mustio	Ramaley
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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 A09537 CONTINUED

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

The clerk read the following amendment No. **A09537**:

Amend Sec. 9, page 22, line 16, by striking out all of said line and inserting

(10) (i) Except as provided under subparagraph (ii), for a home improvement contract in which the total

Amend Sec. 9, page 22, line 18, by striking out all of said line and inserting

(A) one-third of the home improvement contract

Amend Sec. 9, page 22, line 20, by striking out all of said line and inserting

(B) one-third of the home improvement contract

Amend Sec. 9, page 22, by inserting between lines 22 and 23

(ii) The provisions of this paragraph shall not apply to a person furnishing a performance and and payment bond, lien and completion bond or a bond equivalent or joint control approved by the bureau that covers full performance and payment.

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

The SPEAKER pro tempore. On the amendment, the Chair recognizes the gentleman, Mr. Marsico.

Mr. MARSICO. Thank you, Mr. Speaker.

We do have the fiscal impact. There is no fiscal impact, actually. This is from Dwight Evans, the majority chair. I know the question was brought before, and so I stand for other questions. But if not, I would like to make a final statement.

The SPEAKER pro tempore. The last time we were on this amendment, the gentleman, Mr. Gabig, and the gentleman, Mr. Melio, were seeking recognition. Are they still seeking recognition? Mr. Gabig waives off.

Mr. Melio? The Chair recognizes the gentleman, Mr. Melio.

Mr. MELIO. Thank you, Mr. Speaker.

From what the gentleman said, it sounds like there is no fiscal impact, and to me, that means it is not going to hurt these big companies. The people we are really interested in are the little guys, the guys who are getting ripped off every day. Let us help them, please.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Anyone else seeking recognition on the Marsico amendment? Mr. Preston.

Mr. PRESTON. Thank you, Mr. Speaker.

I oppose the Marsico amendment. If the members sat down and heard me say about "just in the lines," I want a lot of you to think who are around some of the State lines. A lot of the residents in this State will be dealing with businesses that are

outside the State, and it is not just the Lowe's or the Home Depots, but let us also remember that we at one time even had a major chain across this State called Hechinger. But there are other large chains, and sometimes these contracts take 2 to 3 years sometimes to finish.

But it is also about protecting citizens no matter how we look at it, at least legal matters, under a bad contractor. And no one here is saying whether Lowe's or Home Depot or 84 or some of the other large contractors across the State do not use some of the best contractors, but it does not stop them from using a contractor that starts off good but they wind up having other business problems. If they have a contract in four or five different counties under four or five different stores under a large amount of business, it does not mean that all the other subcontractors that this general contractor is dealing with do not complete their work. Common sense, just common sense.

So whether they are inside this State or outside this State and being able to put up a bond really does not protect and guarantee that the work is going to get done within a year, 2 years, 3 years, or other forms of litigation. All it does basically is say that from a performance, eventually, hopefully, our constituents will be remunerated and/or the work will be able to get done.

If he wants to say anything else differently and he is saying he can guarantee the work to be done, then I would like to be able to ask the question again. There is no guarantee, no guarantee at all, and no one is saying that some of these other stores are not franchised or have certain legal rights or other chapter S corporations that are managing them inside or outside this State or independent contractors that are managing some of these large businesses.

Let us vote down the Marsico amendment and get on with the business and send SB 100 so the Governor can sign it.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. Marsico, for the second time.

Mr. MARSICO. Thank you, Mr. Speaker.

Like I said before, this amendment solves the problem by making sure that consumers have access to money through a performance bond that is guaranteed through banks. This model has been used in other States, and it works. The bottom line is protecting consumers, and this amendment would do that. This amendment also protects our businesses, our large businesses, that provide jobs to Joe and Jane Six-pack.

So we are protecting our businesses that provide those thousands and thousands of jobs across Pennsylvania. We are also protecting consumers. This is the smart and right thing to do, so I ask for a positive vote on this 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—85

Adolph	Gabig	Marsico	Reed
Argall	Geist	McIlhatten	Reichley
Baker	Gillespie	Mensch	Roae
Barrar	Gingrich	Metcalfe	Rock
Bear	Grell	Micozzie	Rohrer

Beyer	Harhart	Millard	Ross
Boback	Harris	Miller	Rubley
Boyd	Helm	Milne	Saylor
Brooks	Hennessey	Moul	Scavello
Causar	Hershey	Nailor	Smith, S.
Civera	Hess	Nickol	Sonney
Clymer	Hickernell	Payne	Stairs
Cox	Hutchinson	Peifer	Stern
Creighton	Kauffman	Perry	Stevenson
Cutler	Keller, M.K.	Perzel	Swanger
Dally	Kenney	Phillips	Taylor, J.
Denlinger	Killion	Pickett	True
Ellis	Mackereth	Pyle	Turzai
Evans, J.	Maher	Quigley	Vereb
Everett	Major	Rapp	Vulakovich
Fairchild	Mantz	Raymond	Yewcic
Fleck			

## NAYS—114

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

## NOT VOTING—0

## EXCUSED—4

Bastian	Benninghoff	Mustio	Ramaley
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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.

On the question recurring,

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

The SPEAKER pro tempore. We have no further amendments to this bill that were timely filed. However, we do have a late-filed amendment that will require the suspension of the rules by Mr. Keller, and we also have a reconsideration motion to reconsider the Daley amendment.

Mr. Keller, are you still seeking to suspend the rules for consideration of your amendment?

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

## RULES SUSPENDED

The SPEAKER pro tempore. The Chair recognizes the gentleman from Philadelphia, Representative Keller, who makes a motion to suspend the rules for the purpose of offering amendment A09593, which the clerk will read.

The clerk read the following amendment No. **A09593**:

Amend Sec. 19, page 24, line 21, by striking out "in 180 days" and inserting

July 1, 2009

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

The SPEAKER pro tempore. On suspension, the gentleman, Mr. Keller.

Mr. W. KELLER. Thank you, Mr. Speaker.

I would ask for a suspension. I believe this is an agreed-to amendment. It just changes the date of implementation from 180 days to July 1.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the motion, anyone else seeking recognition for suspension?

Seeing none, those in favor of the motion to suspend will vote "aye"; those opposed, "no."

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

The following roll call was recorded:

## YEAS—186

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



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

## NAYS—13

Cutler	Keller, M.K.	Murt	Schroder
Gabig	Kessler	O'Neill	Seip
Grell	Marsico	Roae	Swanger
Kauffman			

## NOT VOTING—0

## EXCUSED—4

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

On the question recurring,

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

Mr. **W. KELLER** offered the following amendment No. **A09593**:

Amend Sec. 19, page 24, line 21, by striking out "in 180 days" and inserting

July 1, 2009

On the question,

Will the House agree to the amendment?

The **SPEAKER** pro tempore. On the amendment, the Chair recognizes the gentleman, Mr. Keller.

Mr. **W. KELLER**. Thank you, Mr. Speaker.

Again, it changes the effective date in the act from 180 days when the act passes to hopefully what we believe will be the beginning of the fiscal year, July 1, 2009.

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

## NAYS—0

## NOT VOTING—0

## EXCUSED—4

Bastian	Benninghoff	Mustio	Ramaley
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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 recurring,

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

**AMENDMENT A09338 RECONSIDERED**

The SPEAKER pro tempore. The Chair is in receipt of a reconsideration request signed by the gentleman, Mr. Smith, and the gentleman, Mr. Daley. They are requesting that this reconsideration by way of the vote of amendment 09338, which was defeated to SB 100, PN 2428, on the 7th day of October 2008, be reconsidered.

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

**LEAVE OF ABSENCE CANCELED**

The SPEAKER pro tempore. The Chair notes the presence of the gentleman, Mr. Benninghoff, on the floor of the House, and he will be added to the master roll.

**CONSIDERATION OF SB 100 CONTINUED**

The SPEAKER pro tempore. On the motion for reconsideration, those in favor will vote "aye"; those opposed, "no."

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

The following roll call was recorded:

**YEAS—200**

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

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

NAYS—0

NOT VOTING—0

EXCUSED—3

Bastian Mustio Ramaley

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. **A09338**:

Amend Sec. 2, page 3, line 28, by removing the comma after "Act" and inserting a period

Amend Sec. 2, page 3, lines 29 and 30; page 4, lines 1 through 8, by striking out all of said lines on said pages

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

The SPEAKER pro tempore. On the amendment, Representative Daley.

Mr. DALEY. Thank you, Mr. Speaker. Just briefly.

This is the landscapers' amendment that did not lose but it just did not win. I think it was 97 to 97. I just ask for an affirmative vote for all the reasons that were identified earlier.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman, Mr. McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, I would ask that we defeat the Daley amendment. These are two very distinct activities that we are talking about. If you are engaged in putting plants and flowers in the garden, you are exempt already under this statute. If you are building walls and you are doing other work, you have to be registered, not licensed but registered, under the provisos of this legislation. It is that simple. People should have recourse under this law if something faulty is constructed by landscapers.

I would ask that we defeat the Daley amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. Moul.

Mr. MOUL. Thank you, Mr. Speaker.

I would like to interrogate the maker briefly, please.

The SPEAKER pro tempore. Will the gentleman, Mr. Daley, agree to brief interrogation? The gentleman is smiling and has agreed. You may proceed.

Mr. MOUL. Mr. Speaker, I just want to be absolutely clear: Those that are preregistered or registered with the Department of Agriculture do not have to reregister under this amendment but all others must. Am I understanding that correctly?

Mr. DALEY. Yes.

Mr. MOUL. Thank you.

That will be all, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman, Mr. Melio.

Mr. MELIO. Thank you, Mr. Speaker.

I agree with Representative McCall, and I would hope that this would be defeated. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Is there anyone else seeking recognition? The Chair recognizes the gentleman, Mr. Hershey.

Mr. HERSHEY. Again, Mr. Speaker, landscapers are not general home improvement. They are an industry that installs and maintains plant material in the surroundings of the home and business landscape, and under this bill, they would have to get a permit.

I ask for your support of this amendment. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Any other members seeking recognition?

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

#### YEAS—100

Adolph	Geist	Marshall	Rapp
Argall	Gillespie	Marsico	Raymond
Baker	Gingrich	McGeehan	Reed
Barrar	Grell	McIlhatten	Reichley
Bear	Haluska	Mensch	Roae
Benninghoff	Hanna	Metcalfe	Rock
Beyer	Harhart	Micozzie	Rohrer
Boback	Harper	Millard	Ross
Boyd	Harris	Miller	Rubley
Brooks	Helm	Milne	Saylor
Causar	Hennessey	Moul	Scavello
Civera	Hershey	Moyer	Schroder
Clymer	Hess	Murt	Siptroth
Cox	Hickernell	Nailor	Smith, S.
Creighton	Hutchinson	Nickol	Sonney
Cutler	Kauffman	Payne	Stairs
Daley	Keller, M.K.	Payton	Stern
Dally	Kessler	Peifer	Stevenson
Denlinger	Killion	Perry	Surra
Ellis	Kotik	Perzel	Swanger
Evans, J.	Mackereth	Petrarca	Taylor, J.
Everett	Maher	Phillips	True
Fairchild	Mahoney	Pickett	Turzai
Fleck	Major	Pyle	Vulakovich
Gabig	Mantz	Quigley	Yewcic

#### NAYS—100

Belfanti	Freeman	Markosek	Smith, K.
Bennington	Galloway	McCall	Smith, M.

Biancucci	George	McI. Smith	Solobay
Bishop	Gerber	Melio	Staback
Blackwell	Gergely	Mundy	Steil
Brennan	Gibbons	Myers	Sturla
Buxton	Godshall	O'Brien, M.	Tangretti
Caltagirone	Goodman	O'Neill	Taylor, R.
Cappelli	Grucela	Oliver	Thomas
Carroll	Harhai	Pallone	Vereb
Casorio	Harkins	Parker	Vitali
Cohen	Hornaman	Pashinski	Wagner
Conklin	James	Petri	Walko
Costa	Josephs	Petrone	Wansacz
Cruz	Keller, W.	Preston	Waters
Curry	Kenney	Quinn	Watson
DeLuca	King	Readshaw	Wheatley
DePasquale	Kirkland	Roebuck	White
Dermody	Kortz	Sabatina	Williams
DeWeese	Kula	Sainato	Wojnaroski
DiGirolamo	Leach	Samuelson	Youngblood
Donatucci	Lentz	Santoni	Yudichak
Eachus	Levdansky	Seip	
Evans, D.	Longietti	Shapiro	O'Brien, D.,
Fabrizio	Manderino	Shimkus	Speaker
Frankel	Mann		

NOT VOTING—0

EXCUSED—3

Bastian	Mustio	Ramaley
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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.

On the question recurring,

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

The SPEAKER pro tempore. Mr. Maher, are you requesting a roll-call vote on second consideration?

Mr. MAHER. Not at the moment, Mr. Speaker. I am seeking recognition.

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Maher.

Mr. MAHER. Thank you, Mr. Speaker.

I am hoping that the gentleman from Carbon County is now prepared to help answer some questions about this legislation.

The SPEAKER pro tempore. The gentleman has agreed, and you may proceed, Mr. Maher.

Mr. MAHER. Thank you, Mr. Speaker.

On page 22, beginning at line 16, it provides that it is a crime to receive a deposit in excess of one-third and so forth. Now, "deposit" is not defined in the bill, so I am hoping you can tell me, is this intended to be a refundable deposit or is this a nonrefundable deposit? What do you have in mind here?

Mr. McCALL. Mr. Speaker, it would be refundable. And I would like to add that this is not my legislation. This is Senator Tommy Tomlinson's legislation that he wrote. My legislation varies from this legislation, and we will try to address that in the next session with language that I would like to add to this legislation. But for the record, this is not my legislation, Mr. Speaker.

Mr. MAHER. Thank you, Mr. Speaker.

So when we see the word "deposit," that means it is refundable, it is something that is refundable to the consumer. Is that correct?

Mr. McCALL. It is refundable, but it is also credited to the overall price of doing the job.

Mr. MAHER. Yeah, assuming there is not a refund that would apply then later. The deposit would be converted into a payment if all goes well.

Mr. McCALL. Correct.

Mr. MAHER. Thank you, Mr. Speaker.

Now, on line 14 it talks about it being a crime to demand or receive any payment for a home improvement before a contract is signed. Now, this sort of a payment is something that seems to be distinguishable from a deposit. Am I understanding that correctly?

Mr. McCALL. That is correct.

Mr. MAHER. Thank you, Mr. Speaker.

On page 4, line 14, it defines a "home improvement contract." When I read that definition, to my eye it appears that any agreement, whether it is in writing or verbal, could satisfy the definition of a "home improvement contract." This simply says "an agreement," and our basic contract law provides that agreements can be in writing or can be verbal. Am I understanding that correctly?

Mr. McCALL. You are.

Mr. MAHER. Thank you, Mr. Speaker.

On page 2, line 24, it talks about the total cash price. Now, later when we were talking about the deposits, it talked about the total price. What is the distinction between the total cash price and the total price?

Mr. McCALL. There is not any.

Mr. MAHER. There is not any? Then why do we have different language in one place from another if we are talking about the same thing? It would seem to me that this talks about cash and the other talks about the total price.

Mr. McCALL. It is all one and the same, in our opinion.

Mr. MAHER. All right.

Now, on page 21, line 30, it says that someone cannot "Deviate from or disregard plans or specifications, in any material respect, without a written change order...." Now, if the original agreement, a home improvement contract, does not need to be in writing, as we just established, how would one attach a written change order to a verbal agreement?

Mr. McCALL. Now, if you go to page 12, line 23, it requires the contract to be in writing, and if there is a deviation from that contract, it would require a written agreement between the homeowner and the contractor to make that deviation.

Mr. MAHER. Well, no, it does not actually say that. On page 12, I guess what I am reading, it says that the contract is not enforceable unless it is in writing. It does not say it has to be in writing, does it? It just says it is not enforceable.

Mr. McCALL. It has to be in writing to enforce it.

Mr. MAHER. All right. So a contractor could still have a verbal agreement, but it would not be enforceable by the consumer unless it is in writing.

Mr. McCALL. If you read further down, it says "valid or enforceable."

Mr. MAHER. All right. But again, the contractor could have an agreement that could not be enforced by the consumer, and that would be permitted under this legislation.

Mr. McCALL. The contract would have to be in writing for it to be enforceable and valid.

Mr. MAHER. Precisely. I think we are saying the same thing.

Well, thank you, Mr. Speaker. That concludes my interrogation, and I do wish to speak on second consideration.

The SPEAKER pro tempore. The Chair thanks the gentleman. You may proceed.

Mr. MAHER. Thank you, Mr. Speaker.

I do thank those who have undertaken the difficult task of trying to protect consumers, and I understand it has been an effort that has lasted over a number of years. However, this bill in its current form will not do that.

You have just heard that the bill provides for home improvement contracts that can be verbal, and if they are verbal, they are not enforceable. That is saying that the rights that consumers have today to seek enforcement of a verbal contract are being erased by this legislation. This legislation actually sets back consumer protections by prohibiting consumers from being able to enforce an agreement if a contractor has a verbal agreement with them.

So what this is doing is giving the fly-by-night operators carte blanche that the consumer cannot seek enforcement of a contract which is permitted if it is not in writing. That is sort of fine print that I think is pretty important. If you think you are intending to help consumers, well, you do not strip away their rights.

With this bill, if it moves forward as it is, if someone goes into the local magistrate seeking redress from something done through a verbal agreement, and let us say it is under \$500, a verbal agreement under \$500 cannot be enforced. The consumer will have no remedy. I predict that the cost of blacktopping a driveway will suddenly become \$499, because the shysters will know that this law gives them complete immunity from a civil remedy from a consumer who is ripped off on a contract for under \$500.

Now, maybe that does not mean that much to some people in here, but I believe there are lots of people in Pennsylvania that will be unhappy when they discover, through the School of Hard Knocks, that you have eliminated their ability to enforce a contract against a shyster. How can you do that and pretend you are helping consumers? Well, maybe you did not intend to do that, but that is what the bill says now. The bill needs to be amended.

Consider this, an additional point, where you are actually injuring consumers. The language that we have spent some time talking about in terms of deposits, we just heard that that is limited to refundable deposits. So for a home improvement contract in which the total price is more than \$1,000, the amount that is a deposit, the amount that is refundable to the consumer, cannot be more than one-third. That means that two-thirds of the price is not refundable to the consumer. Well, right now, consumers have the right to enter into an agreement where everything is refundable. This bill injures consumers by saying, your deposit, your refundable amount, cannot be more than one-third, and as soon as that contract is signed, line 14 says that payment can happen. So a consumer will have a contract that will say, here is a deposit, one-third; here is a payment, nonrefundable, two thirds; and as soon as it is inked, the payments, both disbursements, can be made to the contractor.

So in the name and with the worthy goal of trying to protect consumers, this bill, and particularly this deposit provision, serves to injure them, because once again, it strips the rights that consumers already have to enter into an agreement where every payment that they make is refundable if they are not satisfied. That will no longer be the case; now just one-third. How does that help consumers? It sure does not. It sure does not.

Now, what else is happening in this bill? Well, we talked at some length, and I will just remind you, this bill says that Pennsylvanians cannot go shopping the way people in other States can. This bill says that Pennsylvanians are not smart enough to deal with the store. They just cannot do it. And instead of allowing Pennsylvanians to negotiate arrangements that are to their benefit, such as refundable deposits in totality, such as having the right to seek enforcement of a contract that is under \$500, this bill is going to erase them.

Now, there is still time, and the reason I sought this recognition on second consideration is because there is still time. If you do not want to strip the rights that Pennsylvanians already have in the name of offering protection, the protections in this bill, some of them are very good, but the price tag of stripping Pennsylvanians of their rights is too high.

And I believe we will hear, well, that is not how they are going to interpret it, but that is how it is written, and we just ascertained that through this question-and-answer process. So there is still time. If we hold off on second consideration today and allow the majority whip to actually craft amendments that we work together on so that the bill does not strip the rights of Pennsylvanians and strip legal protections away from homeowners, it can be done. I am guessing it will not be done, and that is a tragedy.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

### LEAVES OF ABSENCE

The SPEAKER pro tempore. The Chair recognizes the minority whip, who requests a leave of absence for the gentleman, Mr. CAPPELLI. Without objection, the leave will be so granted.

And the Chair recognizes the majority whip, who requests a leave of absence for the gentleman, Mr. LEACH. Without objection, that leave will also be granted.

### CONSIDERATION OF SB 100 CONTINUED

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Preston.

Mr. PRESTON. Thank you, Mr. Speaker. On second consideration.

Will the previous speaker, Mr. Maher from Allegheny County, stand for interrogation?

The SPEAKER pro tempore. The gentleman has agreed, and you may proceed.

Mr. PRESTON. Thank you, Mr. Speaker.

Mr. Speaker, during your presentation you mentioned the word several times relative to this bill about an "agreement." My first question is, can you show me where in the bill it addresses the word for people to be able to enter into an agreement in this bill?

Mr. MAHER. I will be very happy to assist.

Your majority whip, Mr. McCall, agreed with me that on page 4, line 14, where "home improvement contract" is defined, it provides for "An agreement between a contractor, subcontractor or salesperson and an owner for the performance of a home improvement...." and so on. He agreed that that could be written or verbal.

The SPEAKER pro tempore. Mr. Preston, we are cognizant of the fact that some of the mikes are not working the way they should. If you could try another mike, perhaps that would be better.

Mr. PRESTON. Mr. Speaker, you did not answer my question.

I said an agreement, not a contract. You can agree to a contract, but you said that this bill addresses an agreement, and I am asking you, you show me where there is language in here about an agreement being a legal document in this bill.

Mr. MAHER. Page 4, line 14: "An agreement between a contractor, subcontractor or salesperson and an owner for the performance of a home improvement...." and so forth. That is the definition of a "home improvement contract" that is in the bill.

Mr. PRESTON. Mr. Speaker, are you saying an agreement and a contract are synonymous and are the same legal document?

Mr. MAHER. Mr. Speaker, it is not so much that I am saying that a contract and an agreement are synonymous; they are in fact defined that way in this bill. But I would add that it does not say it has to be in writing for it to be a home improvement contract. There are later provisions that talk about circumstances when an agreement, in order to be enforced, must be in writing. And here is the rub, that you do not have any requirement at all for a written agreement anywhere in this legislation or anywhere in existing law for a contract with a homeowner of under \$500.

So by the provision, the recognition, that a home improvement contract can be a verbal or a written agreement, but that if it is not in writing, it is not enforceable, that takes rights away from homeowners for contracts under \$500, rights they currently have. They will not be able to enforce their contract.

And I can accept that perhaps that was not the intent, but that is how the bill is presented, and I certainly would welcome an agreement that that is not the intent and work collaboratively to craft an amendment so that those rights are not taken away from Pennsylvanians.

Mr. PRESTON. Mr. Speaker, I am trying to get clarification, so let me try to ask it a little bit more simply for you.

In the bill it defines what a contract is, and it also states that it has to be in writing. You are saying that an agreement can be made, and I do not find the definition in this bill of an agreement, also in this bill where it has to be in writing. And your interpretation is about a verbal agreement. Now, can you show me in this bill, please, where a verbal agreement is covered and can be recognized in this bill as a contract?

Mr. MAHER. Thank you, Mr. Speaker.

I am not sure how many ways there are to try to convey that, but the majority leader – excuse me – the majority whip from Carbon County agreed with me that a home improvement contract, as defined in this legislation on page 4, can be a verbal

or a written agreement. And apparently he believed, and I think a lot of us were led to believe, that these agreements would have to be in writing, but in fact, that is not the case. The case is, if you look at page 12, beginning on line 20, what it says is that the contract— Thank you. I understand that you are not scrambling the board there. I understand there are just some technical difficulties. But it talks about the enforceability of the contract, and it does not say a contract has got to be in writing, and specifically, contracts under \$500 are exempt from any of the provisions that deal with writing at all.

A verbal agreement that will not be deemed to be valid certainly cannot be enforceable, and if it is not enforceable and if it is invalid from the homeowner's perspective, which if a contract is not valid, a contract is not valid. Neither party has rights. We can deal with the more complicated cases as well, I think there are arguments to be made, but my immediate concern is that any contract for \$500 or less that is done verbally is not only permitted to happen, but strips, with this legislation, would strip the homeowner of their right to seek enforcement of a valid contract because it deems that the contract would not be valid. And again, if this is not intended, I would be very happy to work across the aisle and see if we can sort out language, and I believe we could in short order to repair that problem. But I am not prepared to support stripping homeowners of their rights to seek redress on verbal agreements with contractors for \$500 or less. I think there are an awful lot of those kinds of agreements in Pennsylvania, and I recognize that there are challenges in enforcing them to begin with, but I certainly do not want to, in the name of protecting consumers, remove their ability to say I have a valid contract and, Mr. Magistrate Judge, please help me enforce it. The magistrate judge would look at SB 100 and say you do not have a valid contract; you have no rights; go home. The legislature specifically stripped you of the right to claim that you had a valid contract when you are doing it for home improvements if it is for under \$500. And I do not think we should.

So if it is not intended, let us repair it. If it is intended, you should be ashamed.

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

Mr. PRESTON. I have concluded my interrogation because it does not do me any point to try to ask the same question a different way for the third time without getting an answer. I would like to be able to speak on the second consideration very briefly.

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

Mr. PRESTON. On page 16, it mentions someone coming to an agreement on a contract. It is different, but if you look at the bill, and I am only going to put it in for the record very briefly, page 12, line 20, it says, as the gentleman from Allegheny County said, about a home improvement contract, the requirement: "No home improvement contract shall be valid or enforceable against an owner unless it: (1) Is in writing and legible and contains the home improvement contractor registration number of the performing contractor" and "(2) Is signed by...the following...." That is the definition of the contract that someone is willing to agree with.

Now, I am not going to argue over the nomenclature, the unfortunate situation of someone trying to change and look at it. That is their interpretation. But this is about the consumer and it

defines it, what is in writing. All of us have been trying very hard for years, for years, to try to get anyone that wants to agree to have a contract in writing, and that is what this piece of legislation does, to be able to protect all of the people, all of the people in Pennsylvania that we were not able to address. I wanted to address this, and I will talk further on final consideration. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Anyone else seeking recognition? The gentleman, Mr. Maher.

Anyone else seeking recognition? This is on second consideration.

Mr. Maher, you are so recognized.

Mr. MAHER. If no one else is seeking recognition, Mr. Speaker, I would just offer a bit more assistance while listening to the gentleman from my home county of Allegheny, whom I have great regard for and truly do consider a friend. I would point out, I had a chance to scan through the bill, and I would point out that on page 17, lines 14 and 15 contemplate written or oral agreements; on page 18, line 3, it contemplates written or oral agreement.

So quite clearly, the answer that the gentleman from Carbon County gave about the definition of a home improvement contract was correct. It is an agreement that can be written, it can be oral. If it is an oral agreement, this legislation says that it would be deemed then to be invalid, and the invalidity of that agreement— It is not just against the contractor. If a contract is not valid, it is not enforceable by anybody. So the way this bill is written, homeowners who get ripped off for under \$500— The fly-by-nights will not even have to leave town. They can just show up at the magistrate and say, it is not an enforceable agreement, thank you very much. The legislature specifically decided, by statute, that these agreements are not valid and are not enforceable. It is going to add up to a get-out-of-jail-free card, if you will, for contractors who rip off Pennsylvanians in increments of \$500, and for most families, that is an awful lot of money to lose.

Please consider repairing this bill instead of stripping the rights of Pennsylvanians.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman. Mr. Maher, you are not seeking a roll-call vote then, I am assuming? Thank you, sir.

On the question recurring,

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

Bill as amended was agreed to.

(Bill as amended will be reprinted.)

The SPEAKER pro tempore. For what purpose does the gentleman, Mr. Killion, rise?

Mr. KILLION. Thank you, Mr. Speaker.

I would like to make a motion that the House take up for immediate consideration House Discharge Resolution No. 11. Thank you.

The SPEAKER pro tempore. Mr. Killion, we will be recognizing you again on that issue a little later. Thank you.

## GUESTS INTRODUCED

The SPEAKER pro tempore. The Chair welcomes Dawn Bates and her two children, who are guests of Representative Siptroth, who are located in the balcony. Please rise and be recognized.

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

## SUPPLEMENTAL CALENDAR A

## BILL ON SECOND CONSIDERATION

The House proceeded to second consideration of **SB 768, PN 2431**, entitled:

An Act amending Title 64 (Public Authorities and Quasi-Public Corporations) of the Pennsylvania Consolidated Statutes, further providing for the definitions of "commercial lending activities" and "commercial lending institutions" and for the First Industries Program.

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

The SPEAKER. The House will be at ease.

The House will come to order.

## POINTS OF ORDER

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

Mr. KILLION. Mr. Speaker, just a point of clarification. I am reading rule 53, and it is quite clear that it says, "...the House shall proceed..." – when a discharge resolution is brought forward – "...the House shall proceed to its consideration without intervening motion except one motion to adjourn...." I stood up and made my motion to bring a discharge petition up. After that, after that, an e-mail went out canceling 2 session days, moving us into the last 6 days, to make my motion out of order. I would think that is intervening business and it is out of order.

The SPEAKER. The Chair will check the record. The Speaker was not in the Chair. It is my understanding that the gentleman rose, he was asked, "For what purpose does the gentleman...rise?" The gentleman stated that he wanted to make a motion. He was not recognized for that motion. He was told by the Speaker pro tempore that he would be recognized later for that motion. I believe the record reflects that.

Mr. S. SMITH. Mr. Speaker?

The SPEAKER. For the information of the members, the gentleman, the Chair does not stand for interrogation. Any scheduling issues would have to be directed to the majority leader. It is the understanding of the Chair that that memo went out prior to the gentleman standing up to inquire about his motion.

Mr. S. SMITH. Mr. Speaker?

The SPEAKER. Is the gentleman finished?

Mr. Killion defers to the minority leader.

Representative Smith.

Mr. S. SMITH. Mr. Speaker, number one, it seems extraordinarily coincidental, but, Mr. Speaker, it is clear that the gentleman rose to make the motion, in fact did make the motion to call up the discharge resolution on the bill—

The SPEAKER. If the gentleman will suspend.

The record is clear. The gentleman rose to inquire about making a motion. He was not recognized for that motion—

Mr. S. SMITH. Mr. Speaker, that is not accurate, Mr. Speaker.

The SPEAKER. The gentleman was told that he would be recognized later for that motion.

Mr. S. SMITH. Mr. Speaker, then we should read back the record from the stenographer because the gentleman made the motion, was recognized and made the motion, Mr. Speaker.

The SPEAKER. The Chair has informed the gentleman that he will pull the extract from the Journal.

Mr. S. SMITH. And we will suspend action until we do that, Mr. Speaker? Because the gentleman clearly made the motion. The fact is that even at just a few minutes ago it was not posted on the system, this supposed shyster move of deleting days from the schedule.

The SPEAKER. The gentleman will cease. The gentleman will cease. Will the gentleman approach the rostrum.

(Conference held at Speaker's podium.)

The SPEAKER. The Chair turns to page 2 of supplemental calendar—

Mr. S. SMITH. Mr. Speaker?

The SPEAKER. For what purpose does the gentleman rise?

Mr. S. SMITH. Mr. Speaker, I do not think we have resolved this matter. The gentleman from Delaware County rose to make a motion to call up a discharge resolution. Clearly, the rules say that he shall be recognized. The Speaker pro tempore, incorrectly and in violation of the rules, did not recognize him. In those intervening minutes, it is interesting that in order for this legislature to have a chance to consider the Mcare (Medical Care Availability and Reduction of Error) legislation, to bring it up in these waning days of session, Mr. Speaker, the House somehow, the majority decided to send a notice around after the gentleman sought recognition. That constitutes intervening business, in my opinion anyways, but the bottom line, Mr. Speaker, is, the gentleman from Delaware rose to make a motion prior to any change in the voting schedule by the majority leader, which was done unilaterally, and he should be recognized because the rules say, "...shall be recognized for the purpose of calling up the discharge resolution...." And I would like the Chair to recognize the gentleman for the purpose of that under the understanding that he did it before any change in the schedule, removing House days from the schedule.

The SPEAKER. The Chair, for clarification purposes on the gentleman's motion, the Speaker pro tempore was perfectly correct. He did not recognize Representative Killion. The gentleman never properly had the floor. Had he said, "Representative Killion," then the gentleman would have had the floor. He said, "For what purpose does the gentleman...rise?" So the gentleman was never afforded the floor. Had he wanted to make a motion, the proper process would have been to ask for a special order of business. The majority leader controls the flow of the legislation. In order to

go out of the calendar order, it would require a motion for a special order of business.

I will repeat, if the gentleman had been recognized, he would have had the floor. The question was asked properly by the Speaker pro tempore, "For what purpose does the gentleman...rise?" The gentleman never had the floor, and therefore the motion was not in order.

Mr. S. SMITH. Mr. Speaker?

The SPEAKER. The minority leader, Representative Smith.

Mr. S. SMITH. Further on that point, Mr. Speaker. The gentleman rises, is asked by the Chair for what purpose does he rise. He says, to make a motion on the discharge for the Mcare resolution, to allow us to vote on dealing with the Mcare issue before we leave. The rule does not say anything about a special order; the rule does not say anything about the Speaker being able to say we will get back to you in a few minutes. The rule says that "any member who has signed a discharge resolution which has been on the calendar at least one legislative day prior thereto and seeks recognition..." — which you have admitted he sought recognition — the rule then says, "...shall be recognized...." The rule 53, Mr. Speaker, does not give the Chair latitude to postpone that recognition. That is why I said the Speaker pro tempore was in error because it says he "...shall be recognized for the purpose of calling up the discharge resolution...."

The SPEAKER. The gentleman never properly had the floor. The Speaker pro tempore asked him, "For what purpose does the gentleman...rise?" He said, "...to make a motion...." He was informed at that time that he was out of order, and the motion was never made.

Mr. S. SMITH. Mr. Speaker, he was recognized—

The SPEAKER. If the gentleman will suspend. The appropriate motion would have been a motion for a special order of business. Then the gentleman would have had the floor and the motion would have been in order. That was not the case.

### REQUEST FOR A RULING

Mr. S. SMITH. Mr. Speaker, would you put that in the form of a ruling because there is nothing in the rule that says that this is done by a special order of business. It says— And I would also suggest, Mr. Speaker, if we looked back at the record, when the Chair recognizes the gentleman to say, for what purpose do you rise, he has indicated his purpose and the rules said that—

The SPEAKER. The gentleman will suspend.

Mr. S. SMITH. —Mr. Speaker, the rule says that therefore he seeks recognition. The gentleman sought recognition—

The SPEAKER. The gentleman will suspend.

Mr. S. SMITH. —and the rule says, "...shall be recognized...."

The SPEAKER. The gentleman—

Mr. S. SMITH. There is no latitude—

The SPEAKER. The gentleman will suspend.

If the gentleman is inquiring for a ruling of the Chair, the Chair will give a ruling.

Mr. S. SMITH. Pardon me, Mr. Speaker?

The SPEAKER. The gentleman asked if the Chair would make a ruling. The Chair will make a ruling if the gentleman makes that request.

Mr. S. SMITH. I believe, Mr. Speaker, I asked the Chair to put your comments, I asked you to put it in the form of a ruling because I am claiming that when the gentleman from Delaware rose to call up the Mcare bill via a discharge resolution, that the Speaker did not recognize him. I believe you are saying, Mr. Speaker, that he did not do something in a proper way or he was not recognized. I am not sure exactly how you want to frame the ruling, but I am asking you if you would put that in the form of a ruling.

The SPEAKER. In response to the gentleman, a special order of business to consider a bill or resolution out of order — the gentleman, the minority leader, Sam Smith, was advised of this at sidebar on March 18, 2008 — any member who wishes to have a bill or resolution considered immediately, thereby deviating from the order of the bills and resolutions that are scheduled for a vote, may do so, one, either by obtaining agreement of the leaders to do so, or two, the member must move to make consideration of the bill or resolution a special order of business in accordance with rule 17.

Regarding the special order of business, the Chair cites its authority for its position a ruling by Speaker Ryan on June 20, 1995. On that date, Representative Michlovic made a motion for a special order of business to next consider HB 1815, thereby advancing it in the line of bills to be considered. Speaker Ryan then stated as follows: "The members should pay attention to what is going on. The gentleman, Mr. Michlovic, has asked for a special order of business to consider HB 1815, which is at the bottom of page 5. We at the moment are about to start — after lunch — at the top of page 5, and the gentleman has asked for a special order of business." Debate ensued and the House then voted 81 to 119 on the motion. Less than the 102 required having voted in the affirmative, the motion failed.

The same procedure was followed on April 1, 1992. Then Minority Leader Ryan moved to call up a discharge resolution that appeared on a later page of the calendar, page 19, as a special order of business. Representative Ryan explained that the previous day he had been denied the opportunity to make the motion; he was making it early in the day. Speaker O'Donnell then stated the question: "The gentleman, Mr. Ryan, moves that Discharge Resolution 19 be considered by the House now as a special order of business. The motion is made pursuant to rule 17." Debate ensued in the House, then voted 90 to 99 on the motion. Less than the 102 required having voted in the affirmative, the motion failed.

Also on December 20, 2005, shortly after the daily session commenced, Representative Rohrer raised an inquiry regarding the procedure to immediately bring up a bill for a final vote. Speaker Perzel advised Representative Rohrer that he "...would have to ask that that bill be made a special order of business, which requires 102 votes."

These rulings, by both Republican and Democrat Speakers, are clear and have been consistent during the previous decades. Any member who wishes to call up a bill out of order and have it immediately considered by the House, thus deviating from the scheduled votes, is required to make a motion to make that bill a special order of business in accordance with rule 17. If the House approves that motion, the bill is then immediately before the House for consideration. In the absence of agreement to do so, this is the only procedure by which a member can call up a bill and have it considered by the House before its scheduled time.



Mr. S. SMITH. Mr. Speaker?

The SPEAKER. Representative Smith.

Mr. S. SMITH. I appreciate what you read. I listened to some of it.

The SPEAKER. You did not appreciate all of it?

### **RULING OF CHAIR APPEALED**

Mr. S. SMITH. Mr. Speaker, I would challenge the ruling of the Chair and the history that you have just recited because rule 53, dealing with discharge resolutions, specifically sets forth the process under which a discharge resolution is handled, from the beginning to the end. The rule clearly states, in the second paragraph of rule 53, that a member seeks recognition and shall be recognized and that the House shall not proceed into other intervening business except for a motion to adjourn.

Mr. Speaker, it does not state that a special order of business is the motion that would allow him to get to that point. It states that it supersedes— The motion of special order of business applies to certain things on the calendar, but rule 53 specifically separates itself from that rule because it does not reference it. And I would challenge the ruling of the Chair, Mr. Speaker, to allow the gentleman to call up the discharge resolution that would bring the Mcare abatement issue before the House.

The SPEAKER. The gentleman, Representative Smith, the minority leader, has appealed the decision of the Chair. The decision is the special order of business is required to deviate from the scheduled calendar.

On the question,

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

The SPEAKER. On the appeal, does the gentleman, Representative Smith, wish to be recognized again?

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

I believe I have stated my point quite clearly. I would just reiterate, Mr. Speaker, that it is highly suspicious that the timing that took place here where the gentleman was initially recognized and then denied the direct motion to bring up the discharge resolution on the Mcare abatement issue, that the memo seems to have gone out, and I find that kind of – I find that somewhat discouraging, Mr. Speaker, that that kind of gamesmanship was taking place.

Nevertheless, Mr. Speaker, I think that if the members would refer to rule 53, second paragraph, the third line down, "...shall be recognized..." is obvious, clear, and anyone who has paid attention to the rules would have to agree that the member, once recognized, must be, shall be recognized, and I would ask the members to overrule the ruling of the Chair, Mr. Speaker.

The SPEAKER. The majority leader, Representative DeWeese.

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

I think the nub of the dialogue can be boiled down to the recognition of a subtlety in the rule. If, indeed, the honorable gentleman from Delaware had been recognized in the second phase of the recognition process by the Speaker pro tempore, then the gentleman from Jefferson's argument would be on the bull's-eye. The gentleman is asked by the Chair, for what purpose does he rise, and when he rises and is not recognized for the second part of that experience, then the gentleman,

Mr. Smith's appeal of the ruling of the Chair, to me, is lacking in credibility. I would ask our members and any Republican members who might be inclined to go along, to endorse the ruling of the Chair.

The litany of pronouncements by Speaker Ryan, Speaker Perzel, and Speaker O'Donnell fortify Mr. O'Brien's pronouncements, and I would hope that 102 Democrats and Speaker O'Brien and a handful of sturdy individualists on the Republican side would identify favorably with the history of Mr. Ryan, Mr. Perzel, Mr. O'Donnell, and the contemporaneous ruling of Mr. O'Brien. When you boil it down to the nub, the gentleman, Mr. Killion, was not recognized in its final sense. And what we are dealing with is somewhat moot anyway because we only have 6 more days of session preeminently because the Republicans in the Senate have decided to gainsay the month of November for active and aggressive enthusiasm on the General Assembly's part, no matter how wholesome and reform-minded some of those proposals might have been. So we are not going to be here in November very much because of the State Senate's decision of weeks and weeks and weeks ago, and the decision to limit the rest of our voting opportunities to 6 days will allow us to not be here for Thanksgiving week, the first time in almost a decade and a half, that will be the case.

So I do not understand why this exercise is being projected right now because the Senate will not be here, and the gentleman from Delaware was not recognized. I would ask respectfully the men and women on our side of the aisle to be able to cohere together on this and ask for any Republicans, Mr. Maher, other very, very able and talented Republicans, to join with us in the tradition of Mr. Perzel and Mr. Ryan and Mr. O'Donnell.

Thank you, Mr. Speaker.

Mr. S. SMITH. Mr. Speaker?

### **LEAVES OF ABSENCE CANCELED**

The SPEAKER. The Chair recognizes the presence of Representative Ramaley and Representative Mustio on the floor. Their names will be added to the master roll.

### **LEAVE OF ABSENCE**

The SPEAKER. The Chair recognizes the minority whip, who requests that Representative ADOLPH be placed on leave. The Chair hears no objection. That leave will be granted.

### **RULING OF CHAIR APPEALED CONTINUED**

The SPEAKER. Representative Smith.

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

Mr. Speaker, if you listen to the logic that the majority leader just put forth with the two-phase recognition, if that were to be the case, then a member of the minority or a member that the Chair just did not want to recognize, they would virtually never be recognized if you were able to say, for what purpose does the gentleman rise, and presumptively, unless it was out of order, the Speaker should say, you are out of order. That did not take place, Mr. Speaker.

The fact is, I think the common practice of this House is that when a gentleman rises and the Speaker says, for what purpose

did you rise, he says, I rise to make a motion, the Speaker either says you are in order or you are out of order. If he said he was out of order, then you at least have an opportunity to say, why am I out of order? And it allows for a common discourse. The process that the majority leader just described would give unilateral authority to the Chair to deny recognition to members at will, and I certainly think that is not the intent of anyone in this room.

Mr. Speaker, I would simply say, read the rule; it is clear, the member "...shall be recognized..." and it does not give the Speaker the opportunity to decide when. It says, "...shall be recognized..." And to suggest that he has this bifurcated recognition process in order to deny the gentleman from Delaware to call up the Mcare bill is something that I think is against the practice of this House in trying to debate these issues.

I would probably further state, since the majority leader brought it up about the schedule that the Senate has put forth and what issues they may or may not tackle, I would probably suggest, Mr. Speaker, that that is all the more reason that this issue dealing with the Mcare abatement that affects the medical providers of Pennsylvania, I think that probably makes it all the more important, Mr. Speaker, that that issue should be brought before this House for a vote today, in order that the Senate would have time to act on it since they are not going to be in, since the majority leader seems to have acquiesced to the Senate's position of not being in much in November. So I think, Mr. Speaker, when we look at the underlying issue that the majority leader brought up, that actually brings more emphasis to why this discharge resolution of the Mcare abatement bill should be brought before this House.

Thank you, Mr. Speaker.

The SPEAKER. Representative Maher.

Mr. MAHER. Thank you, Mr. Speaker.

Though impressed by the majority leader's unbounded optimism, I am afraid that this boiling things to the nub, you do not need to do any boiling, you do not even need a nub. All you need is a little common sense. Discharge resolutions are such a special category of activity that we have a rather long and elaborate rule specific to discharge resolutions. That rule, although it is a bit lengthy, is rather elegant in stating that when a member who assigned the discharge resolution seeks recognition, he shall be recognized for that purpose. In this case, the gentleman, Mr. Killion, whose concern for Mcare and health care in Pennsylvania is so significant, was seeking to ensure that the members of this chamber were able to vote on whether or not physicians across Pennsylvania should be able to enjoy continuity in extension of Mcare abatements.

He sought recognition. He was in fact recognized, and this fantasy that has been offered that he was ruled out of order is purely false. And anyone with a VCR (video cassette recorder) or a DVD (digital video disk) player will be able to demonstrate the folly of a ruling that pretends things happened that did not. The gentleman, Mr. Killion, sought recognition as provided by the rule. The rule required he "...shall be recognized..." There is no discretion to exercise. It is pretty straightforward, and all this other gobbledygook is sort of interesting, but we went through a rather extended process to review and revise and visit on the rules. There are a lot of people here that claim to be for reform. If you are for reform, do not take the plain language that a member seeking recognition to call up a discharge resolution

"shall be recognized," "shall be recognized" – not maybe, not maybe tomorrow – "shall be recognized."

The people of Pennsylvania deserve transparency. They deserve rulings of integrity. They deserve to see how we really stand on health care and Mcare and abatements. And this little trick to pretend that a gentleman whom we all heard seeking recognition was not actually seeking recognition, or that the discretion of the Chair to ignore the member – it just is not so. It just is not so.

Be honest; vote to overturn this ruling of the Chair. This ruling is based upon a flat-out fabrication about what happened, and anyone with a DVD player or VCR will be able to show that the words coming from our Speaker in this ruling were at odds with the record that will exist.

Thank you Mr. Speaker.

The SPEAKER. Representative Killion.

Mr. KILLION. Thank you, Mr. Speaker.

I will be brief. The minority leader did an excellent job and Representative Maher did an excellent job explaining why this ruling should be overturned. It is very clear that rule 17 applies to ordinary business of the House, and that rule 53 is very clear that once the member utters that he is looking to move a discharge petition he "shall be recognized." I guess I should ask right now, am I being recognized now? I did not clarify that up front.

But I am asking for my colleagues to join me to overturn the ruling of the Chair. Let us bring Mcare to the floor. Let us do what is right for our doctors and hospitals. Let us move forward this issue. We can get it done; there is time. Vote to overturn the ruling of the Chair.

Thank you Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

Representative Turzai.

Mr. TURZAI. Mr. Speaker, I rise in support of Republican Leader Smith's motion. I think that there is an appropriate analogy here with respect to the ruling from the Chair here, and it comes from the game of baseball. It strikes me that the Chair is using way too broad a strike zone here to rule out the discharge resolution that Representative Killion is moving. You are taking this rule 17 that has this broad, arguably broad application, but is not specific to the facts at hand so that you can prevent, with all due respect, prevent the gentleman from Delaware County and the physicians in this State to get their chance at bat. We want them to have their chance at bat today. And in a democracy, we should be trying to let votes come to the table as best we can, given the rules, so that everybody gets their chance at bat.

Now, everybody can have an opportunity then to vote on the substance of Representative Killion's motion, and that is by going right to rule 53, which has a narrow strike zone and says, look, if you want to stop this at bat by Representative Killion and by the doctors in this State and hospitals in this State, well, then you better be a little bit more specific. Rule 17 is the wrong place. We need an opportunity to be able to make the argument why Mcare abatement needs to get done, and I think you ought to apply the appropriate ruling and let us get to the task at hand.

I support the motion to appeal the Chair.

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

(Members proceeded to vote.)

### VOTES CHALLENGED

Mr. S. SMITH. Mr. Speaker, are all the members voting actually in their seats?

I see several empty seats on the other side of the aisle.

The SPEAKER. Members will take their seats.

Mr. S. SMITH. Mr. Speaker, I still see empty seats.

Mr. Speaker, I would like to challenge some seats.

Mr. Speaker, I still see empty seats. If I am required, I will start naming names so we can verify if they are present or not, but I see empty seats that are being voted and not present.

Mr. Speaker, is the gentleman, Mr. Wojnaroski, in his seat?

Mr. Speaker, is the gentleman, Mr. Cruz, in his seat?

The SPEAKER. The gentleman, Mr. Wojnaroski, is present on the floor.

Mr. S. SMITH. Is the gentleman, Mr. Cruz, in his seat?

The SPEAKER. The Chair will strike the gentleman's vote.

Mr. S. SMITH. Mr. Speaker, is the gentleman, Mr. Petrone, in his seat?

Is the gentleman, Mr. James, in his seat, Mr. Speaker?

The SPEAKER. The Chair does not see the gentleman. The clerk will strike the vote.

Mr. S. SMITH. Is the gentleman, Mr. Petrone, in his seat?

The SPEAKER. The gentleman's vote will be stricken.

The Chair recognizes Representative Harold James on the floor. His name will be put back on the board.

Mr. S. SMITH. Is the gentleman, Mr. Oliver, in his seat?

The SPEAKER. The Chair does not see Representative Oliver. His name will be stricken.

The Chair recognizes Representative Petrone. His name will be put back on the board.

Mr. S. SMITH. Of course, Mr. Speaker, perhaps if the members were seated this could go a little smoother instead of the ruse that we are playing.

Is the gentlelady, Ms. Bishop, on the floor, Mr. Speaker?

The SPEAKER. The Chair does not see Representative Bishop. Her name will be stricken.

Mr. S. SMITH. Mr. Speaker, has the time expired for the vote? I believe the rules allow for 10 minutes. It seems that it has been at least 10 minutes.

The SPEAKER. We are watching the time. It has not expired.

Mr. S. SMITH. How much time is left, Mr. Speaker?

The SPEAKER. The clock started at 4:44. It is now 4:51.

Mr. S. SMITH. Forty-four? You have got to be kidding me.

The SPEAKER. The Chair recognizes Representative Cruz's presence on the floor. His name will be added to the roll.

Have all the members voted? Have all the members voted?

On the question recurring,

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

The following roll call was recorded:

### YEAS—97

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

### NAYS—100

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

### NOT VOTING—2

Bishop	Oliver
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### EXCUSED—4

Adolph	Bastian	Cappelli	Leach
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Less than the majority having voted in the affirmative, the question was determined in the negative and the decision of the Chair did not stand as the judgment of the House.

The SPEAKER. The majority having voted in the negative, the decision of the Chair is overturned.

Mr. S. SMITH. Mr. Speaker?

The SPEAKER. The House will be at ease.

Mr. S. SMITH. Mr. Speaker, I believe the gentleman from Delaware should be recognized.

The SPEAKER. The Chair announced that the House is at ease.

Mr. S. SMITH. Mr. Speaker, I think the members would like to resume business.

The SPEAKER. The House is still at ease.

The House will come to order.

### DISCHARGE RESOLUTION

Mr. KILLION called up **Discharge Resolution No. 11**, entitled:

In the House, September 16, 2008

Discharging the Committee on Appropriations from further consideration of House Bill No. 1973, Printer's No. 2875.

On the question,

Will the House adopt Discharge Resolution No. 11?

The SPEAKER. The House will come to order.

Members will take their seats. Conferences in the rear, side aisles, and the well of the House will break up immediately. Members will take their seats. Members will please take their seats. Conferences in the rear of the House will break up immediately.

For the information of the members, Representative Killion has called up Discharge Resolution No. 11. The question before the House is whether the Appropriations Committee should be discharged from consideration of HB 1973, PN 2875. House rule 53 requires that 102 members, a majority vote of the members elected to the House, must agree to the resolution to discharge the Appropriations Committee. House rule 53 also provides that if 102 members do not agree, the resolution is defeated and it will not be in order for the House to consider any other resolution seeking to discharge any bill or resolution relating to, dealing with, the same subject matter from the Appropriations Committee or any other committee of this House.

Before we proceed to debate the Discharge Resolution No. 11, the Chair reminds the members that the debate on the motion to discharge HB 1973, PN 2875, from the Appropriations Committee is limited solely to the reasons for or against discharging the bill from committee. Debate on the substance of the bill or the issue or merits of the bill is not permitted. Because the debate is very narrow in scope, we will be monitoring the remarks of the members very carefully to ensure that they stay within these parameters.

Representative Killion.

Mr. KILLION. Thank you, Mr. Speaker, and I will brief. We know what the bill is about.

I would ask my colleagues for an affirmative vote to discharge this bill. It is not just about our doctors and hospitals; it is more than that. I grew up in Delaware County, and when I was a kid, the biggest jobs were things like Philadelphia Naval Shipyard, the Franklin Mint. Those jobs are all gone. The largest employer in Delaware County right now is health care. We need this bill to protect our doctors and our hospitals, to keep our doctors here, keep them from leaving. If we do not pass Mcare abatement, the handcuffs are off the doctors, they

can leave our State. We all know the Mcare abatement gets them to stay for at least a year when they get the abatement.

Please vote in favor of this bill. Let us protect the health of our citizens of Pennsylvania. Thank you.

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

Mr. DeWEESE. Mr. Speaker, I think we are all for the Mcare abatement. What divides us is that the Democratic House, along with Mr. Rendell's administration, is trying to include access to basic health insurance for a quarter of a million of our fellow citizens. That language was introduced to us early in this session. The momentary cachinnations and perturbations of the back benches notwithstanding, Mr. Killion and I agree we want to help our physicians. Where we disagree, and where I think the discharge resolution is premature, is we have not been able to crystallize a compromise between the House and Senate Republican and Democratic negotiators to fuse the two ideas of the Mcare abatement, helping our doctors, the men and women who serve in the highest cadre of our medical professions, stay in Pennsylvania, at the same time allow for a quarter of a million Pennsylvanians to receive health insurance who tonight do not have health insurance.

That was the tactic that we were trying to initiate, and that is why the negotiations were ongoing, and that is why the bill was in the Appropriations Committee. So we are, at least many of us are antagonized by the gesture. We would like to think that our committee chairmen and their procedures are almost, almost, sacrosanct.

I would ask for a negative vote on the Killion motion to discharge. Thank you.

Mr. S. SMITH. Mr. Speaker?

The SPEAKER. The minority leader, Representative Smith.

Mr. S. SMITH. Mr. Speaker, I found interesting the majority leader's comments that this particular issue that deals with the Mcare issue for medical providers in Pennsylvania was tied to other legislation. I find it interesting, Mr. Speaker, because the Governor has repeatedly said to the general public that he would never tie one issue to another, that each issue should be considered on its own merits. So I find that element of the argument of the majority leader a little bit interesting because when the Governor's Office is saying they would not tie one issue to another, but yet we all know that these issues were being tied together by the administration and the House Democrats.

The simple fact is, Mr. Speaker, that in this business you have opportunities to get things done. Sometimes you get halfway home. Right now, Mr. Speaker, the House Republicans have put forth a significant proposal that would expand health care to all of Pennsylvania, a different version than what the Governor has proposed or the House Democrats have proposed, but nevertheless a viable and workable model that would allow us to provide health-care access and affordable health care at that without raising taxes, and yet, we are unable to get that done, too, at this moment, Mr. Speaker. The simple fact is, with the Killion discharge resolution before us, we can get one element done, Mr. Speaker. We can get part of this issue addressed, and that is the issue that has to deal with the insurance costs that are chasing doctors from Pennsylvania, and clearly, there are some specialists in Pennsylvania, Mr. Speaker, that are putting together their packets of how to close up their offices come the first of January.

The simple fact is, Mr. Speaker, we are at the end of session. This is not something that was done in the middle of the year. This is something we said we are at the deadline, we are at the last moment. The Senate is not going to be in much longer – maybe another day, maybe a day in November, who knows. But, Mr. Speaker, we are at the deadline. It is incumbent upon us to pass this discharge resolution now, allow us an opportunity to vote this bill, that it could reach the Governor's desk in spite of the fact that other elements that we may want to see in health care passed. We still have time to try to do those. Passing this discharge resolution now, bringing this legislation before the House does not preclude us from continuing to work towards other elements of expanded and affordable health care for all Pennsylvanians, and I would urge the members to support the discharge resolution.

The SPEAKER. Chairman Evans.

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

Mr. Speaker, everybody on this House floor has health care. There are 800,000 people in the Commonwealth of Pennsylvania, our citizens, who do not have health care. We have tried, we have tried the working process, a process that we all are included. This House, Mr. Speaker, did pass a health-care package. We had a full debate. The bill is now in the Senate. We have been trying to negotiate with the Senate. Now, it would be something, Mr. Speaker, if there was only one House and we would have health care in the Commonwealth of Pennsylvania, but the fact of the matter is that there are two Houses. So the reality of it is, Mr. Speaker, we have to work with the Senate and the Governor in order to make this happen. We want to ensure that everybody has access and opportunity for health care.

I believe, Mr. Speaker, that we have put a good proposal over there to the Senate, and that proposal at least attempts to address the concerns. It did not go as far as the Governor wanted to go, but the reality of it is, it did go pretty far in terms of trying to provide some type of health care.

We need to understand, Mr. Speaker, that this process that is taking place right now still will not solve the problem. It is, in my view, Mr. Speaker, more political gamesmanship. I do not disrespect the gentleman who has made the motion, but the reality of it is that it still will not solve the problem. It still will not provide health care to 800,000 people in the Commonwealth of Pennsylvania. So the Governor has made it clear. I think we all have collectively made it clear, because even some Republicans voted for the bill that was sent over to the Senate. Democrats just did not vote for it.

So I respect what the gentleman is attempting to do. I just disagree with the way that he is attempting to do it. And I believe, Mr. Speaker, that we can solve this problem if we have got the Governor, the Senate, and ourselves sitting down to solve it, because that is what our constituents want. Our constituents want us to work together in order to try to make a difference.

I do not believe, Mr. Speaker, that this particular situation is going to solve the problem. It may make great headlines, it may look well on TV, but it still is not going to solve the problem to make sure that all Pennsylvanians, at least the 800,000 who do not have health care, have access to health care.

So, Mr. Speaker, I would stand and ask us to vote "no" on this action because it is not going to solve the problem.

Thank you, Mr. Speaker.

The SPEAKER. Is there any member seeking recognition before the Chair recognizes Representative Killion for the second time?

Representative Smith.

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

Mr. Speaker, I was able to pull up a quote from an August 29 Capitolwire story, where it reads, talking about Governor Rendell, "Rendell said that kind of move is 'just what's wrong with Harrisburg. We should consider projects, plans and initiatives on their own merits, not trade them off, you do this and we'll do this. That leads to bad legislation.' " Mr. Speaker, that was the point I was trying to make previously.

But I would also suggest, Mr. Speaker, this House, as the majority Appropriations chair just said, this House has considered legislation that deals with health care for all Pennsylvanians. Clearly, we have a difference of opinion about how to best enact that, but it has considered it. It is in the Senate. The House has considered this legislation, and it is in the Senate.

The fact that I believe you just said, the previous speaker just said that it was the Senate Republicans, the House Democrats, and the Governor's Office sitting in a room trying to negotiate this out for a long time now, for months, and have not achieved it, Mr. Speaker, that could be interpreted a couple ways – either one's inability to bring something to a conclusion or the fact, Mr. Speaker, that we should get this done now while we can and proceed with the other things on their own, on their own merits, based on the good and the bad of them, how we do it.

So, Mr. Speaker, the simple fact is, since this legislation that deals with the overriding health-care issue, the umbrella issue, has been in the Senate, it is not an action the House can control. We cannot control that from here. We can control this piece of legislation, Mr. Speaker. We can send this to the Governor's desk, Mr. Speaker, and that is what this vote is about. It is an opportunity to fix part of this system, and we will work on the other parts whenever everybody is ready to get serious.

The SPEAKER. Representative Mensch.

Mr. MENSCH. Thank you, Mr. Speaker.

As many of you know, I am a father of a special-needs child. You do not take a special-needs child to a GP (general practitioner). You take a special-needs child to a specialist.

We are talking about Mcare here. We are talking about the flight of physicians and specialists from our State. The ones who are being affected the most are the specialists who have the greatest insurance risks. We are not talking about— The Appropriations chairman a little bit ago said we all have insurance coverage here, but there are many children out there – special-needs children, autistic children – who have these problems. They need a specialist who will be protected by Mcare.

I would encourage everyone to vote in favor of this discharge resolution. Help my son, help the other children who are dependent so much on the specialists. Thank you.

The SPEAKER. Is there anyone else seeking recognition before the Chair recognizes Representative Killion?

Representative Killion, for the second time.

Mr. KILLION. Thank you, Mr. Speaker.

Several weeks ago I sent an e-mail to all my colleagues, both Republican and Democrat, stating pretty much where we are right now. We on this side of the aisle and on the other side of the aisle want to cover the uninsured, all 800,000, and we have been working towards that.

I served as a member of the House Republican task force on health care, and a couple of those bills have actually moved forward. I have been working with Senator Erickson in the Senate on the same thing. There are points where we agree with the Governor and points where we disagree, but the fact of the matter is, in the next 24 hours we are not going to get that done.

Chairman Evans is right, we do have health insurance, but right now we have an opportunity to keep our doctors in Pennsylvania. You can have all the health-care coverage in the world. If you do not have doctors, it is not going to do you any good.

Let us discharge this bill. Let us vote on it today.

On the question recurring,

Will the House adopt Discharge Resolution No. 11?

The following roll call was recorded:

#### YEAS—148

Argall	Gibbons	Markosek	Roae
Baker	Gillespie	Marshall	Rock
Barrar	Gingrich	Marsico	Roebuck
Bear	Godshall	McI. Smith	Rohrer
Benninghoff	Goodman	McIlhattan	Ross
Beyer	Grell	Mensch	Rubley
Biancucci	Haluska	Metcalfe	Sainato
Boback	Harhai	Micozzie	Saylor
Boyd	Harhart	Millard	Scavella
Brennan	Harper	Miller	Schroder
Brooks	Harris	Milne	Seip
Buxton	Helm	Moul	Shimkus
Caltagirone	Hennessey	Moyer	Siptroth
Carroll	Hershey	Murt	Smith, K.
Casorio	Hess	Mustio	Smith, M.
Causar	Hickernell	Nailor	Smith, S.
Civera	Hornaman	Nickol	Solobay
Clymer	Hutchinson	O'Brien, M.	Sonney
Conklin	Josephs	O'Neill	Staback
Costa	Kauffman	Pallone	Stairs
Cox	Keller, M.K.	Payne	Steil
Creighton	Kenney	Payton	Stern
Cutler	Kessler	Peifer	Stevenson
Daley	Killion	Perry	Sturla
Dally	King	Perzel	Swanger
Denlinger	Kirkland	Petrarca	Taylor, J.
DiGirolamo	Kortz	Petri	Taylor, R.
Donatucci	Kotik	Phillips	Thomas
Ellis	Kula	Pickett	True
Evans, J.	Lentz	Pyle	Turzai
Everett	Longietti	Quigley	Verab
Fairchild	Mackereth	Quinn	Vulakovich
Fleck	Maher	Rapp	Wansacz
Gabig	Mahoney	Raymond	Watson
Geist	Major	Readshaw	White
George	Mann	Reed	Yewcic
Gergely	Mantz	Reichley	Yudichak

#### NAYS—50

Belfanti	Frankel	Melio	Surra
Bennington	Freeman	Mundy	Tangretti
Blackwell	Galloway	Myers	Vitali
Cohen	Gerber	Oliver	Wagner
Cruz	Gruela	Parker	Walko
Curry	Hanna	Pashinski	Waters
DeLuca	Harkins	Petrone	Wheatley
DePasquale	James	Preston	Williams
Dermody	Keller, W.	Ramaley	Wojnaroski
DeWeese	Levdansky	Sabatina	Youngblood
Eachus	Manderino	Samuelson	

Evans, D.  
Fabrizio

McCall  
McGeehan

Santoni  
Shapiro

O'Brien, D.,  
Speaker

#### NOT VOTING—1

Bishop

#### EXCUSED—4

Adolph

Bastian

Cappelli

Leach

A majority of the members elected to the House having voted in the affirmative, the question was determined in the affirmative and Discharge Resolution No. 11 was adopted.

The SPEAKER. The bill is discharged from the Appropriations Committee and will be placed on the calendar.

The Chair recognizes the majority leader, Representative DeWeese.

Mr. DeWEESE. Mr. Speaker, I would like to call up HB 1742.

#### PARLIAMENTARY INQUIRY

Mr. S. SMITH. Mr. Speaker, the motion the gentleman just made— A parliamentary inquiry, Mr. Speaker.

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

Mr. S. SMITH. Mr. Speaker, that bill I do not believe is where we were on the calendar, and I believe, given the previous proceedings, that the gentleman from Delaware was seeking recognition to bring up the special order of business, whatever the proper terminology is, to bring up the bill that was just discharged. So I am asking, is this bill that the majority leader just called up for a vote in order, Mr. Speaker?

The SPEAKER. Has the gentleman stated a point of parliamentary inquiry?

Mr. S. SMITH. Yes, Mr. Speaker. I will restate it, Mr. Speaker. Maybe I will understand it this time.

Mr. Speaker, the majority leader just moved to call up a bill which is not on the calendar, and I have not seen a supplemental calendar. So my question, Mr. Speaker, fundamentally was, is that out of order or is the gentleman in order to call that bill up in that manner?

The SPEAKER. The Chair will direct the minority leader's attention to supplemental calendar B, page 1.

Mr. S. SMITH. Mr. Speaker, were we on supplemental calendar B, because it is my understanding that we were somewhere in the midst of the original calendar?

Mr. DeWEESE. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The issue is that we were on the regular calendar. There was intervening business with the discharge resolution. The majority leader moved to the supplemental calendar. That is routine.

Mr. S. SMITH. Mr. Speaker, it is my understanding that you would have to go over the rest of the calendar in order to jump to that piece of legislation.

The SPEAKER. The majority leader has always enjoyed the discretion of controlling the order of the bills that we consider before this House.

Mr. S. SMITH. Mr. Speaker, then at what point in time is the gentleman from Delaware in order to call up HB 1973?

The SPEAKER. The bill has been placed on the calendar. It is not posted.

## SUPPLEMENTAL CALENDAR B

### BILLS ON CONCURRENCE IN SENATE AMENDMENTS

The House proceeded to consideration of concurrence in Senate amendments to **HB 1742, PN 4350**, entitled:

An Act requiring scrap processors and recycling facility operators to collect certain information relating to the purchase of scrap material; requiring commercial accounts; and restricting scrap processors and recycling facility operators from purchasing certain materials.

On the question,

Will the House concur in Senate amendments?

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

(Members proceeded to vote.)

### LEAVES OF ABSENCE

The SPEAKER. The Chair recognizes the majority whip, who requests that Representative OLIVER be placed on leave. The Chair sees no objection. The leave will be granted. The majority whip also requests that Representative BISHOP be placed on leave. The Chair hears no objection. That leave will also be granted.

### CONSIDERATION OF HB 1742 CONTINUED

On the question recurring,

Will the House concur in Senate amendments?

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

The following roll call was recorded:

#### YEAS—195

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

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

#### NAYS—2

Hutchinson Perry

#### NOT VOTING—0

#### EXCUSED—6

Adolph	Bishop	Leach	Oliver
Bastian	Cappelli		

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

Ordered, That the clerk inform the Senate accordingly.

\* \* \*

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

Mr. DeWEESE. Thank you, Mr. Speaker.

I would like to call up Mr. Fabrizio's proposal, HB 1177.

The House proceeded to consideration of concurrence in Senate amendments to **HB 1177, PN 4345**, entitled:

An Act amending Title 40 (Insurance) of the Pennsylvania Consolidated Statutes, further providing for definitions, for scope of service and for rights of health service doctors.

On the question,

Will the House concur in Senate amendments?

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

The following roll call was recorded:

## YEAS—197

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

## NAYS—0

## NOT VOTING—0

## EXCUSED—6

Adolph	Bishop	Leach	Oliver
Bastian	Cappelli		

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

Ordered, That the clerk inform the Senate accordingly.

The SPEAKER. The Chair recognizes the majority leader.

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

Mr. DeWEESE. Mr. Speaker, I would like to call up SB 1028, Mr. Wozniak's proposal, for the next vote.

Mr. S. SMITH. Mr. Speaker, I would like to ask for a roll-call vote on that motion.

Mr. DeWEESE. Mr. Speaker?

The SPEAKER. The House will be at ease.

The House will come to order.

For the information of the minority leader, there is no motion before the House. The majority leader simply called up SB 1028.

## CALENDAR CONTINUED

## BILL ON THIRD CONSIDERATION

The House proceeded to third consideration of **SB 1028, PN 2471**, entitled:

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.

On the question,

Will the House agree to the bill on third consideration?

## PARLIAMENTARY INQUIRIES

Mr. S. SMITH. Parliamentary inquiry, Mr. Speaker.

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

Mr. S. SMITH. Mr. Speaker, how then is a member to be recognized to call up a special order of business?

Mr. DeWEESE. Mr. Speaker?

The SPEAKER. The House will come to order.

Mr. DeWEESE. Will the Chair inform the membership as to the question before the House and the momentum of the evening as perceived by the Speaker and the Parliamentarian?

Mr. S. SMITH. Mr. Speaker, I had a parliamentary inquiry before the Chair when we last kind of—

Mr. DeWEESE. I am sorry. I am sorry, Mr. Smith. I did not remember that. I just wanted to get the procedures moving tonight.

The SPEAKER. To answer the majority leader, the issue before the House is third consideration and final passage of SB 1028, PN 2471.

In answer to the minority leader's question, the majority leader has always controlled the flow of legislation, and as long as the majority leader is seeking recognition—

Mr. S. SMITH. Mr. Speaker, my parliamentary—

The SPEAKER. —the above legislation will be in order. The Chair will get back to the—

Mr. S. SMITH. A further parliamentary inquiry, Mr. Speaker.

Then my question was, since you are suggesting that the Chair can just continuously recognize the majority leader like no other member of the body exists, how—

The SPEAKER. The majority leader—

Mr. S. SMITH. —how does the gentleman from Delaware be recognized for a motion to suspend the rules for a special order of business to move HB 1973 to second consideration?



The SPEAKER. Very simply, the Chair cannot answer that question. The Chair can only tell the minority leader that the Chair recognizes the majority leader to run the calendar. That is all that is in order right now, is SB 1028.

Mr. S. SMITH. Well, Mr. Speaker, a further parliamentary inquiry.

At what point do you ignore chapter 52 of Mason's Manual, a procedure that states specifically under the "Duties of Presiding Officer," and it talks about the responsibility of the Chair, "To guide and direct the proceedings..."—

The SPEAKER. The gentleman will suspend.

Mr. S. SMITH. —"...subject to the control and will of the body."

The SPEAKER. The gentleman will suspend.

The majority and minority leaders will come to the rostrum. The majority and minority leaders will come to the rostrum.

(Conference held at Speaker's podium.)

On the question recurring,

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—197

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

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

#### NAYS—0

#### NOT VOTING—0

#### EXCUSED—6

Adolph	Bishop	Leach	Oliver
Bastian	Cappelli		

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

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

#### STATEMENT BY MAJORITY LEADER

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

Mr. DeWEESE. Mr. Speaker, prior to announcing the next order of business relative to the colloquy that we had at the podium and the simultaneity in American life of the passing of Paul Newman last week, I think what we recently had was a failure to communicate.

We are willing. You and the Republicans prevailed, Mr. Minority Leader, in our exercise a few moments ago, and Mr. Killion's proposal will be given an opportunity for a vote on suspension of the rules later in our proceedings, but I do think that our calendar at this juncture will reflect a vote up or down on SB 1114, Mr. Kasunic's proposal.

#### BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **SB 1114, PN 2473**, entitled:

An Act designating the scenic view adjacent to State Route 40 in Wharton Township, Fayette County, as the "Blue Star Point Lookout"; designating the portion of US Route 20, known as West 26th Street, in Millcreek Township, Erie County, from Peninsula Drive to Powell Avenue as the John W. Groters Memorial Highway; designating a portion of Cottman Avenue (Route 73), Burholme Section, City of Philadelphia, as the Police Sergeant Stephen Liczbinski Memorial Highway.

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—197

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

NAYS—0

NOT VOTING—0

## EXCUSED—6

Adolph Bastian	Bishop Cappelli	Leach	Oliver
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The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

\* \* \*

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

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

The next order of business, SB 884, Senator Greenleaf's proposal on shortwave radio operators.

The House proceeded to third consideration of **SB 884, PN 2433**, entitled:

An Act amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, restricting municipalities from regulating amateur radio service communications.

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—196

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

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

## NAYS—1

Thomas

## NOT VOTING—0

## EXCUSED—6

Adolph	Bishop	Leach	Oliver
Bastian	Cappelli		

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

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same without amendment.

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

Mr. DeWEESE. Thank you, Mr. Speaker.

SB 763, the gentlelady from Allegheny County, Senator Orie's proposal on First Industries. SB 768; I apologize, Mr. Speaker.

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

Mr. DeWEESE. That was such a good bill, Mr. Speaker, we wanted to call it up twice in the same day.

The SPEAKER. The Chair thanks the gentleman.

Mr. DeWEESE. SB 1019, Mr. Speaker; SB 1019.

## SUPPLEMENTAL CALENDAR A

## BILLS ON SECOND CONSIDERATION

The House proceeded to second consideration of **SB 1019, PN 1711**, entitled:

An Act amending the act of December 22, 1983 (P.L.306, No.84), known as the Board of Vehicles Act, further providing for definitions, for grounds for disciplinary proceedings for vehicle shows, off-premise sales and exhibitions; providing for recreational vehicle shows, recreational vehicle off-premise sales, recreational vehicle exhibitions and recreational vehicle rallies; and further providing for vehicle shows, off-premise sales and exhibitions on Sundays.

On the question,

Will the House agree to the bill on second consideration?

Bill was agreed to.

\* \* \*

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

Mr. DeWEESE. Thank you, Mr. Speaker.

The next bill for consideration, SB 295, Senator Browne, idling restrictions on big trucks.

The House proceeded to second consideration of **SB 295, PN 2432**, entitled:

An Act providing for idling restrictions on diesel-powered motor vehicles; and imposing a penalty.

On the question,

Will the House agree to the bill on second consideration?

Mr. **SCAVELLO** offered the following amendment No. **A09422**:

Amend Sec. 9, page 10, lines 27 and 28, by striking out "Except as provided in SUBSECTIONS (B) AND (C), this" and inserting

This

Amend Sec. 9, page 11, lines 1 through 16, by striking out all of lines 1 through 15 and "(D)" in line 16 and inserting

(b)

On the question,

Will the House agree to the amendment?

## AMENDMENT WITHDRAWN

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

Mr. **SCAVELLO**. Thank you, Mr. Speaker.

I wish to withdraw the amendment.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the bill on second consideration?

Mr. **SCAVELLO** offered the following amendment No. **A09452**:

Amend Sec. 5, page 9, line 1, by striking out "AND CIVIL PENALTIES"

Amend Sec. 5, page 9, line 7, by inserting a period after "ACT"

Amend Sec. 5, page 9, lines 7 through 13, by striking out ", AND MAY ASSESS A CIVIL PENALTY FOR THE" in line 7 and all of lines 8 through 13

Amend Sec. 5, page 9, line 20, by striking out "OR ASSESSED A CIVIL PENALTY"

Amend Sec. 6, page 9, lines 28 and 29, by striking out ", AND ALL CIVIL PENALTIES FOR VIOLATIONS OF THIS ACT,"

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

#### AMENDMENT WITHDRAWN

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

Mr. SCAVELLO. Thank you, Mr. Speaker.

I also would like to withdraw this amendment as well. Thank you.

The SPEAKER. The Chair thanks the gentleman.

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

Mr. **STEIL** offered the following amendment No. **A09482**:

Amend Sec. 2, page 3, by inserting between lines 19 and 20  
"Motor vehicle." As defined under 75 Pa.C.S. § 102 (relating to definitions).

Amend Sec. 3, page 4, line 5, by inserting after "VEHICLE"  
where it appears the first time  
operated on a highway

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

#### AMENDMENT WITHDRAWN

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

Mr. STEIL. Thank you, Mr. Speaker.

That amendment is being withdrawn.

The SPEAKER. The Chair thanks the gentleman.

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

Mr. **CARROLL** offered the following amendment No. **A09552**:

Amend Sec. 3, page 6, lines 13 and 14, by striking out "AT THE START OF THE REST PERIOD"

Amend Sec. 3, page 6, line 15, by inserting after "Fahrenheit"  
at any time during the rest or sleep period

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

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

Mr. CARROLL. Thank you, Mr. Speaker.

Mr. Speaker, this amendment is a technical amendment in nature. It essentially provides more flexibility to over-the-road truckers for their rest periods.

The SPEAKER. Representative Vitali, on the amendment.

Mr. VITALI. Would the maker of the amendment stand for brief interrogation?

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

Mr. VITALI. I just wanted maybe a little bit of a further explanation. I am trying to get at how this changes the restrictions on idling. Does it make it so that more idling can occur or less idling can occur?

Mr. CARROLL. The amendment would provide for a greater ability to idle a truck, particularly if the truck is stopped when the temperature is 40 degrees and the temperature falls below 40 degrees during the rest period. The amendment would allow the trucker to continue to idle the truck while the temperature is below 40 degrees.

Mr. VITALI. Okay. Have any groups weighed in on this that you are aware of? Have you seen any correspondence, e-mails, letters from environmental groups, transportation, any groups one way or the other that have weighed in on this one?

Mr. CARROLL. What I can tell you is that the department is in favor of the amendment, and I have heard no objections from any groups that I am aware of.

Mr. VITALI. Thank you.

The SPEAKER. Representative Markosek.

Mr. MARKOSEK. Thank you, Mr. Speaker.

Very briefly, this is an agreed-to amendment. Thank you.

The SPEAKER. The Chair thanks the gentleman.

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

The following roll call was recorded:

#### YEAS—197

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

DiGirolamo	Kotik	Pyle	Wansacz
Donatucci	Kula	Quigley	Waters
Eachus	Lentz	Quinn	Watson
Ellis	Levdansky	Ramaley	Wheatley
Evans, D.	Longietti	Rapp	White
Evans, J.	Mackereth	Raymond	Williams
Everett	Maher	Readshaw	Wojnaroski
Fabrizio	Mahoney	Reed	Yewcic
Fairchild	Major	Reichley	Youngblood
Fleck	Manderino	Roae	Yudichak
Frankel	Mann	Rock	
Freeman	Mantz	Roebuck	O'Brien, D.,
Gabig	Markosek	Rohrer	Speaker
Galloway	Marshall	Ross	

NAYS—0

NOT VOTING—0

EXCUSED—6

Adolph	Bishop	Leach	Oliver
Bastian	Cappelli		

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. **MARKOSEK** offered the following amendment No. **A09553**:

Amend Sec. 3, page 4, line 5, by striking out "VEHICLE"

Amend Sec. 3, page 4, line 16, by striking out "VEHICLE" where it appears the second time

Amend Sec. 3, page 7, line 2, by inserting after "BUS" or school vehicle

Amend Sec. 4, page 8, line 7, by striking out "LIMIT" where it appears the first time

Amend Sec. 4, page 8, line 7, by striking out "LIMIT" where it appears the second time

Amend Sec. 5, page 8, line 21, by striking out "VEHICLE"

Amend Sec. 5, page 8, line 30, by inserting after "\$300" and court costs

On the question,

Will the House agree to the amendment?

AMENDMENT WITHDRAWN

The **SPEAKER**. The Chair recognizes the gentleman, Representative Markosek, on the amendment.

Mr. **MARKOSEK**. Thank you, Mr. Speaker.

That amendment is withdrawn.

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

On the question recurring,

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

Mr. **STEIL** offered the following amendment No. **A09584**:

Amend Sec. 2, page 3, by inserting between lines 19 and 20 "Motor vehicle." As defined under 75 Pa.C.S. § 102 (relating to definitions).

On the question,

Will the House agree to the amendment?

The **SPEAKER**. The Chair recognizes the gentleman, Representative Steil.

Mr. **STEIL**. Thank you, Mr. Speaker.

This amendment simply defines "motor vehicle" in accordance with the Title 75 definition, and I believe it is an agreed-to amendment.

The **SPEAKER**. The Chair thanks the gentleman, Representative Markosek.

Mr. **MARKOSEK**. Thank you, Mr. Speaker.

This is an agreed-to amendment.

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

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—197

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

Everett	Maier	Readshaw	Wojnaroski
Fabrizio	Mahoney	Reed	Yewcic
Fairchild	Major	Reichley	Youngblood
Fleck	Manderino	Roae	Yudichak
Frankel	Mann	Rock	
Freeman	Mantz	Roebuck	O'Brien, D.,
Gabig	Markosek	Rohrer	Speaker
Galloway	Marshall	Ross	

NAYS—0

NOT VOTING—0

EXCUSED—6

Adolph	Bishop	Leach	Oliver
Bastian	Cappelli		

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. **MARKOSEK** offered the following amendment No. **A09585**:

Amend Sec. 3, page 4, line 5, by striking out "VEHICLE"

Amend Sec. 3, page 4, line 16, by striking out "VEHICLE" where it appears the second time

Amend Sec. 3, page 7, line 2, by inserting after "BUS" or school vehicle

Amend Sec. 4, page 8, line 7, by striking out "LIMIT" where it appears the first time

Amend Sec. 4, page 8, line 7, by striking out "LIMIT" where it appears the second time

Amend Sec. 5, page 8, line 21, by striking out "VEHICLE"

Amend Sec. 5, page 8, line 30, by inserting after "OF" not less than \$150 and not more than

Amend Sec. 5, page 8, line 30, by inserting after "\$300" and court costs

On the question,

Will the House agree to the amendment?

AMENDMENT WITHDRAWN

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

Mr. **MARKOSEK**. That amendment is withdrawn, Mr. Speaker.

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

On the question recurring,

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

Mr. **MARKOSEK** offered the following amendment No. **A09652**:

Amend Sec. 4, page 8, line 15, by striking out "NOT"

On the question,

Will the House agree to the amendment?

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

Mr. **MARKOSEK**. Thank you, Mr. Speaker.

Mr. Speaker, this amendment allows the weight of the idle reduction technology to be included in the weight allowance offset for the gross vehicle registration. We have got DEP (Department of Environmental Protection), PENNDOT, and the Pennsylvania Motor Truck Association all in agreement on this, Mr. Speaker.

I would urge the members' support.

### LEAVE OF ABSENCE

The **SPEAKER**. The Chair recognizes the minority whip, who requests that Representative **RUBLEY** be placed on leave. The Chair hears no objection. The leave will be granted.

### CONSIDERATION OF SB 295 CONTINUED

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—196

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

Evans, D.	Longiotti	Rapp	White
Evans, J.	Mackereth	Raymond	Williams
Everett	Maher	Readshaw	Wojnaroski
Fabrizio	Mahoney	Reed	Yewcic
Fairchild	Major	Reichley	Youngblood
Fleck	Manderino	Roae	Yudichak
Frankel	Mann	Rock	
Freeman	Mantz	Roebuck	O'Brien, D.,
Gabig	Markosek	Rohrer	Speaker
Galloway	Marshall		

NAYS—0

NOT VOTING—0

EXCUSED—7

Adolph	Bishop	Leach	Rubley
Bastian	Cappelli	Oliver	

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. **MARKOSEK** offered the following amendment No. **A09664**:

Amend Sec. 3, page 4, lines 6 and 7, by striking out "OR THE OWNER OR OPERATOR OF THE" in line 6, all of line 7 and inserting

shall cause and no owner or operator of the location where the vehicle loads, unloads or parks shall

On the question,

Will the House agree to the amendment?

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

Mr. **MARKOSEK**. Thank you, Mr. Speaker.

Mr. Speaker, this amendment ensures consistency with the Department of Environmental Protection regulations regarding cooperation of the facility owners in enforcing the aspects of this piece of legislation.

Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—196

Argall	Geist	Marsico	Ross
Baker	George	McCall	Sabatina
Barrar	Gerber	McGeehan	Sainato
Bear	Gergely	McI. Smith	Samuelson
Belfanti	Gibbons	McIlhatten	Santoni
Benninghoff	Gillespie	Melio	Saylor
Bennington	Gingrich	Mensch	Scavello
Beyer	Godshall	Metcalfe	Schroder

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

NAYS—0

NOT VOTING—0

EXCUSED—7

Adolph	Bishop	Leach	Rubley
Bastian	Cappelli	Oliver	

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. **MARKOSEK** offered the following amendment No. **A09697**:

Amend Sec. 3, page 4, line 5, by striking out "VEHICLE" where it appears the second time

Amend Sec. 3, page 4, line 16, by striking out "VEHICLE" where it appears the second time

Amend Sec. 3, page 7, line 2, by inserting after "BUS"  
or school vehicle

Amend Sec. 4, page 8, line 7, by striking out "LIMIT" where it appears the first time

Amend Sec. 4, page 8, line 7, by striking out "LIMIT" where it appears the second time

Amend Sec. 5, page 8, line 21, by striking out "VEHICLE"

Amend Sec. 5, page 8, line 30, by inserting after "OF"  
not less than \$150 and not more than

Amend Sec. 5, page 8, line 30, by inserting after "\$300"  
and court costs

On the question,

Will the House agree to the amendment?

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

Mr. MARKOSEK. Thank you, Mr. Speaker.

Mr. Speaker, this is a technical amendment which allows for a range of fines, from a minimum of \$150 to a maximum of \$300, and this is agreed to by the Pennsylvania Motor Truck Association. Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

#### YEAS—196

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

Fleck  
Frankel  
Freeman  
Gabig  
Galloway

Manderino  
Mann  
Mantz  
Markosek  
Marshall

Roae  
Rock  
Roebuck  
Rohrer

Yudichak  
O'Brien, D.,  
Speaker

NAYS—0

NOT VOTING—0

EXCUSED—7

Adolph  
Bastian

Bishop  
Cappelli

Leach  
Oliver

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?

#### RULES SUSPENDED

The SPEAKER. The Chair recognizes the gentleman from Allegheny County, Representative Markosek, who makes a motion to suspend the rules for the purpose of offering amendment A09701, which the clerk will read.

The clerk read the following amendment No. **A09701**:

Amend Bill, page 11, by inserting between lines 19 and 20  
Section 10. Applicability.

The diesel idling requirements of this act are not applicable to the operating permit required under 25 Pa. Code Ch. 127 (relating to construction, modification, reactivation and operation of sources). No requirements under this act may be incorporated into any operating permits issued by the department under 25 Pa. Code Ch. 127.

On the question,

Will the House agree to the motion?

The SPEAKER. The Chair recognizes Representative Markosek on the motion to suspend.

Mr. MARKOSEK. Thank you, Mr. Speaker.

I would urge the members to vote "yes" on the motion to suspend. Thank you.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the motion?

The following roll call was recorded:

#### YEAS—189

Argall  
Baker  
Barrar  
Bear  
Belfanti  
Benninghoff  
Bennington  
Beyer

Gabig  
Galloway  
Geist  
George  
Gerber  
Gergely  
Gibbons  
Gillespie

Marshall  
Marsico  
McCall  
McGeehan  
McI. Smith  
McIlhattan  
Melio  
Mensch

Ross  
Sabatina  
Sainato  
Samuelson  
Santoni  
Saylor  
Scavello  
Schroder



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

## NAYS—7

Grell	Kessler	Murt	Swanger
Kauffman	Milne	Seip	

## NOT VOTING—0

## EXCUSED—7

Adolph	Bishop	Leach	Rubley
Bastian	Cappelli	Oliver	

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

On the question recurring,

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

Mr. **MARKOSEK** offered the following amendment No. **A09701**:

Amend Bill, page 11, by inserting between lines 19 and 20 Section 10. Applicability.

The diesel idling requirements of this act are not applicable to the operating permit required under 25 Pa. Code Ch. 127 (relating to construction, modification, reactivation and operation of sources). No requirements under this act may be incorporated into any operating permits issued by the department under 25 Pa. Code Ch. 127.

On the question,

Will the House agree to the amendment?

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

Mr. **MARKOSEK**. Thank you, Mr. Speaker.

Mr. Speaker, this amendment clarifies that the idling provision does not apply to the Title 5 permit provisions agreement, and this is in agreement with the Chamber of Commerce, the Pennsylvania State Chamber, as well as the Department of Environmental Protection.

Thank you, Mr. Speaker.

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

Mr. **VITALI**. Will the gentleman stand for brief interrogation?

The **SPEAKER**. Representative Markosek indicates he will stand for interrogation. Representative Vitali is in order and may proceed.

Mr. **VITALI**. I am trying to get at what this does. On the surface, just by quickly reading the half dozen lines, does it sort of exempt construction diesel engines from this? Is that what it is doing?

Mr. **MARKOSEK**. This only deals with the idling of trucks, Mr. Speaker, and—

Mr. **VITALI**. But what does—

Mr. **MARKOSEK**. They will not have to be considered as part of the Title 5 regulations, which are Federal provisions that have to do with auto emission standards.

Mr. **VITALI**. So if this goes in, is there a category of diesel engines that will not be restricted as to the amount of time they can idle?

Mr. **MARKOSEK**. Well, that is spelled out in the bill, in other portions of the bill, Mr. Speaker.

Mr. **VITALI**. Okay. Thank you. That concludes my questions.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

## YEAS—196

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

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

NAYS—0

NOT VOTING—0

EXCUSED—7

Adolph	Bishop	Leach	Rubley
Bastian	Cappelli	Oliver	

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

On the question recurring,

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

Bill as amended was agreed to.

(Bill as amended will be reprinted.)

\* \* \*

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

Mr. DeWEESE. Thank you, Mr. Speaker.

The next order of business would be SB 908 on second consideration. It deals with auctioneers and eBay.

The House proceeded to second consideration of **SB 908, PN 2374**, entitled:

An Act amending the act of December 22, 1983 (P.L.327, No.85), known as the Auctioneer and Auction Licensing Act, further providing for auctioneer and apprentice auctioneer licenses.

On the question,

Will the House agree to the bill on second consideration?

Bill was agreed to.

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

Mr. DeWEESE. The next order of business, Mr. Speaker, is SB 1107, Senator Folmer. It deals with child care for members in the military service.

## CALENDAR CONTINUED

### BILL ON THIRD CONSIDERATION

The House proceeded to third consideration of **SB 1107, PN 2472**, entitled:

An Act amending Titles 23 (Domestic Relations) and 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, further providing for modification of existing custody orders; and providing for protection of deployed members of the Pennsylvania National Guard and reserve components in child custody arrangements.

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?

The Chair recognizes Representative Bennington.

Ms. BENNINGTON. Thank you, Mr. Speaker.

While the spirit of this bill is admirable, as a family law attorney, certain key provisions of this bill ignore the best interest of the children, which is a prevailing standard in custody cases.

The first section of this bill only permits a temporary order to be entered, and it may be interpreted by a court as a prohibition against entering a more permanent order while the member is away or a final order necessary to enroll a child in school.

The second provision of this bill requires an immediate return to the custody order in place before the service member was deployed. Given an extended absence by the service member, the reinstatement of the prior order may not be in the child's best interest. The returning service member may not be physically or emotionally able to care for the child. These factors should be subject to the court's review.

The final section of this bill prohibits the court from considering the absence of the deployed parent as a factor in a custody determination. Although absence should not be the sole factor, it is a factor that should be considered. Depending on the time period of the absence, the parent may be a stranger.

The legislation could also impact other parents who are absent for an extended time for a reason other than deployment, who could argue unequal treatment under this bill.

For these reasons I would urge a "no" vote on SB 1107. Thank you.

The SPEAKER. The Chair recognizes Representative Vitali.

Mr. VITALI. Thank you, Mr. Speaker.

I concur in the sentiments of the previous speaker. I also used to practice family law, although my experience is much more dated. But the standard for dealing with children is, in a

way, very clear and very simple. When we are dealing with where a child should stay, be it with mom or dad, the judge really, traditionally, looks at both households, both parents, and says, where is the child going to do best? What is in the best interest of the child? It is a very simple standard.

The reality is that this bill changes the standard from best interest of the child to best interest of the soldier, and although I understand why you are doing that, I think we always have to put kids first. We always have to put kids first. Sure, we need to respect our military but not at the expense of putting kids first.

As the previous speaker had said, this bill actually prevents a judge from looking at parts of reality. It actually prevents a judge from considering whether a parent has been absent for 2 or 4 years. Now, if you have a 6-month-old child when a parent leaves and now that child is now 4 1/2, that is a real big deal, not having seen that parent in 4 years, and saying to the judge, you have to ignore that in considering what is in the best interest of the child.

Mr. Speaker, although the sentiments of this legislation are good, I think that we do the children, the children of Pennsylvania, a disservice from deviating from the best-interest-of-the-child standard, and I also would urge a "no" vote.

The SPEAKER. Representative Caltagirone.

Mr. CALTAGIRONE. Respectfully, I have to disagree with the two previous speakers. When someone is deployed overseas, what we are saying here is that that person cannot be represented if they are, let us say, in Iraq or Afghanistan and a custody issue arises. The court still has jurisdiction over what is the best interest of the children. But that aside, what we are saying is, for a deployed person in the military, they should not be denied their rights because they happen to be out of the country. That is what this bill is all about. It is not taking any of the rights away from the children or the judge. That is it in a nutshell.

I would ask for your support for the legislation.

The SPEAKER. Representative Bennington, for the second time.

Ms. BENNINGTON. Thank you, Mr. Speaker.

With all due respect, that is exactly what this bill does. It takes the rights away from the child and gives them to the parents.

While this bill is admirable, it changes the standards of custody in Pennsylvania. I understand why this vote is important for those seeking reelection. However, it does not make good law.

The SPEAKER. Representative Harper.

Ms. HARPER. Thank you, Mr. Speaker.

I rise in support of SB 1107 largely for the same reasons as Representative Caltagirone.

We cannot send our young soldiers to Afghanistan or Iraq and then have them worried about custody proceedings back here at home. It is not fair to them.

Yesterday Representative Manderino amended this bill to change the standard to allow best interest of the child to be considered as it should be, but the bill essentially protects our young men and women, our young parents, while they are overseas from having to deal with the emotional issues that come along with a custody battle where they cannot be in the courtroom and talk to the judge. That is what it does. It is a temporary measure. As all of the family lawyers here know, all custody orders are temporary anyway.

I think that this bill is needed to ensure our soldiers who are parents are treated fairly while they are protecting us and our freedoms a world away from a courtroom where a custody petition may be brought.

I ask my colleagues to remember that and vote in support of SB 1107. Thank you, Mr. Speaker.

The SPEAKER. Representative Lentz.

Mr. LENTZ. Mr. Speaker, I also rise in support of the bill.

I would encourage the members, if they have not, to read the plain language in the legislation. It does not do anything other than what two of the previous speakers have highlighted.

Having been overseas and had soldiers in my command who had custody disputes arise during their deployment, I can tell you that it is absolutely unfair not just to the soldier but also to the children and everybody involved. Imagine a soldier on a cell phone or in a morale and welfare tent on a phone some 8,000 miles away in a different time zone attempting to deal with the contentious issue of a change in a custody order.

This bill does not change the law in Pennsylvania with regard to the standard for custody. It simply prevents that situation where a young man or a young woman gets deployed overseas and their spouse, for whatever reason, goes into court knowing their deployed status and attempts to change the status quo. A court can always intervene and can under this legislation to protect the safety and welfare of a child, but what this bill prevents is the soldier overseas having to deal with this important issue in a position when they really are handcuffed from doing so.

So I would urge all the members to support the bill.

The SPEAKER. Representative Vitali, for the second time.

Mr. VITALI. Thank you, Mr. Speaker.

I wanted to follow up on that discussion, because let us read the language of the bill. This deals with when everyone is home – soldier is home, child, mom, dad – everyone is home. This deals with what happens once he is already home and it is not in a temporary situation. So let us just read the language, and I am on page 2, lines 26 through 30, "...no court may consider the absence of the eligible servicemember by reason of that deployment in determining the best interest of the child." That section refers to once the soldier is home, not when he is in a foxhole but maybe 4 years later, once everybody is home. And it does not say they cannot do it for a temporary period of time. It simply says they cannot do it, period. That is what the language of the bill says, and to sort of cuff the hands of a judge who is trying to weigh factors to legally say you cannot consider a 4-year absence in considering what is best for the child once everyone is home, that is wrong.

I will say one more fact, and I do not mean this to be callous, but we have an all-volunteer Army today, we have an all-volunteer Army, and no one is being forced to go overseas. It is a voluntary act to enlist.

If you want to put children first, if you want to put children first, I urge you to vote "no." Thank you.

The SPEAKER. Representative Murt.

Mr. MURT. Mr. Speaker, I take personal offense to those last remarks. I served in Iraq for 12 months in combat. Four years ago today I was in combat. I did not volunteer to go there, I did not volunteer to leave my wife and my three children, and I certainly did not volunteer to get the commendations that I received. I take offense to those remarks. Not too many people are volunteering to go to Iraq. They are

volunteering to serve. Not many people volunteer to go into combat.

I want to tell you something else, too, and I want to thank Representative Lentz for his remarks. He knows as well as I do if a soldier, a marine, a sailor, an airman, military personnel are worrying about their family, worrying about custody issues and so forth, they are not focusing on their mission, and they are going to get hurt and they might get killed. So I want to thank my colleague for making those remarks. He has been a commander in Iraq in combat, and I have great respect for his input on that issue.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,  
Shall the bill pass finally?

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

The following roll call was recorded:

#### YEAS—192

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

Freeman  
Gabig  
Galloway

Mann  
Mantz  
Markosek

Roae  
Rock

O'Brien, D.,  
Speaker

#### NAYS—4

Bennington

Vitali

Wagner

Walko

#### NOT VOTING—0

#### EXCUSED—7

Adolph  
Bastian

Bishop  
Cappelli

Leach  
Oliver

Rubley

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

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

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

Mr. DeWEESE. The next order of business, Mr. Speaker, is SB 1263, Senator Rafferty's proposal on wiretap. It has been a subject of a lot of focus this week, and that is our next order of business.

### BILL ON SECOND CONSIDERATION

The House proceeded to second consideration of **SB 1263, PN 2157**, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in wiretapping and electronic surveillance, further providing for expiration of chapter.

On the question,

Will the House agree to the bill on second consideration?

Mr. VEREB offered the following amendment No. **A09367**:

Amend Title, page 1, line 4, by inserting after "PROVIDING"  
for disclosure of contents, for requirements, for  
requirements for governmental access and

Amend Title, page 1, line 4, by removing the period after  
"CHAPTER" and inserting  
; and making an editorial change.

Amend Bill, page 1, lines 7 and 8, by striking out all of said lines  
and inserting

Section 1. Section 5742 heading and (a) introductory paragraph  
of Title 18 of the Pennsylvania Consolidated Statutes are amended,  
subsection (a) is amended by adding a paragraph and the section is  
amended by adding subsections to read:

§ 5742. Disclosure of contents and records.

(a) Prohibitions.—Except as provided in subsection (b) and (c):

\* \* \*

(3) A person or entity providing an electronic  
communication service or remote computing service to the public  
shall not knowingly divulge a record or other information  
pertaining to a subscriber to, or customer of, the service.

\* \* \*

(c) Exceptions for disclosure of records or other information.—A  
person or entity may divulge a record or other information pertaining to

a subscriber to, or customer of, the service if any of the following paragraphs apply:

(1) A record or other information may be divulged incident to any service or other business operation or to the protection of the rights or property of the provider.

(2) A record or other information may be divulged to any of the following:

(i) An investigative or law enforcement official as authorized in section 5743.

(ii) The subscriber or customer upon request.

(iii) A third party, upon receipt from the requester of adequate proof of lawful consent from the subscriber to, or customer of, the service to release the information to the third party.

(iv) A party to a legal proceeding, upon receipt from the party of a court order entered under subsection (c.1). This subparagraph does not apply to an investigative or law enforcement official authorized under section 5743.

(3) Notwithstanding paragraph (2), a record or other information may be divulged as authorized by a Commonwealth statute or as authorized by a Commonwealth regulatory agency with oversight over the person or entity.

(4) Subject to paragraph (2), a record or other information may be divulged as authorized by Federal law or as authorized by a Federal regulatory agency having oversight over the person or entity.

(c.1) Order for release of records.—

(1) An order to divulge a record or other information pertaining to a subscriber or customer under subsection (c)(2)(iv) must be approved by a court presiding over the proceeding in which a party seeks the record or other information.

(2) The order may be issued only after the subscriber or customer received notice from the party seeking the record or other information and was given an opportunity to be heard.

(3) The court may issue a preliminary order directing the provider to furnish the court with the identity of or contact information for the subscriber or customer if the party does not possess this information.

(4) An order for disclosure of a record or other information shall be issued only if the party seeking disclosure demonstrates specific and articulable facts to show that there are reasonable grounds to believe that the record or other information sought is relevant and material to the proceeding. In making its determination, the court shall consider the totality of the circumstances, including input of the subscriber or customer, if any, and the likely impact of the provider.

Section 2. Sections 5743(c)(1), 5746(a) and 5781 of Title 18 are amended to read:

§ 5743. Requirements for governmental access.

\* \* \*

(c) Records concerning electronic communication service or remote computing service.—

[(1) Except as provided in paragraph (2), a provider of electronic communication service or remote computing service may disclose a record or other information pertaining to a subscriber to or customer of the service, not including the contents of communication covered by subsection (a) or (b), to any person other than an investigative or law enforcement officer.]

\* \* \*

§ 5746. Cost reimbursement.

(a) Payment.—Except as otherwise provided in subsection (c), an investigative or law enforcement officer obtaining the contents of communications, records or other information under section 5742 (relating to disclosure of contents and records), 5743 (relating to requirements for governmental access) or 5744 (relating to backup preservation) shall reimburse the person or entity assembling or

providing the information for such costs as are reasonably necessary and which have been directly incurred in searching for, assembling, reproducing and otherwise providing the information. Reimbursable costs shall include any costs due to necessary disruption of normal operations of any electronic communication service or remote computing service in which the information may be stored.

\* \* \*

Amend Sec. 2, page 1, line 12, by striking out "2" and inserting  
3

On the question,

Will the House agree to the amendment?

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

Mr. VEREB. Thank you, Mr. Speaker.

This amendment, similar language passed a week and a half ago unanimously in the chamber here. It is for the protection of all Pennsylvanian's phone records and electronic communications records, and I ask for your support again. Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

#### YEAS—196

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

Everett	Maier	Readshaw	Wojnaroski
Fabrizio	Mahoney	Reed	Yewcic
Fairchild	Major	Reichley	Youngblood
Fleck	Manderino	Roae	Yudichak
Frankel	Mann	Rock	
Freeman	Mantz	Roebuck	O'Brien, D.,
Gabig	Markosek	Rohrer	Speaker
Galloway	Marshall		

NAYS—0

NOT VOTING—0

EXCUSED—7

Adolph	Bishop	Leach	Rubley
Bastian	Cappelli	Oliver	

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?

The SPEAKER. The House will be at ease.

The House will come to order.

On the question recurring,

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

Mr. **SOLOBAY** offered the following amendment No. **A09448**:

Amend Title, page 1, line 4, by removing the period after "CHAPTER" and inserting

; and further providing for expungement of criminal history record and for juvenile records.

Amend Bill, page 1, by inserting between lines 11 and 12

Section 2. Section 9122(a)(3), (b), (b.1), (c), (d), (e) and (f) of Title 18 are amended and the section is amended by adding a subsection to read:

§ 9122. Expungement.

(a) Specific proceedings.—Criminal history record information shall be expunged in a specific criminal proceeding when:

\* \* \*

(3) a person 21 years of age or older who has been convicted of a violation of section 6308 (relating to purchase, consumption, possession or transportation of liquor or malt or brewed beverages) which occurred on or after the person attained 18 years of age petitions the court of common pleas in the county where the conviction occurred seeking expungement and the person has satisfied all terms and conditions of the sentence imposed for the violation, including any suspension of operating privileges imposed pursuant to section 6310.4 (relating to restriction of operating privileges). Upon review of the petition, the court shall order the expungement of all criminal history record information and all administrative records of the Department of Transportation relating to said conviction.

(b) Generally.—Criminal history record information may be expunged when:

(1) [an] An individual who is the subject of the information reaches 70 years of age and has been free of arrest or

prosecution for ten years following final release from confinement or supervision]; or].

(2) [an] An individual who is the subject of the information has been dead for three years.

(3) (i) An individual who is the subject of the information petitions for expungement of the information and the individual has been free of arrest or prosecution following final release from confinement or supervision for the greater of the following time periods:

(A) In the case of a summary offense, five years.

(B) In the case of a misdemeanor of the third degree, seven years.

(C) In the case of a misdemeanor of the second degree, ten years.

(ii) This paragraph shall not apply to any individual who has been convicted of:

(A) An offense punishable by imprisonment of more than two years.

(B) Four or more offenses punishable by imprisonment of one or more years.

(C) A violation of section 2701 (relating to simple assault).

(D) An offense classified as a misdemeanor of the second degree committed when the individual was at least 25 years of age.

(E) A violation of section 3126 (relating to indecent assault).

(F) A violation of section 3129 (relating to sexual intercourse with animal).

(G) A violation of section 5511 (relating to cruelty to animals).

(H) A violation of any provision of Chapter 61 (relating to firearms and other dangerous articles).

(I) A violation of an offense for which registration is required under 42 Pa.C.S. § 9795.1 (relating to registration).

(iii) Expungement shall be at the discretion of the court. In considering whether to grant the petition for expungement, the court shall consider all relevant factors, including any reasons the Commonwealth may give for wishing to retain the records; the petitioner's age, criminal record and employment history; the length of time that has elapsed between the arrest and the petition to expunge; and the specific adverse consequences the petitioner may endure should expunction be denied.

(b.1) Prohibition.—A court shall not have the authority to order expungement of the defendant's arrest record where the defendant was placed on Accelerated Rehabilitative Disposition for a violation of any offense set forth in any of the following where the victim is under 18 years of age:

Section 3121 (relating to rape).

Section 3122.1 (relating to statutory sexual assault).

Section 3123 (relating to involuntary deviate sexual intercourse).

Section 3124.1 (relating to sexual assault).

Section 3125 (relating to aggravated indecent assault).

Section 3126 (relating to indecent assault).

Section 3127 (relating to indecent exposure).

Section 5902(b) (relating to prostitution and related offenses).

Section 5903 (relating to obscene and other sexual materials and performances).

(c) Maintenance of certain information required or authorized.—Notwithstanding any other provision of this chapter, the following apply:

(1) The prosecuting attorney and the central repository shall, and the court may, maintain a list of the names and other criminal history record information of persons whose records are required by law or court rule to be expunged where the individual has successfully completed the conditions of any pretrial or post-trial diversion or probation program. Such information shall be used solely for the purpose of determining subsequent eligibility for such programs and for identifying persons in criminal investigations. Criminal history record information may be expunged as provided in subsection (b)(1) and (2). [Such information]

(2) The central repository shall maintain the name, identifying information, fingerprints and offense record of a person whose records are expunged under subsection(b)(3). Information under this paragraph may be used in consideration for a pardon and shall be admissible in court solely for the following purposes:

(i) Grading a subsequent offense which is dependent upon a prior conviction.

(ii) Sentencing for a subsequent offense if a prior conviction might result in a prior record score under 204 Pa. Code Ch. 303 (relating to sentencing guidelines).

(iii) Identifying a person in a criminal investigation.

(iv) Eligibility for a pretrial or post-trial diversion or probation program.

(3) Information under this subsection shall be made available to any court or law enforcement agency upon request indicating the purpose for use.

(d) Notice of expungement.—[Notice of expungement shall promptly be submitted to the central repository which shall notify all criminal justice agencies which have received the criminal history record information to be expunged.]

(1) A court's expungement order shall direct the appropriate repositories of criminal history record information to do all of the following:

(i) Expunge and destroy the criminal history record information.

(ii) Request that a Federal, state or local agency to which the criminal history record information has been made available return the criminal history record information if possible.

(iii) Destroy criminal history record information returned under subparagraph (ii).

(iv) File with the court, within 30 days, the expungement order and an affidavit of compliance with the expungement order. No copy of the expungement order or the affidavit may be retained by the repository.

(2) Upon receipt of the affidavit under paragraph (1)(iv), the court shall seal the expungement order and the affidavit. Except for enforcement of this subsection, a document sealed under this paragraph may not be examined by any person or agency.

(e) Public records.—[Public]

(1) Except as set forth in paragraph (2), public records listed in section 9104(a) (relating to scope) shall not be expunged.

(2) Paragraph (1) does not apply to a document listed in section 9104(a)(2). This paragraph includes a court docket.

(f) District attorney's notice.—The court shall give [ten] 20 days prior notice to the district attorney of the county where the original charge was filed of any applications for expungement under the provisions of subsection (a)(2) or (b)(3).

(g) Status.—

(1) Except as set forth in subsection (c) or (d)(2), an expunged record of arrest, prosecution or conviction shall not be regarded as an arrest, prosecution or conviction for a public or private purpose. This paragraph includes the purpose of any

statute, regulation, license, questionnaire, employment application or civil or criminal proceeding.

(2) A person may not knowingly disclose criminal history record information which is subject to an expungement order. A person that violates this paragraph commits a summary offense.

Section 3. Section 9123(a) of Title 18 is amended to read:

§ 9123. Juvenile records.

(a) Expungement of juvenile records.—Notwithstanding the provisions of section 9105 (relating to other criminal justice information) and except upon cause shown, expungement of records of juvenile delinquency cases and cases involving summary offenses committed while the individual was under 18 years of age, wherever kept or retained, shall occur after 30 days' notice to the district attorney, whenever the court upon its motion or upon the motion of a child or the parents or guardian finds:

(1) a complaint is filed which is not substantiated or the petition which is filed as a result of a complaint is dismissed by the court;

(2) six months have elapsed since the final discharge of the person from supervision under a consent decree and no proceeding seeking adjudication or conviction is pending;

(2.1) the individual is 18 years of age or older and has been convicted of a violation of section 6308 (relating to purchase, consumption, possession or transportation of liquor or malt or brewed beverages) which occurred while the individual was under 18 years of age and the individual has satisfied all terms and conditions of the sentence imposed for the violation, including any suspension of operating privileges imposed pursuant to section 6310.4 (relating to restriction of operating privileges). Expungement shall include all criminal history record information and all administrative records of the Department of Transportation relating to the conviction;

(2.2) the individual is 18 years of age or older and the individual has satisfied all terms and conditions of the sentence imposed following a conviction for a summary offense, with the exception of a violation of section 6308, committed while the individual was under 18 years of age and the individual has not been convicted of a felony, misdemeanor or adjudicated delinquent and no proceeding is pending seeking such conviction or adjudication;

(3) five years have elapsed since the final discharge of the person from commitment, placement, probation or any other disposition and referral and since such final discharge, the person has not been convicted of a felony, misdemeanor or adjudicated delinquent and no proceeding is pending seeking such conviction or adjudication; or

(4) the individual is [18] 17 years of age or older, the attorney for the Commonwealth consents to the expungement and a court orders the expungement after giving consideration to the following factors:

(i) the type of offense;

(ii) the individual's age, history of employment, criminal activity and drug or alcohol problems;

(iii) adverse consequences that the individual may suffer if the records are not expunged; and

(iv) whether retention of the record is required for purposes of protection of the public safety.

\* \* \*

Amend Sec. 2, page 1, line 12, by striking out all of said line and inserting

Section 4. This act shall take effect as follows:

(1) The amendment of 18 Pa.C.S. §§ 9122 and 9123 shall take effect July 1, 2009.

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

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

#### AMENDMENT WITHDRAWN

The SPEAKER. The Chair recognizes Representative Solobay.

Mr. SOLOBAY. Thank you, Mr. Speaker.

I will be withdrawing that amendment. Thank you.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

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

The SPEAKER. The House will be at ease.

The House will come to order.

Members will please take their seats.

On the question recurring,

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

Mr. WALKO offered the following amendment No. A09096:

Amend Title, page 1, line 4, by inserting after "FOR"  
exceptions to prohibition of interception and  
disclosure of communications and for

Amend Bill, page 1, lines 7 and 8, by striking out all of said lines  
and inserting

Section 1. Section 5704 of Title 18 of the Pennsylvania  
Consolidated Statutes is amended by adding a paragraph to read:

§ 5704. Exceptions to prohibition of interception and disclosure of  
communications.

It shall not be unlawful and no prior court approval shall be  
required under this chapter for:

\* \* \*

(17) A person to intercept oral communications for  
disciplinary or security purposes on a school bus or school  
vehicle, as those terms are defined in 75 Pa.C.S. § 102 (relating  
to definitions), if all of the following conditions are met:

(i) The school board has adopted a policy that  
authorizes audio interception on school buses or school  
vehicles for disciplinary or security purposes.

(ii) Each school year, the school board notifies  
students and their parents or guardians of the policy, by  
letter mailed to the students' home addresses.

(iii) The school board posts a notice that students  
may be audiotaped, which notice is clearly visible on  
each school bus or school vehicle that is furnished with  
audio-recording equipment.

This paragraph shall not apply when a school bus or school  
vehicle is used for a purpose that is not school related.

Section 2. Section 5781 of Title 18 is amended to read:

Amend Sec. 2, page 1, line 12, by striking out "2" and inserting

3

On the question,

Will the House agree to the amendment?

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

Mr. WALKO. Thank you, Mr. Speaker.

I urge a positive vote on this amendment, which would  
specifically authorize the use of audiotaping on school buses.  
Currently you can videotape on school buses. The reason for –  
there is a lack of clarity regarding an exemption to the wiretap  
law – for this amendment. In my opinion, there is no  
expectation of privacy on a school bus for children. However,  
there is some lack of clarity in the status of the law. This  
legislation would specifically authorize as an exemption to the  
wiretap law audiotaping on school buses in an effort to promote  
discipline, to cut down on bullying, and for security purposes.

Now, that is in some ways an invasion of someone's privacy.  
However, there are extremely strong protections in this  
legislation. In order to have audiotaping on school buses, the  
school board must adopt a policy in public to do so. Each school  
year, the school board must notify students and their parents  
that audiotaping is occurring on school buses, and the school  
board must post a notice on the bus that the audiotaping will be  
done.

Back in Allegheny County recently, we had a hearing on this  
legislation. The district attorney, the State Police, school bus  
company operators, all voiced their support for it, calling it an  
important deterrent, particularly to bullying on school buses,  
which, statistics show, has caused, per year, that roughly  
129,000 school days are missed by students who are afraid to  
get on the bus because of bullying.

I urge the adoption of this very reasonable, balanced  
legislation. Thank you, Mr. Speaker.

The SPEAKER. Will the House agree to the amendment?  
Representative Rohrer.

Mr. ROHRER. Thank you, Mr. Speaker.

May I interrogate the maker of the amendment, if I could?

The SPEAKER. The gentleman, Representative Walko,  
indicates he would be glad to stand for interrogation.  
Representative Rohrer is in order and may proceed.

Mr. ROHRER. Thank you, Mr. Speaker.

I just had a question that came across my mind, so maybe  
you can enlighten me on this.

In a case where audiotaping would take place on a bus, is it  
in such a way that every conversation in every seat is being  
recorded?

Mr. WALKO. Mr. Speaker, that is an excellent, an excellent  
question. The equipment is sophisticated. However, I do not  
believe that every single conversation could be recorded any  
more than every single conversation in this chamber could be  
heard.

Mr. ROHRER. Therefore, what is actually being picked up,  
noise or just the loudest voice on the bus at that given point in  
time?

Mr. WALKO. Let us say there was an incident of bullying,  
Mr. Speaker, where voices were raised, where very vehement  
language, very forceful language is used by the bully on the  
bullied student. That would most likely be picked up by the  
audio equipment, Mr. Speaker.

Mr. ROHRER. And another question that I have: When you  
are answering those questions, do you know this for a fact or are  
you just guessing?

Mr. WALKO. I know it for a fact.

Mr. ROHRER. Okay, because I work with audiovisual and  
sound, and I used to be in radio and so forth and so I am  
somewhat familiar, but I am not quite sure how it would  
actually work where you would not get essentially a bunch of



noise. If it is going to be usable, my concern is that it would have to be, it would have to be a very special kind of mike that would be somewhat directional. Otherwise, you are going to pick up the noise of the bus, you are going to pick up the road noise, you are going— I am not sure what you are going to have.

Mr. WALKO. That is an absolutely legitimate question, Mr. Speaker, and I do agree that the technology would not be perfect in every instance. However, school bus company operators who testified at our hearing said that it was a very effective tool and that they were hoping to have legislation specifically to make sure that they are not in violation of the wiretap act.

I cannot really talk in terms of decibels and separating sound waves myself. However, in hearing the testimony, what I heard was that it is an effective deterrent to bullying. I cannot say that it is perfect. I cannot say that every comment on the bus would be heard. I can say that as a parent with children who ride on a bus, I would prefer to see that extra step of security so that they can get to school safely, that they do not have to be in fear of bullying, Mr. Speaker.

Mr. ROHRER. Okay. One other question, and it is this: If the audio is taken – all right? – and recorded, where does it go? Who gets it?

Mr. WALKO. That is another excellent question. My understanding is that it would be destroyed after every day.

Mr. ROHRER. It would be destroyed every day?

Mr. WALKO. No, wait. I am sorry. Hold on.

Mr. Speaker, if there is an incident on the bus, that would be retained. If there is no incident on that bus, it would be destroyed.

Mr. ROHRER. Is the procedure then that the bus driver would be the determiner of whether or not there is an incident and worthy of keeping the recording?

Mr. WALKO. Mr. Speaker, I guess it could be any complainant. It could be the bus driver; it could be a student.

Mr. ROHRER. But how is a student, if a student is going to make a comment and they make it the day afterward, is the audio in existence or is it automatically destroyed?

Mr. WALKO. I am not sure about that, Mr. Speaker. I cannot answer that question. However, I can tell you that what we are authorizing is an exception, clarifying that there is an exception to the wiretap law. They are already videotaping on school buses, and we feel that this would add to discipline and security.

Mr. ROHRER. Okay. I have one other additional question to ask, Mr. Speaker.

My concern is how this could potentially be impacted by the current mandated reporter law that would require anyone in a situation of a school setting – bus driver, in this case – if they happen to have some knowledge of some comment that perhaps a child said to another kid on the bus – "Last night I got a beating," as an example – that kind of thing, I believe, under the mandated reporter law has got to be reported. And my concern is that— That is why I am asking how long the information is kept, who listens to it, and how precise the recording is, because you could be putting that bus driver into a position that they never bargained for, making a determination that they perhaps are not qualified to make, on comments that may be made irresponsibly, and therefore opening up an entire Pandora's box, therefore of not relatively making more safety but actually creating potentially more harm. What about that?

Mr. WALKO. Mr. Speaker, those are excellent concerns, and I think, however, they are balanced out by the fact that the school board has to adopt a policy. We are letting it up to the school district to handle the regulations within the law and the constraints of the United States and Pennsylvania Constitutions. We are not specifying everything in this legislation; we are simply clarifying that there is an exemption to the wiretap law allowing the use of audiotaping on school buses. We are doing no more nor no less than that.

Mr. ROHRER. Okay. Thank you, Mr. Speaker.

A comment, please.

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

Mr. ROHRER. Thank you, Mr. Speaker.

Mr. Speaker, frankly, I have not really done a whole lot of thinking about this amendment before up until just right now in this series of questions. I know the last time, many, many years ago when we made some changes to the wiretap law, I had some concerns then relative to how we may be weakening protections that are in place, understanding that we do make changes in law here to provide for safety, I guess, and that kind of thing.

To me, there is a difference, I believe, between the video and the audio, and the answers that I got here, from my perspective, are not satisfactory for me to make a vote on this in the positive to open this up. I think that there are some issues here that I raised such as how long it is in existence, who has access to the recording, how precise the information is that is collected, the ability to pick up, perhaps, some very personal conversations that really are not anybody's business, that are not related to anything relative to safety or bullying or anything of that type, and the possibility for information to fall into the category of "mandated reporter," which is another can of worms.

I have a real reluctance, I think at this point, based on what I know on this, to vote in favor of this amendment. And even though the school boards would end up being the somewhat further determiners of the application, I think that these are issues that we ought to decide and know for sure here before we pass this along to school boards.

So from my perspective, I think I understand why, but I think the questions remain too big for me to vote in the positive. Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment?

(Members proceeded to vote.)

## LEAVE OF ABSENCE

The SPEAKER. The Chair recognizes the minority leader, who requests that Representative ARGALL be placed on leave. The Chair hears no objection. Leave will be granted.

## CONSIDERATION OF SB 1263 CONTINUED

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

## YEAS—157

Baker	Gergely	Marsico	Sabatina
Barrar	Gibbons	McCall	Sainato
Bear	Gillespie	McGeehan	Samuelson
Belfanti	Gingrich	McI. Smith	Santoni
Benninghoff	Godshall	McIlhatten	Saylor
Bennington	Goodman	Melio	Scavello
Beyer	Grell	Micozzie	Schroder
Biancucci	Gruela	Millard	Seip
Blackwell	Haluska	Miller	Shapiro
Boback	Hanna	Milne	Shimkus
Brennan	Harhai	Moul	Siptroth
Buxton	Harkins	Moyer	Smith, K.
Caltagirone	Harper	Mundy	Smith, M.
Carroll	Harris	Murt	Smith, S.
Casorio	Helm	Mustio	Solobay
Civera	Hess	Myers	Staback
Cohen	Hornaman	Nailor	Stairs
Conklin	James	O'Brien, M.	Steil
Costa	Keller, M.K.	O'Neill	Stern
Cruz	Keller, W.	Pallone	Sturla
Curry	Kenney	Parker	Surra
Daley	Kessler	Pashinski	Swanger
Dally	Killion	Payne	Tangretti
DeLuca	King	Payton	Taylor, J.
DePasquale	Kirkland	Peifer	Taylor, R.
Dermody	Kortz	Perzel	Thomas
DeWeese	Kotik	Petrarca	Vitali
DiGirolamo	Kula	Petri	Vulakovich
Donatucci	Lentz	Petrone	Wagner
Eachus	Levdansky	Phillips	Walko
Evans, D.	Longietti	Pickett	Wansacz
Fabrizio	Mackereth	Preston	Waters
Fairchild	Mahoney	Quinn	Watson
Frankel	Major	Ramaley	Wheatley
Freeman	Manderino	Raymond	White
Gabig	Mann	Readshaw	Williams
Galloway	Mantz	Reichley	Wojnaroski
Geist	Markosek	Roebuck	Youngblood
George	Marshall	Ross	Yudichak
Gerber			

## NAYS—38

Boyd	Everett	Mensch	Rohrer
Brooks	Fleck	Metcalfe	Sonney
Causer	Harhart	Nickol	Stevenson
Clymer	Hennessey	Perry	True
Cox	Hershey	Pyle	Turzai
Creighton	Hickernell	Quigley	Vereb
Cutler	Hutchinson	Rapp	Yewcic
Denlinger	Josephs	Reed	
Ellis	Kauffman	Roae	O'Brien, D.,
Evans, J.	Maher	Rock	Speaker

## NOT VOTING—0

## EXCUSED—8

Adolph	Bastian	Cappelli	Oliver
Argall	Bishop	Leach	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. **CALTAGIRONE** offered the following amendment  
No. **A09433**:

Amend Title, page 1, line 3, by inserting after "~~provisions.~~"  
further providing for cruelty to animals; and

Amend Bill, page 1, lines 7 and 8, by striking out all of said lines and inserting

Section 1. Section 5511(h) and (h.1) of Title 18 of the Pennsylvania Consolidated Statutes are amended and the section is amended by adding a subsection to read:

§ 5511. Cruelty to animals.

\*\*\*

(h) [Cropping ears of dog] Specific violations; prima facie evidence of violation.—

(1) (i) A person commits a summary offense if he crops or cuts off, or causes or procures to be cropped or cut off, the whole[,] or part of the ear or ears of a dog or shows or exhibits or procures the showing or exhibition of any dog whose ear is or ears are cropped or cut off, in whole or in part, unless the person showing [such] the dog has in his possession either a certificate of veterinarian stating that [such] the cropping was done by the veterinarian or a certificate of registration from a county treasurer[,] showing that [such] the dog was cut or cropped before this section became effective.

(ii) The provisions of this section shall not prevent a veterinarian from cutting or cropping the whole or part of the ear or ears of a dog when [such] the dog is anesthetized[,] and shall not prevent any person from causing or procuring [such] the cutting or cropping of a dog's ear or ears by a veterinarian.

(iii) The possession by any person of a dog with an ear or ears cut off or cropped and with the wound resulting therefrom unhealed, or any [such] dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this subsection by [such] the person except as provided for in this subsection.

[The owner of any dog whose ear or ears have been cut off or cropped before this section became effective may, if a resident of this Commonwealth, register such dog with the treasurer of the county where he resides, and if a nonresident of this Commonwealth, with the treasurer of any county of this Commonwealth, by certifying, under oath, that the ear or ears of such dog were cut or cropped before this section became effective, and the payment of a fee of \$1 into the county treasury. The said treasurer shall thereupon issue to such person a certificate showing such dog to be a lawfully cropped dog.]

(2) (i) A person commits a summary offense if the person debarks a dog by cutting, causing or procuring the cutting of its vocal cords or by altering, causing or procuring the alteration of any part of its resonance chamber.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cutting the vocal cords or otherwise altering the resonance chamber of a dog when the dog is anesthetized and shall not prevent a person from causing or procuring a debarking procedure by a veterinarian.

(iii) The possession by a person of a dog with the vocal cords cut or the resonance chamber otherwise altered and with the wound resulting therefrom unhealed shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the cutting of vocal cords or the alteration of the resonance chamber of a dog shall record the procedure.

(3) (i) A person commits a summary offense if the person docks, cuts off, causes or procures the docking or cutting off of the tail of a dog over five days old.

(ii) The provisions of this paragraph shall not prevent a veterinarian from docking, cutting or cropping the whole or part of the tail of a dog when the dog is at least 12 weeks of age and the procedure is performed using general anesthesia and shall not prevent a person from causing or procuring the cutting or docking of a tail of a dog by a veterinarian as provided in this paragraph.

(iii) The possession by a person of a dog with a tail cut off or docked and with the wound resulting therefrom unhealed shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the cutting off or docking of a tail of a dog shall record the procedure and keep the record.

(4) (i) A person commits a summary offense if the person surgically births or causes or procures a surgical birth.

(ii) The provisions of this section shall not prevent a veterinarian from surgically birthing a dog when the dog is anesthetized and shall not prevent any person from causing or procuring the birthing by a veterinarian.

(iii) The possession by a person of a dog with a wound resulting from a surgical birth unhealed shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the surgical birth of a dog shall record the procedure and keep the record.

(v) This paragraph shall not apply to personnel required to comply with standards to minimize pain to an animal set forth in section 2143(a)(3) of the Animal Welfare Act (Public Law 89-544, 7 U.S.C. §§ 2131 et. seq.), trained in accordance with section 2143(d) of the Animal Welfare Act, who work in a federally registered research facility required to comply with the Animal Welfare Act under the guidance or oversight of a veterinarian.

(5) (i) A person commits a summary offense if the person cuts off or causes or procures the cutting off of the dewclaw of a dog over five days old.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cutting the dewclaw and shall not prevent a person from causing or procuring the procedure by a veterinarian.

(iii) The possession by a person of a dog with the dewclaw cut off and with the wound resulting therefrom unhealed shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the cutting off of the dewclaw of a dog shall record and keep the record of the procedure.

(h.1) Animal fighting.—A person commits a felony of the third degree if he:

(1) for amusement or gain, causes, allows or permits any animal to engage in animal fighting;

(2) receives compensation for the admission of another person to any place kept or used for animal fighting;

(3) owns, possesses, keeps, trains, promotes, purchases, steals or acquires in any manner or knowingly sells any animal for animal fighting;

(4) in any way knowingly encourages, aids or assists therein;

(5) wagers on the outcome of an animal fight;

(6) pays for admission to an animal fight or attends an animal fight as a spectator; or

(7) knowingly permits any place under his control or possession to be kept or used for animal fighting.

This subsection shall not apply to activity undertaken in a normal agricultural operation.

\* \* \*

(o.2) Limited authority to enforce summary offenses in certain counties.—

(1) A State dog warden who has authority under section 901(a) of the act of December 7, 1982 (P.L.784, No.225), known as the Dog Law, shall have authority to enforce this section in a county in which there is no humane society police officer appointed under 22 Pa.C.S. Ch. 37 (relating to humane society police officers). Authority provided under this subsection may only be exercised in the enforcement of summary offenses particular to acts or omissions on dogs in the operation of an establishment licensed or required to be licensed as a kennel under the Dog Law.

(2) A State dog warden shall have no enforcement authority under this subsection unless the warden has successfully completed all of the minimum requirements for initial training and additional training under 22 Pa.C.S. §§ 3712 (relating to training program) and 3713 (relating to continuing education program).

(3) A State dog warden shall have no authority under this subsection to seize any dog except pursuant to the search of a kennel premises for which a search warrant has been issued in accordance with the applicable provisions of the Pennsylvania Rules of Criminal Procedure. A State dog warden shall not file, obtain or execute any search warrant unless the warden has complied with the requirements for prior approval under 22 Pa.C.S. § 3710 (relating to search warrants). The authority of a dog warden to obtain or execute search warrants or to seize dogs under this section shall not exceed the authority under subsection (1).

(4) This subsection shall not be construed as modifying, rescinding or superseding any authority of State dog wardens under the Dog Law.

\* \* \*

Section 2. Section 5781 of Title 18 is amended to read:

Amend Sec. 2, page 1, line 12, by striking out all of said line and inserting

Section 3. This act shall take effect as follows:

(1) The amendment of 18 Pa.C.S. § 5511(h) shall take effect immediately.

(2) This section shall take effect immediately.

(3) The remainder of this act shall take effect in 60 days.

On the question,

Will the House agree to the amendment?

AMENDMENT WITHDRAWN

The SPEAKER. The gentleman withdraws the amendment?  
The Chair thanks the gentleman.

On the question recurring,

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

Mr. CALTAGIRONE offered the following amendment  
No. A09436:

Amend Title, page 1, line 3, by inserting after "provisions,"  
further providing for theft of leased property; and

Amend Sec. 1, page 1, lines 7 and 8, by striking out all of said lines and inserting

Section 1. Sections 3932(b) and (c)(2) and 5781 of Title 18 of the Pennsylvania Consolidated Statutes are amended to read:

§ 3932. Theft of leased property.

\* \* \*

(b) Definition.—As used in this section[, a]:

(1) A person "deals with the property as his own" if he sells, secretes, destroys, converts to his own use or otherwise disposes of the property.

(2) A "written demand to return the property is delivered" when it is sent simultaneously by first class mail, evidenced by a certificate of mailing, and by registered or certified mail to the address provided by the lessee.

(c) Presumption.—A person shall be prima facie presumed to have intent if he:

\* \* \*

(2) fails to return the property to its owner within seven days after a written demand to return the property is delivered [by registered or certified mail to the person's last known address].

\* \* \*

On the question,

Will the House agree to the amendment?

AMENDMENT WITHDRAWN

The SPEAKER. The gentleman withdraws the amendment?  
The Chair thanks the gentleman.

On the question recurring,

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

Mr. **MARSICO** offered the following amendment No. **A09447**:

Amend Title, page 1, line 4, by striking out all of said line and inserting

providing for applicability to providers outside this Commonwealth; further providing for investigative disclosure or use of contents of wire, electronic or oral communications or derivative evidence, for disclosure of contents, for requirements of governmental access, for cost reimbursement, for mobile tracking devices, for issuance and for expiration; and making an editorial change.

Amend Bill, page 1, lines 7 and 8, by striking out all of said lines and inserting

Section 1. Title 18 of the Pennsylvania Consolidated Statutes is amended by adding a section to read:

§ 5702.1. Applicability to providers outside this Commonwealth.

This chapter shall apply to providers of an electronic or wire communication service located outside this Commonwealth if they are engaged in transacting any business in this Commonwealth as determined under 42 Pa.C.S. § 5322(a)(1) (relating to bases of personal jurisdiction over persons outside this Commonwealth).

Section 2. Section 5717 of Title 18 is amended by adding a subsection to read:

§ 5717. Investigative disclosure or use of contents of wire, electronic or oral communications or derivative evidence.

\* \* \*

(c) Otherwise authorized personnel.—Any investigative or law enforcement officer who, by any means authorized by the laws of another state or the Federal Government, has obtained knowledge of the contents of any wire, electronic or oral communication, or evidence derived therefrom, may disclose the contents or evidence to an investigative or law enforcement officer and may disclose the contents

or evidence where otherwise admissible while giving testimony under oath or affirmation in any proceeding in any court of this Commonwealth. However, the contents of a nonconsensual interception authorized by the laws of another state or the Federal Government shall not be admissible unless the interception was authorized by a court upon a finding of probable cause that the target of the surveillance is engaged or will engage in a violation of the criminal laws of any state or the Federal Government.

Section 3. Section 5742 heading and (a) introductory paragraph of Title 18 are amended, subsection (a) is amended by adding a paragraph and the section is amended by adding subsections to read:  
§ 5742. Disclosure of contents and records.

(a) Prohibitions.—Except as provided in subsection (b) and (c):

\* \* \*

(3) A person or entity providing an electronic communication service or remote computing service to the public shall not knowingly divulge a record or other information pertaining to a subscriber to, or customer of, the service.

\* \* \*

(c) Exceptions for disclosure of records or other information.—A person or entity may divulge a record or other information pertaining to a subscriber to, or customer of, the service if any of the following paragraphs apply:

(1) A record or other information may be divulged incident to any service or other business operation or to the protection of the rights or property of the provider.

(2) A record or other information may be divulged to any of the following:

(i) An investigative or law enforcement official as authorized in section 5743.

(ii) The subscriber or customer upon request.

(iii) A third party, upon receipt from the requester of adequate proof of lawful consent from the subscriber to, or customer of, the service to release the information to the third party.

(iv) A party to a legal proceeding, upon receipt from the party of a court order entered under subsection (c.1). This subparagraph does not apply to an investigative or law enforcement official authorized under section 5743.

(3) Notwithstanding paragraph (2), a record or other information may be divulged as authorized by a Commonwealth statute or as authorized by a Commonwealth regulatory agency with oversight over the person or entity.

(4) Subject to paragraph (2), a record or other information may be divulged as authorized by Federal law or as authorized by a Federal regulatory agency having oversight over the person or entity.

(c.1) Order for release of records.—

(1) An order to divulge a record or other information pertaining to a subscriber or customer under subsection (c)(2)(iv) must be approved by a court presiding over the proceeding in which a party seeks the record or other information.

(2) The order may be issued only after the subscriber or customer received notice from the party seeking the record information and was given an opportunity to be heard.

(3) The court may issue a preliminary order directing the provider to furnish the court with the identity of or contact information for the subscriber or customer if the party does not possess this information.

(4) An order for disclosure of a record or other information shall be issued only if the party seeking disclosure demonstrates specific and articulable facts to show that there are reasonable grounds to believe that the record or other information sought is relevant and material to the proceeding. In making its determination, the court shall consider the totality of the circumstances, including input of the subscriber or customer, if any, and the likely impact of the provider.

Section 3.1. Sections 5743(c)(1) and (d), 5746(a), 5761(b), 5773(c) and 5781 of Title 18 are amended to read:

§ 5743. Requirements for governmental access.

\* \* \*

(c) Records concerning electronic communication service or remote computing service.—

[ (1) Except as provided in paragraph (2), a provider of electronic communication service or remote computing service may disclose a record or other information pertaining to a subscriber to or customer of the service, not including the contents of communication covered by subsection (a) or (b), to any person other than an investigative or law enforcement officer.]

\* \* \*

(d) Requirements for court order.—A court order for disclosure under subsection (b) or (c) shall be issued only if the investigative or law enforcement officer shows that there are specific and articulable facts showing that there are reasonable grounds to believe that the contents of a wire or electronic communication, or the records or other information sought, are relevant and material to an ongoing criminal investigation. A court issuing an order pursuant to this section, on a motion made promptly by the service provider, may quash or modify the order if the information or records requested are unusually voluminous in nature or compliance with the order would otherwise cause an undue burden on the provider. An order issued under this subsection shall be sealed until otherwise ordered by the court.

\* \* \*

§ 5746. Cost reimbursement.

(a) Payment.—Except as otherwise provided in subsection (c), an investigative or law enforcement officer obtaining the contents of communications, records or other information under section 5742 (relating to disclosure of contents and records), 5743 (relating to requirements for governmental access) or 5744 (relating to backup preservation) shall reimburse the person or entity assembling or providing the information for such costs as are reasonably necessary and which have been directly incurred in searching for, assembling, reproducing and otherwise providing the information. Reimbursable costs shall include any costs due to necessary disruption of normal operations of any electronic communication service or remote computing service in which the information may be stored.

\* \* \*

§ 5761. Mobile tracking devices.

\* \* \*

(b) Jurisdiction.—Orders permitted by this section may authorize the use of mobile tracking devices within the jurisdiction of the court of common pleas, and outside that jurisdiction [but within this Commonwealth], if the device is installed within the jurisdiction of the court of common pleas.

\* \* \*

§ 5773. Issuance of an order for use of certain devices.

\* \* \*

(c) Time period and extensions.—

(1) An order issued under this section shall authorize the installation and use of a pen register, trap and trace device or a telecommunication identification interception device for a period not to exceed [30] 60 days.

(2) Extensions of such an order may be granted but only upon an application for an order under section 5772 and upon the judicial finding required by subsection (a). The period of each extension shall be for a period not to exceed [30] 60 days.

\* \* \*

Amend Sec. 2, page 1, line 12, by striking out "2" and inserting

4

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

## AMENDMENT WITHDRAWN

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

The gentleman indicates that he is withdrawing this amendment?

Mr. MARSICO. Mr. Speaker, yes. Amendment A09447 I am withdrawing.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

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

Mr. MARSICO offered the following amendment No. **A09483:**

Amend Title, page 1, line 4, by striking out all of said line and inserting

providing for applicability to providers outside this Commonwealth; further providing for investigative disclosure or use of contents of wire, electronic or oral communications or derivative evidence, for requirements of governmental access, for mobile tracking devices, for issuance and for expiration; and making an editorial change.

Amend Bill, page 1, lines 7 and 8, by striking out all of said lines and inserting

Section 1. Title 18 of the Pennsylvania Consolidated Statutes is amended by adding a section to read:

§ 5702.1. Applicability to providers outside this Commonwealth.

This chapter shall apply to providers of an electronic or wire communication service located outside this Commonwealth if they are engaged in transacting any business in this Commonwealth as determined under 42 Pa.C.S. § 5322(a)(1) (relating to bases of personal jurisdiction over persons outside this Commonwealth).

Section 2. Section 5717 of Title 18 is amended by adding a subsection to read:

§ 5717. Investigative disclosure or use of contents of wire, electronic or oral communications or derivative evidence.

\* \* \*

(c) Otherwise authorized personnel.—Any investigative or law enforcement officer who, by any means authorized by the laws of another state or the Federal Government, has obtained knowledge of the contents of any wire, electronic or oral communication, or evidence derived therefrom, may disclose the contents or evidence to an investigative or law enforcement officer and may disclose the contents or evidence where otherwise admissible while giving testimony under oath or affirmation in any proceeding in any court of this Commonwealth. However, the contents of a nonconsensual interception authorized by the laws of another state or the Federal Government shall not be admissible unless the interception was authorized by a court upon a finding of probable cause that the target of the surveillance is engaged or will engage in a violation of the criminal laws of any state or the Federal Government.

Section 3. Sections 5743(d), 5761(b), 5773(c) and 5781 of Title 18 are amended to read:

§ 5743. Requirements for governmental access.

\* \* \*

(d) Requirements for court order.—A court order for disclosure under subsection (b) or (c) shall be issued only if the investigative or law enforcement officer shows that there are specific and articulable facts showing that there are reasonable grounds to believe that the contents of a wire or electronic communication, or the records or other information sought, are relevant and material to an ongoing criminal investigation. A court issuing an order pursuant to this section, on a motion made promptly by the service provider, may quash or modify the order if the information or records requested are unusually voluminous in nature or compliance with the order would otherwise

cause an undue burden on the provider. An order issued under this subsection shall be sealed until otherwise ordered by the court.

\* \* \*

§ 5761. Mobile tracking devices.

\* \* \*

(b) Jurisdiction.—Orders permitted by this section may authorize the use of mobile tracking devices within the jurisdiction of the court of common pleas, and outside that jurisdiction [but within this Commonwealth], if the device is installed within the jurisdiction of the court of common pleas.

\* \* \*

§ 5773. Issuance of an order for use of certain devices.

\* \* \*

(c) Time period and extensions.—

(1) An order issued under this section shall authorize the installation and use of a pen register, trap and trace device or a telecommunication identification interception device for a period not to exceed [30] 60 days.

(2) Extensions of such an order may be granted but only upon an application for an order under section 5772 and upon the judicial finding required by subsection (a). The period of each extension shall be for a period not to exceed [30] 60 days.

\* \* \*

Amend Sec. 2, page 1, line 12, by striking out "2" and inserting

4

On the question,

Will the House agree to the amendment?

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

Mr. MARSICO. Thank you, Mr. Speaker.

A few weeks ago HB 2216 was adopted by this House. The vote was 198 to 1, and this is the same language of HB 2216. So I would appreciate an affirmative vote. Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

#### YEAS—195

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

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

NAYS—0

NOT VOTING—0

EXCUSED—8

Adolph	Bastian	Cappelli	Oliver
Argall	Bishop	Leach	Rubley

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

#### LEAVE OF ABSENCE CANCELED

The SPEAKER. The Chair recognizes the presence of the minority whip, Representative Argall. His name will be added to the master roll.

#### CONSIDERATION OF SB 1263 CONTINUED

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.)

#### MOTION TO SUSPEND RULES

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

Mr. KILLION. Thank you, Mr. Speaker.

I rise to call for a suspension of the rules so that we can bring up HB 1973 for second consideration this evening. As we all know, we are on a tight timeframe in bringing Mcare relief to our doctors and hospitals, and it is critical that we vote second consideration tonight so that we can vote third consideration tomorrow and bring the relief that is desperately needed by our

doctors and hospitals so that we can continue to keep great health care in Pennsylvania.

I would ask for a positive vote on the motion to suspend. Thank you.

The SPEAKER. The Chair thanks the gentleman.

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

The SPEAKER. The Chair recognizes Representative Eachus on the motion to suspend.

Mr. EACHUS. Thank you, Mr. Speaker.

Mr. Speaker, I rise to oppose the suspension of the rules—

The SPEAKER. Will the gentleman suspend.

Mr. EACHUS. Yes.

The SPEAKER. The noise level is entirely too loud. Members— The Chair thanks the members.

Representative Eachus.

Mr. EACHUS. Thank you, Mr. Speaker.

I rise to oppose the Killion amendment tonight. Regrettably, this motion, this motion to suspend the rules, would move forward a process that we have deliberated for some time inside our House committees, inside this chamber, and again on this House floor.

This is a seminal moment for this chamber. The policy that we have advanced on the Democratic side has been focused on a parallel path of fair abatement for physicians. Because we passed a law that guaranteed a 25-cent tax on cigarettes, it guaranteed a fair abatement to physicians. And since this program has been advanced, since its inception, we have advanced \$1.2 billion to physicians to carefully and succinctly help lower their medical malpractice rates, and that is fair.

But on a parallel course, Mr. Speaker, the Democratic Caucus has advanced a policy that focuses on access to affordable health care for the over 800,000 people in Pennsylvania and growing each day. With every job lost, we see the opportunity grow for those who lose their health insurance. We focused on a policy that will advance, for 19- to 64-year-olds, affordable access to health care on a parallel course with a fair abatement for physicians. That has been at the cornerstone of what House Democrats are fighting for.

And at a time when everyone across Pennsylvania and across America sees their portfolio shrinking and the potential risk to their employment opportunities, just this month, in September, the job numbers showed 159,000 jobs lost in this economy, over the last quarter 750,000 jobs lost in this economy. And let me say this, Mr. Speaker: With every job lost, there is health care lost.

The SPEAKER. The gentleman will suspend.

The Chair will caution members that they can only speak on the motion to suspend.

Mr. EACHUS. Thank you, Mr. Speaker. I will do my best. I will do my best.

But I am asking the members of this chamber to consider the issues in front of us. We are for a fair abatement, and I assume that is what the gentleman is trying to advance, an abatement for physicians and CEOs (chief executive officers) and hospitals, but we are also for a parallel course on health-care policy.

The other issue, Mr. Speaker, as the focus of this budget looms, clearly we have to be conservative about our approach to spending resources wisely toward areas where we think are priorities. I am concerned that what this does is allow us to tilt

the scale toward a priority that, at least from this legislator and this individual member, that I think it would be unfair if we only advance a single policy.

So I rise – this is a very important issue for House Democrats. This is a very important issue for Pennsylvanians. This is a serious issue, and it needs to be dealt with seriously. So I am asking, I am asking that we oppose the suspension of the rules for the Killion amendment and we take this up in an orderly fashion so that we find a parallel course toward access to affordable health care for Pennsylvanians but also a fair abatement policy for our hospitals and physicians.

Thank you, Mr. Speaker. One more time, I oppose suspension.

The SPEAKER. The Chair reminds the members that only the maker of the bill, the maker of the motion, and the majority and minority leaders are allowed to speak.

The Chair recognizes Representative Killion for the second time.

Mr. KILLION. Thank you, Mr. Speaker.

And I do agree with the majority Policy chair that we need to work to cover all Pennsylvanians. We can do that when we come back. But tonight we have an opportunity.

In southeastern Pennsylvania, we have closed six maternity wards recently. We have 1,071 OB-GYNs (obstetrician-gynecologists) in Pennsylvania. A third of them no longer deliver babies. They are looking at a \$160,000 average premium for Mcare if we do not act tonight. Our hospitals and our doctors are looking at millions of dollars in Mcare premiums if we do not act tonight. Already I have doctors calling my office talking about either scaling down their practices or, much worse, closing their practices.

This vote is not just a procedural vote. A "no" vote on the motion to suspend is a "no" vote to continue to allow doctors to leave Pennsylvania. It is a "no" vote to allow our students coming out of medical schools to go to other States. A "no" vote is to continue to allow the maternity wards to close, and a "no" vote is against our doctors and hospitals. We could come back next session and work to cover the uninsured. Tonight, let us make sure there is health care out there for them.

Vote "yes" on the motion to suspend.

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

The following roll call was recorded:

#### YEAS—117

Argall	Gillespie	McIlhattan	Reed
Baker	Gingrich	Mensch	Reichley
Barrar	Godshall	Metcalf	Roae
Bear	Grell	Micozzie	Rock
Benninghoff	Harhart	Millard	Rohrer
Beyer	Harper	Miller	Ross
Biancucci	Harris	Milne	Sainato
Boback	Helm	Moul	Saylor
Boyd	Hennessey	Moyer	Scavello
Brooks	Hershey	Murt	Schroder
Buxton	Hess	Mustio	Shimkus
Causer	Hickernell	Nailor	Siptroth
Civera	Hornaman	Nickol	Smith, M.
Clymer	Hutchinson	O'Brien, M.	Smith, S.
Conklin	Kauffman	O'Neill	Sonney
Cox	Keller, M.K.	Pallone	Staback
Creighton	Kenney	Payne	Stairs

Cutler	Kessler	Peifer	Steil
Dally	Killion	Perry	Stern
Denlinger	King	Perzel	Stevenson
DiGirolamo	Lentz	Petrarca	Swanger
Ellis	Longietti	Petri	Taylor, J.
Evans, J.	Mackereth	Phillips	Taylor, R.
Everett	Maher	Pickett	True
Fairchild	Major	Pyle	Turzai
Fleck	Mantz	Quigley	Vereb
Gabig	Marshall	Quinn	Vulakovich
Geist	Marsico	Rapp	Watson
George	McI. Smith	Raymond	Yewcic
Gibbons			

**NAYS—79**

Belfanti	Freeman	Mann	Smith, K.
Bennington	Galloway	Markosek	Solobay
Blackwell	Gerber	McCall	Sturla
Brennan	Gergely	McGeehan	Surra
Caltagirone	Goodman	Melio	Tangretti
Carroll	Grucela	Mundy	Thomas
Casorio	Haluska	Myers	Vitali
Cohen	Hanna	Parker	Wagner
Costa	Harhai	Pashinski	Walko
Cruz	Harkins	Payton	Wansacz
Curry	James	Petrone	Waters
Daley	Josephs	Preston	Wheatley
DeLuca	Keller, W.	Ramaley	White
DePasquale	Kirkland	Readshaw	Williams
Dermody	Kortz	Roebuck	Wojnaroski
DeWeese	Kotik	Sabatina	Youngblood
Donatucci	Kula	Samuelson	Yudichak
Eachus	Levdansky	Santoni	
Evans, D.	Mahoney	Seip	O'Brien, D., Speaker
Fabrizio	Manderino	Shapiro	
Frankel			

**NOT VOTING—0****EXCUSED—7**

Adolph	Bishop	Leach	Rubley
Bastian	Cappelli	Oliver	

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

**MOTION TO ADJOURN**

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

Mr. DeWEESE. Mr. Speaker, I would move that we adjourn until tomorrow at 9 a.m.

The SPEAKER. Those members in favor of adjourning will vote "aye"; those opposed, "nay."

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

**PARLIAMENTARY INQUIRIES**

Mr. S. SMITH. Mr. Speaker, a point of parliamentary inquiry.

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

Mr. S. SMITH. I just wanted to verify, Mr. Speaker, I heard the majority leader make a motion to adjourn. Are we having a roll-call vote on the motion to adjourn or—

The SPEAKER. The Chair has called for a roll-call vote on the motion to adjourn.

Mr. S. SMITH. And, Mr. Speaker, a further inquiry. Is that motion debatable?

The SPEAKER. Yes.

Mr. S. SMITH. And, Mr. Speaker, if there was other business that a member wanted to call up at this time, such as a veto override or something like that, would they have to argue against the adjournment to then be in order to call up something of that nature?

The SPEAKER. They would have to debate on the motion to adjourn, not on any other issue.

**MOTION WITHDRAWN**

The SPEAKER. The Chair recognizes the majority leader.

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

I would like to, after much consideration and deliberation and consultation, withdraw my motion to adjourn.

**APPROPRIATIONS COMMITTEE MEETING**

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

Mr. D. EVANS. Mr. Speaker, I would like to have an immediate Appropriations Committee meeting in the majority caucus room – immediately. Thank you.

The SPEAKER. There will be an immediate Appropriations Committee meeting in the majority caucus room.

**BILLS SIGNED BY SPEAKER**

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

**HB 1177, PN 4345**

An Act amending Title 40 (Insurance) of the Pennsylvania Consolidated Statutes, further providing for definitions, for scope of service and for rights of health service doctors.

**HB 1742, PN 4350**

An Act requiring scrap processors and recycling facility operators to collect certain information relating to the purchase of scrap material; requiring commercial accounts; and restricting scrap processors and recycling facility operators from purchasing certain materials.

**SB 1093, PN 2038**

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.

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

### SENATE MESSAGE

#### AMENDED HOUSE BILLS RETURNED FOR CONCURRENCE AND REFERRED TO COMMITTEE ON RULES

The clerk of the Senate, being introduced, returned **HB 301, PN 4487; HB 747, PN 3227; HB 834, PN 4510; HB 1027, PN 4340; and HB 1044, PN 3639**, with information that the Senate has passed the same with amendment in which the concurrence of the House of Representatives is requested.

### ANNOUNCEMENT BY SPEAKER

The SPEAKER. The Chair gives permission for the Appropriations Committee to meet, and the House will be at ease.

The House will come to order.

### BILL REREPORTED FROM COMMITTEE

#### SB 1258, PN 2410

By Rep. D. EVANS

An Act amending the act of May 21, 1943 (P.L.571, No.254), known as The Fourth to Eighth Class and Selective County Assessment Law, further providing for appeals by municipalities.

#### APPROPRIATIONS.

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

The House will be at ease.

The House will come to order.

### SENATE BILL FOR CONCURRENCE

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

#### SB 1112, PN 2199

Referred to Committee on FINANCE, October 7, 2008.

### SUPPLEMENTAL CALENDAR C

### BILL ON SECOND CONSIDERATION

The House proceeded to second consideration of **SB 1258, PN 2410**, entitled:

An Act amending the act of May 21, 1943 (P.L.571, No.254), known as The Fourth to Eighth Class and Selective County Assessment Law, further providing for appeals by municipalities.

On the question,

Will the House agree to the bill on second consideration?

### POINTS OF ORDER

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

Mr. MAHER. Thank you, Mr. Speaker.

Actually, I have a couple points of order.

The first is that I had been seeking recognition for probably about half an hour of time while the House was in session. It is not in order for the Chair to simply choose to refuse to recognize members. That violates our rules. So I am making that point of order. But I am going to move on.

I will make another point of order, Mr. Speaker. We have a constitutional duty, we have a constitutional duty under Article IV, section 15, that the House shall, shall enter the objections of a veto message upon the Journal and proceed to reconsider it.

Our rules as well, Mr. Speaker, provide – rule 31, "Bills Vetoed by the Governor" – "When the Governor has returned a bill to the House with objections, the veto message shall be read and the House shall proceed to reconsider it." Now, this veto message, which is on the calendar and has been since September 17, we have a duty; we "shall" proceed to reconsider it. It is our obligation under the Constitution; it is our obligation under the House rules, and my point of order, Mr. Speaker, is to ask that you observe and respect our Constitution by calling up the veto message for HB 1438.

The SPEAKER. For the information of the member, there is no constitutional issue that attaches to this. The veto message was read in the House. It was placed on the tabled calendar by a motion, voted by the House.

Mr. MAHER. Mr. Speaker, I am asking that we respect the Constitution and proceed to reconsider HB 1438, and if necessary, I will make that a motion to proceed with a special order of business.

The SPEAKER. The gentleman is not in order at this time. There is a motion on the board. That is the bill on second consideration.

Mr. MAHER. Mr. Speaker, with all due respect, I was seeking recognition for a period of about half an hour. You can choose among members, when multiple members are seeking recognition simultaneously, you can choose the order that they proceed. But when you have a single member seeking recognition—

The SPEAKER. For what purpose—

Mr. MAHER. —it is your obligation to recognize that member.

The SPEAKER. For what purpose does the gentleman rise?

Mr. MAHER. Mr. Speaker, I am making a point of order that it was inappropriate for you to proceed with the motion on SB 1258 by recognizing some other member when I had been duly in order to be recognized.

The SPEAKER. The Chair thanks the gentleman.

### CONSIDERATION OF SB 1258 CONTINUED

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

Mr. SEIP offered the following amendment No. A09695:

Amend Title, page 2, line 6, by inserting after "COUNTIES," " "  
expanding the scope of the act; and

Amend Title, page 2, line 7, by inserting after "FOR"  
application of the act and for

Amend Bill, page 3, lines 1 through 4, by striking out all of said lines and inserting

Section 1. The title of the act of May 21, 1943 (P.L.571, No.254), known as The Fourth to Eighth Class and Selective County Assessment Law, amended November 29, 2006 (P.L.1477, No.167), is amended to read:

#### AN ACT

Relating to assessment for taxation in counties of the fourth, fifth, sixth, seventh and eighth classes; designating the subjects, property and persons subject to and exempt from taxation for county, borough, town, township, school, except in cities and county institution district purposes; and providing for and regulating the assessment and valuation thereof for such purposes; creating in each such county a board for the assessment and revision of taxes; defining the powers and duties of such boards; providing for the acceptance of this act by cities; regulating the office of ward, borough, town and township assessors; abolishing the office of assistant triennial assessor in townships of the first class; providing for the appointment of a chief assessor, assistant assessors and other employees; providing for their compensation payable by such counties; prescribing certain duties of and certain fees to be collected by the recorder of deeds and municipal officers who issue building permits; imposing duties on taxables making improvements on land and grantees of land; prescribing penalties; eliminating the triennial assessment; [and] regulating certain assessments in all counties; and providing for appeals by municipalities in selected counties.

Section 2. Section 103 of the act is amended and the section is amended by adding a subsection to read:

Section 103. Application of Act.—(a) Except as set forth in [subsection (b)] subsections (b) and (b.1), this act shall apply in all counties of the fourth, fifth, sixth, seventh and eighth classes of the Commonwealth.

(b) Sections 201(a.1) and 602.4 shall apply to counties of all classes of the Commonwealth.

(b.1) Section 706 shall apply to counties of the second class A and third, fourth, fifth, sixth, seventh and eighth classes of the Commonwealth.

(c) When the valuations and assessments as provided by this act have been made, all taxation for county, borough, town, township, school purposes, (except in cities), county institution district and poor purposes, within the limits of such counties affected by this act shall be based upon such valuations.

Section 3. Section 706 of the act, repealed in part June 3, 1971 (P.L.118, No.6), is amended to read:

Amend Bill, page 4, by inserting between lines 7 and 8

(c) This section shall be subject to section 103(b.1).

Section 4. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the amendment or addition of the title and sections 103(b.1) and 706 of the act.

(2) Section 18 of the act of June 26, 1931 (P.L.1379, No.348), referred to as the Third Class County Assessment Board Law, is repealed.

Amend Sec. 2, page 4, line 8, by striking out "2" and inserting  
5

Amend Sec. 2, page 4, line 8, by striking out "706(B)" and inserting  
706

Amend Sec. 3, page 4, line 10, by striking out "3" and inserting  
6

On the question,

Will the House agree to the amendment?

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

Mr. SEIP. Thank you, Mr. Speaker.

Mr. Speaker, this amendment will make the bill applicable to counties of the third class through the eighth class. Thank you, Mr. Speaker.

The SPEAKER. Will the House agree to the amendment? Representative Scavello, on the amendment.

Mr. SCAVELLO. Thank you, Mr. Speaker.

I urge the members to support the amendment, for a positive vote. Thank you.

The SPEAKER. Representative Maher, on the amendment.

Mr. MAHER. Thank you, Mr. Speaker.

Interestingly enough, this amendment bears some resemblance to the bill vetoed by the Governor that we have a constitutional duty to reconsider. Now, you might ask, when there is a bill that has already been passed by both Houses overwhelmingly and has been returned to the House and the Constitution requires that we reconsider it, why there is another bill that is produced quickly this evening?

It was my understanding that some members in this chamber, in fact, some members on both sides of the aisle, had pledged to their constituents, that they would fight for an override, that they would seek to override this veto. I ask, where are they now?

The SPEAKER. The gentleman—

Mr. MAHER. Instead—

The SPEAKER. The gentleman—

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

The SPEAKER. The gentleman will confine his remarks to the amendment. That is the issue before the House.

Mr. MAHER. Thank you, Mr. Speaker.

I would ask why this amendment, instead of fulfilling commitments made to constituents, promises repeated over and over again all summer, why come to this amendment—

The SPEAKER. The gentleman—

Mr. MAHER. —on a bill which is going nowhere when—

The SPEAKER. The gentleman will cease.

The gentleman will either bring his remarks around to the amendment at hand or the Chair will move on.

Mr. MAHER. Mr. Speaker, I am sorry if you were not following my argument, but my argument is about this amendment, and it is about this amendment being that at this stage, because you have permitted this body, in fact required

this body to ignore the constitutional obligations, that we are being asked to vote on an amendment as show-and-tell legislation. Because at this stage, this amendment to this bill—

The SPEAKER. The gentleman will cease.

The gentleman will either speak on the amendment or the Chair will move on—

Mr. MAHER. I am sorry if you are not following me, Mr. Speaker, but this amendment on this bill is what I call show-and-tell legislation. This is so someone who was already promised to override the veto will wave this around and say, look, I did something—

The SPEAKER. The gentleman is out of order. The gentleman is out of order.

### POINT OF ORDER

The SPEAKER. The Chair recognizes Representative Preston.

Mr. PRESTON. Point of order.

I would ask the Chair to carefully monitor, and I think that people are inaccurately taking advantage of your kindness.

The SPEAKER. The Chair has already spoken to that issue.

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

Mr. PRESTON. Let us just vote on the amendment and quit letting people use us here in the House of Representatives. This is about health care and about the people. Thank you.

The SPEAKER. Will the House agree to the amendment? On the question, those in favor will vote "aye"; those opposed—

### LEAVES OF ABSENCE

The SPEAKER. The Chair recognizes the minority whip, who requests that Representative MICOZZIE and Representative MACKERETH be placed on leave. The Chair hears no objection. Leave will be granted.

### CONSIDERATION OF SB 1258 CONTINUED

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

#### YEAS—184

Argall	Galloway	Marshall	Rohrer
Baker	Geist	Marsico	Ross
Barrar	George	McCall	Sabatina
Bear	Gerber	McGeehan	Sainato
Belfanti	Gergely	McI. Smith	Samuelson
Benninghoff	Gibbons	McIlhattan	Santoni
Bennington	Gillespie	Melio	Saylor
Biancucci	Gingrich	Mensch	Scavello
Boback	Godshall	Metcalfe	Schroder
Boyd	Goodman	Millard	Seip
Brennan	Grell	Miller	Shapiro
Brooks	Grucela	Milne	Shimkus
Buxton	Haluska	Moul	Siptroth
Caltagirone	Hanna	Moyer	Smith, K.
Carroll	Harhai	Mundy	Smith, M.
Casorio	Harhart	Murt	Smith, S.
Causar	Harkins	Mustio	Solobay
Civera	Harper	Nailor	Sonney
Clymer	Harris	Nickol	Staback
Cohen	Helm	O'Brien, M.	Stairs

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

#### NAYS—10

Beyer	Maher	Thomas	Waters
Blackwell	Myers	Vitali	Williams
James	Payton		

#### NOT VOTING—0

#### EXCUSED—9

Adolph	Cappelli	Mackereth	Oliver
Bastian	Leach	Micozzie	Rubley
Bishop			

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. **SCAVELLO** offered the following amendment No. **A09474**:

Amend Sec. 1 (Sec. 706), page 3, lines 29 and 30; page 4, lines 1 through 7, by striking out all of said lines on said pages

On the question,

Will the House agree to the amendment?

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

Mr. **SCAVELLO**. Thank you, Mr. Speaker.

Briefly, what this amendment does, it allows a reassessment if there was a change that occurred "...in the productive use of the property or parcel by material alteration in the nature of the use or through alteration or additions which modify the use." I think this clarifies and satisfies— It is an agreed-to amendment. It satisfies everyone concerned, and I know that the

realtors are supportive of it. I know we have tourism folks in support of it. The Chamber is in support of it also. We discussed it, and it was agreed to by the chairman of the Finance Committee, both chairmen of the Finance Committee.

So I would urge the members for a positive vote.

The SPEAKER. Representative Levdansky.

Mr. LEVDANSKY. Thank you, Mr. Speaker.

Mr. Speaker, I would like to interrogate Representative Scavello.

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

Mr. LEVDANSKY. Thank you, Mr. Speaker.

Mr. Speaker, I just want to ask you a question just to establish, to get legislative intent established on the record.

Under your amendment relative to the productive use of property, if a farmer who has been engaged in farming, say, were to set up a little roadside stand to sell some of his produce, in your judgment, would that reflect a change in the productive use of his property?

Mr. SCAVELLO. No, Mr. Speaker, that would not trigger a reassessment.

Mr. LEVDANSKY. Okay. Thank you.

Thank you, Mr. Speaker. Mr. Speaker, I would just like to speak briefly on the amendment.

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

Mr. LEVDANSKY. I want to make it clear to members that this bill, that I clearly support this amendment. This amendment, when combined with Representative Seip's amendment, will put restrictions on spot assessments, except—

Mr. SCAVELLO. Mr. Speaker? I am sorry. I am sorry, Mr. Speaker, but the wrong amendment number is posted up on the board. It should be A09695; A09695. Oh, excuse me, 9698; A09698.

The SPEAKER. Does the gentleman wish to withdraw amendment A09474?

Mr. SCAVELLO. Not yet, Mr. Speaker. If this amendment goes through, if 98 goes through, I would withdraw the other amendments, yes.

The SPEAKER. 98 is Representative Nickol's amendment. Is the gentleman aware of that? Oh, it is?

Mr. SCAVELLO. I am offering it for Representative Nickol, but he—

The SPEAKER. No, the gentleman—

#### AMENDMENT PASSED OVER TEMPORARILY

The SPEAKER. This amendment will be over temporarily.

On the question recurring,

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

Mr. SCAVELLO offered the following amendment No. **A09698**:

Amend Bill, page 2, lines 15 through 24 (A09695), by striking out all of said lines and inserting

Amend Bill, page 3, lines 29 and 30; page 4, lines 1 through 7, by striking out all of said lines on said pages and inserting

(5) A change has occurred in the productive use of the property or parcel by material alteration in the nature of the use or through alteration or additions which modify the use.

(c) This section shall be subject to section 103(b.1).

Section 4. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the amendment or addition of the title and sections 103(b.1) and 706 of the act.

(2) Section 18 of the act of June 26, 1931 (P.L.1379, No.348), referred to as the Third Class County Assessment Board Law, is repealed.

On the question,

Will the House agree to the amendment?

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

Mr. SCAVELLO. Thank you, Mr. Speaker.

Everything that was just said earlier pertains to this amendment, this number that is filed. So I would encourage the members for a positive vote. Thank you.

The SPEAKER. The Chair thanks the gentleman.

Representative Levdansky.

Mr. LEVDANSKY. Thank you, Mr. Speaker.

Mr. Speaker, this amendment is a result of the work between both Democrat and Republican chairs and our staffs. We believe that this amendment, when combined with the Seip amendment, will limit spot assessments only to those circumstances where there has been a change in the productive use of a property. Then reassessments can occur, but only under that narrow circumstance.

So these two amendments, working together, we believe will solve the problem in a way that will meet, we think, most of the objections that have been raised out there from different stakeholder groups. So I want to urge all the members to support this amendment and to support the bill on final passage. Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

#### YEAS—194

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

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

NAYS—0

NOT VOTING—0

EXCUSED—9

Adolph	Cappelli	Mackereth	Oliver
Bastian	Leach	Micozzie	Rubley
Bishop			

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

#### CONSIDERATION OF AMENDMENT A09474 CONTINUED

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

The clerk read the following amendment No. **A09474**:

Amend Sec. 1 (Sec. 706), page 3, lines 29 and 30; page 4, lines 1 through 7, by striking out all of said lines on said pages

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

#### AMENDMENT WITHDRAWN

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

Mr. SCAVELLO. Mr. Speaker, I withdraw the amendment.

The SPEAKER. The Chair thanks the gentleman.

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

Mr. SCAVELLO offered the following amendment No. **A09624**:

Amend Sec. 1 (Sec. 706), page 4, by inserting between lines 7 and 8

(c) In a case where a corporate authority appeals an assessment under subsection (a) and the assessment is increased as a result of the appeal, the corporate authority shall calculate a reduction in their rate of tax on real estate that is the amount necessary to reduce the real estate tax revenue of the corporate authority by a dollar amount equal to the additional revenue that the corporate authority will receive as a result of the appealed assessment. For the following fiscal year, the corporate authority shall reduce their rate of tax on real estate tax revenue by the total calculated reduction in their rate of tax on real estate prior to changing their rate of tax on real estate for the following fiscal year. The reduction in their rate of tax on real estate and the revenue impact of the reduction in their rate of tax on real estate pursuant to this subsection shall be itemized on the corporate authority's annual budget.

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

#### AMENDMENT WITHDRAWN

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

Mr. SCAVELLO. Mr. Speaker, I withdraw that amendment as well.

The SPEAKER. The Chair thanks the gentleman.

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.)

#### CALENDAR CONTINUED

#### BILL ON SECOND CONSIDERATION

The House proceeded to second consideration of **HB 1323, PN 1772**, entitled:

An Act amending the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, further providing, in Local Government Capital Project Loan Fund provisions, for assistance to municipalities.

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

#### BILL TABLED

The SPEAKER. The Chair recognizes the majority leader, who moves that HB 1323 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. The Chair recognizes the majority leader, who moves that HB 1323 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.

**RESOLUTION**

Mr. DeWEESE called up **HR 600, PN 3378**, entitled:

A Resolution directing the Legislative Budget and Finance Committee to study the fiscal impact of electing the Insurance Commissioner of the Commonwealth by popular vote.

On the question,  
Will the House adopt the resolution?

**RESOLUTION RECOMMITTED**

The SPEAKER. The Chair recognizes the majority leader, who moves that HR 600 be removed from the active calendar and recommitted to the Committee on Rules.

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

**RESOLUTION PURSUANT TO RULE 35**

Mr. DeWEESE called up **HR 908, PN 4446**, entitled:

A Resolution expressing gratitude to Joe Ehrmann, coach and former National Football League and All-American football player, for his inspirational work with youth.

On the question,  
Will the House adopt the resolution?

**RESOLUTION RECOMMITTED**

The SPEAKER. The Chair recognizes the majority leader, who moves that HR 908 be removed from the active calendar and recommitted to the Committee on Rules.

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

The SPEAKER. The House will be at ease.

The House will come to order.

**BILL REMOVED FROM TABLE**

The SPEAKER. The Chair recognizes the majority leader, who moves that SB 147 be removed from the tabled bill calendar.

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

**BILL RECOMMITTED**

The SPEAKER. The Chair recognizes the majority leader, who moves that SB 147 be recommitted to the Committee on Appropriations.

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

The SPEAKER. The House will come to order.

**RESOLUTIONS PURSUANT TO RULE 35**

Mr. CURRY called up **HR 921, PN 4493**, entitled:

A Resolution designating the month of October 2008 as "Sudden Infant Death Syndrome and Sudden Unexpected Infant Death Syndrome Awareness Month" in Pennsylvania and recognizing the need for an education and prevention program that focuses on the risk factors for SIDS and SUIDS and safe sleeping practices for newborns and infants.

On the question,  
Will the House adopt the resolution?

The following roll call was recorded:

**YEAS—194**

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

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

## NAYS—0

## NOT VOTING—0

## EXCUSED—9

Adolph	Cappelli	Mackereth	Oliver
Bastian	Leach	Micozzie	Rubley
Bishop			

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

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Mr. CURRY called up **HR 922, PN 4494**, entitled:

A Resolution celebrating the 150th anniversary of the Episcopal Church of Our Saviour and honoring its commitment, dedication and service to Jenkintown, Pennsylvania.

On the question,  
Will the House adopt the resolution?

The following roll call was recorded:

## YEAS—194

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

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

## NAYS—0

## NOT VOTING—0

## EXCUSED—9

Adolph	Cappelli	Mackereth	Oliver
Bastian	Leach	Micozzie	Rubley
Bishop			

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.

## HOUSE SCHEDULE

Mr. DeWEESE. Mr. Speaker, we have no further votes, except the normal housekeeping operation that you and the people at the dais might want to go forward with.

The SPEAKER. The Chair thanks the gentleman.

Mr. DeWEESE. We want to come back at 9 a.m. tomorrow and launch our deliberations.

The SPEAKER. Are there any further announcements?

## BILLS AND RESOLUTIONS PASSED OVER

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

## ADJOURNMENT

The SPEAKER. The Chair recognizes Representative DeWeese of Greene County, who moves that this House do now adjourn until Wednesday, October 8, 2008, at 9 a.m., e.d.t., unless sooner recalled by the Speaker.

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On the question,  
Will the House agree to the motion?  
Motion was agreed to, and at 8:56 p.m., e.d.t., the House  
adjourned.