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No. 43

HOUSE OF REPRESENTATIVES

The House convened at 6:44 p.m., e.d.t.

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

PRAYER AND PLEDGE OF ALLEGIANCE

The SPEAKER. Without objection, the prayer and Pledge recited in today's regular session will serve as the prayer and Pledge for today's special session.

HON. ARTHUR D. HERSHEY, member of the House of Representatives, offered the following prayer:

Let us bow our heads:

Our kind, gracious Father, we come before You this morning thanking You for the beauty of the earth, thanking You for the great spring we have had, ample rainfall and sunshine to grow the crops and the flowers that we enjoy. Thank You for the privilege of being involved in this great experiment in the Commonwealth of Pennsylvania founded by William Penn where we could worship as we please.

For our deliberations today, we ask for wisdom and discernment as we discuss budget items, and today, Heavenly Father, if there is a member in distress, we ask You to provide a special blessing for that person at this time.

Help us to have a great session, and be with us as we travel over the holidays. Keep us safe.

In Your name we pray. Amen.

JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, approval of the Journal of Tuesday, July 1, 2008, will be postponed until printed. The Chair hears no objection.

LEAVES OF ABSENCE

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

MASTER ROLL CALL

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

BILL REREPORTED FROM COMMITTEE

SB 22, PN 47

By Rep. D. EVANS

An Act amending the act of November 29, 2004 (P.L.1376, No.178), known as the Alternative Fuels Incentive Act, further providing for definitions and for the Alternative Fuels Incentive Fund; and providing for biodiesel production incentives.

APPROPRIATIONS.

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

LEAVE OF ABSENCE

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

SUPPLEMENTAL CALENDAR A

BILL ON SECOND CONSIDERATION

The House proceeded to second consideration of **SB 22, PN 47**, entitled:

An Act amending the act of November 29, 2004 (P.L.1376, No.178), known as the Alternative Fuels Incentive Act, further providing for definitions and for the Alternative Fuels Incentive Fund; and providing for biodiesel production incentives.

On the question,

Will the House agree to the bill on second consideration?

Mr. **MAHER** offered the following amendment No. **A08438**:

Amend Sec. 3 (Sec. 3.1), page 5, line 30, by striking out "IN THE AMOUNT OF 75¢"

Amend Sec. 3 (Sec. 3.1), page 6, line 1, by inserting after "PURPOSES."

The amount of the production incentive per gallon shall be determined by dividing the total amount to be expended from the fund for the year by the total eligible gallons produced during the year by producers requesting incentive payments.

Amend Sec. 3 (Sec. 3.1), page 6, line 7, by striking out "A MONTHLY" and inserting

an annual

Amend Sec. 3 (Sec. 3.1), page 6, line 11, by striking out "MONTH" and inserting

year

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

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

Mr. MAHER. Mr. Speaker, I was actually seeking recognition on amendment A8433.

The SPEAKER. That amendment is going to be considered later.

Mr. MAHER. I thought it was up to the member who is being recognized to offer his amendment, and that is the amendment I am seeking to offer, Mr. Speaker.

The SPEAKER. The leader sets the order of the amendments. The amendment that is in order is A08438.

Mr. MAHER. So members now cannot even decide to offer their amendment—

The SPEAKER. Is the gentleman speaking on the amendment?

Mr. MAHER. I suppose I was making a parliamentary inquiry, but I have a flavor of how things may be proceeding. So I will dispense with that in the interest of act with all due speed, and I will speak on the amendment.

The SPEAKER. The gentleman is in order.

Mr. MAHER. Thank you, Mr. Speaker.

This amendment is rather simple. In this bill there is an incentive program for biofuels, biodiesel, and that incentive formula has a nifty left hook and a little loop-de-loop, and what it says is a 75-cent-a-gallon incentive is actually going to be different amounts for different producers, and if what we are trying to do is incentivize new investment in Pennsylvania and reward the investment of those already here, it strikes me that the simple, equitable approach is to take the pot of funds that are used as an incentive and reward each producer on the same basis. So if there are X millions of dollars and Y million gallons, it is X over Y per gallon. It is the same pennies per gallon for every producer. As it is now, there is a schedule to be 3 cents for some producers and 75 cents for other producers; that is 3 cents per gallon for some, 75 cents per gallon for others. Well, obviously, that is not fair; it is not equitable, and this amendment would simply make it equitable.

So if you want to be able to explain what you are doing when you go home and if you want to be able to say that everybody is being treated the same, then I would ask that you support this amendment. But if I had had my choice, I would have been asking you to consider another alternative, because incentives really are subsidies and will pay companies regardless of whether or not they will have an enduring presence in the State. I think it is better to reward those who will have an enduring presence.

And ultimately, I would have preferred that we would have been able to be talking about tax credits at this time, but since that was obviated, we will stick to the one which is really closest to what is in the bill and simply ask for a "yes" vote so that all producers receive the same pennies per gallon as an incentive payment.

Thank you, Mr. Speaker.

The SPEAKER. Representative Stevenson, on the amendment.

Mr. STEVENSON. Thank you, Mr. Speaker.

I rise to support the Maher amendment. It is a much more equitable distribution of the dollars than other proposals. As the gentleman has just stated, this is an amendment which will

distribute the funding more equitably. Lake Erie Biofuels, biodiesel, produces 125,000 gallons per day of biodiesel currently. That is 45 million gallons per year. With the 75-cent incentive, they will only receive about \$3 per gallon, while less successful producers will receive the 75 cents.

So the formula as proposed does not reward all producers equitably, and for that reason, I encourage the support of the Maher amendment. Thank you.

The SPEAKER. Representative Mensch.

Mr. MENSCH. Thank you, Mr. Speaker.

There are times when we are given opportunities to vote on something that appears to be one thing but it is really quite something else. The 75 cents, whereas Representative Maher has pointed out, the 3 cents to the 75 cents, would be driven back to the producer company as income. That would make that before-tax income, which means that they are going to be taxed. If the tax rate is 50 percent, then 75 cents becomes 37 1/2 cents. It is not nearly as efficient as we might read this to be. That is why the Maher amendment is much more attractive, because it offers the tax incentive which goes directly to the bottom line. It is a much greater incentive for the business to invest in capital equipment. In fact, they are not going to use the operating money, the 75 cents, which is going to be operating income, they would not use that to capitalize new plant investment.

This is a stimulus to invest in the new equipment. The investment tax credit is the proper vehicle to do that. I support the Maher amendment.

The SPEAKER. Is there anyone seeking recognition on the Maher amendment?

Representative McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, I would ask the members to oppose the Maher amendment, and I would submit to all of the members – and I am sure they know that we are in budget season – that when we do budget agreements, it takes a lot of compromise from all sides, and there will be an amendment that is offered tonight by the gentleman from Reading that will take care of that compromise, in the Kessler amendment.

That being said, when you look at the gentleman's amendment and the formula that he creates, it is a formula that distributes the money on a pro rata basis, and we certainly understand that he wants to reward some of the large producers in this Commonwealth, but that is precisely the problem. We are trying to incent the smaller producers around the Commonwealth, and if the Maher amendment gets placed into this bill, 76 percent of the \$5.3 million will go to the Erie production facility, with only 4 percent going to the other six producers in Pennsylvania.

Mr. Speaker, this amendment will really unfairly put all of the dollars, the majority of the dollars, into Erie and also would allow for annual payments instead of monthly payments, and it is those monthly payments that really help the small producers that are located here in central Pennsylvania and in the southeast and western parts of this Commonwealth.

Mr. Speaker, I would ask that the members oppose the Maher amendment, and we will make our arguments why the House should support the Kessler amendment.

The SPEAKER. Representative George.

Mr. GEORGE. Mr. Speaker, just to take this just a little further and why, in all possibility, this amendment may not help those new ventures that have been created in Pennsylvania to

achieve what we intend to achieve, which is alternative energy produced in Pennsylvania.

Now, there are some of these larger places, number one, that are getting the raw product from places such as Iowa and such, and then after they produce the material, the material goes up into Canada and the northern shore. So the purpose of this and the argument that Mr. McCall gave is, in reality, this would help those smaller firms who have not been really established from, number one, being able to procure the raw material from those individuals in Pennsylvania, that are grown in Pennsylvania, and therefore give us the ability to take the created product and give us an advantage here in Pennsylvania. That is exactly what this alternative energy is all about, and I would urge that you would support Mr. McCall's argument. Thank you.

The SPEAKER. Representative Sonney.

Mr. SONNEY. Thank you, Mr. Speaker.

I rise to support the Maher amendment. I could not disagree with the previous speaker more.

You know, what we are really saying under this bill, without this amendment, is that come to Pennsylvania and be a very small biofuels producer and we are going to give you a lot of money. We are going to give it to you for free just because you can produce a very small amount. What we should be saying is that if you can come to Pennsylvania and be a large producer, that is when we are going to help you because you as a company are showing the wherewithal to invest your money into this industry so that it can move forward and absolutely benefit this Commonwealth.

To put an unfair advantage to those small producers with such a large subsidy so that they can buy the product cheaper is absolutely an unfair business practice, and I would encourage all the members to support the Maher amendment. Thank you.

The SPEAKER. Representative Fairchild.

Mr. FAIRCHILD. Thank you, Mr. Speaker.

I rise to oppose the Maher amendment. I oppose it for a number of reasons.

Number one, I believe that we have many programs both in Pennsylvania and in the United States to assist small businesses, and that is what these biodiesel producers are. They are trying to be competitive; they need to be competitive. If we are not going to do it, if we accept the Maher amendment and that premise, we are just telling those producers, those small guys, to close their doors and we will have one major producer in Pennsylvania. That is not healthy. It is not healthy for any business climate. To be competitive, you have to have competitors in your business.

On a regional basis, these small producers are working with our farmers. The legislation that we have before us is endorsed by the Pennsylvania Farm Bureau. They oppose the Maher amendment. Why is that? Because they realize that they cannot ship their goods to Erie. Can you imagine a Lancaster farmer shipping their goods to Erie? It does not make any sense, but there are these small producers strategically placed within the State, and they should be afforded any assistance we can give them.

I would like to end my statement by saying, this is not a forever program. I believe this is drafted, the legislation is drafted to only be a 3-year window to help these startup companies get on their feet, offer competition, and take advantage of the energy potential that exists in our communities, whether it be farmers, whether it be other

producers or other retailers and businesses that send their by-products to these small biodiesel generators.

Thank you very much, Mr. Speaker.

The SPEAKER. Representative Saylor.

Mr. SAYLOR. Thank you, Mr. Speaker.

I also rise to oppose the Maher amendment.

The Pennsylvania Biodiesel Producers Group includes more than just the Erie biodiesel plant. There are six other ones here in Pennsylvania. Biodiesel firms here in Pennsylvania use a lot of farm stock and support our farmers here in Pennsylvania, and the more companies here, the more competitive we are in that area as well as we also are supporting our farmers.

Most importantly, also, I think it is important to note the prices of wholesale petroleum diesel in Pennsylvania is over \$4 a gallon. Wholesale biodiesel from in-State producers is at \$4.60. The wholesale price of biodiesel from out-of-State producers is \$3.80. It definitely illustrates a need for a State incentive to help our biodiesel companies here in Pennsylvania.

There are both small and large corporations all over Pennsylvania that make up as employers and help our State with paying tax dollars, just like there are a lot of Lowes and Home Depots across Pennsylvania as well, but we still need our local little hardware stores as well. Well, I believe the same is true in biodiesel. We need small and large companies to fill the needs of Pennsylvania in the area of biodiesel to help our farmers, to make sure that the home-heating process is done well also.

Mr. Speaker, I rise and believe that the people in Pennsylvania deserve money going to all companies in Pennsylvania, not one select group. Thank you.

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

Representative Kessler.

Mr. KESSLER. Thank you, Mr. Speaker.

In reference to a tax credit, if a company does not have a tax appetite, a tax credit is not going to work. Rather than doing a tax credit, if you were to give the 75 cents up front, they would then in turn be making a profit, and then they in turn would be paying taxes, which is good for the State.

My amendment is the only amendment that includes "sold in Pennsylvania." If we are going to give an incentive to biodiesel plants, we should require them to sell that in the State of Pennsylvania. My amendment is the only one that includes that, as well as SB 22 does not include "sold in Pennsylvania."

My amendment would give Erie approximately 36 percent of the \$5.3 million that would be set aside in my amendment, and the others would get approximately 10.6 percent. In this amendment, if you take the total production of the capacity of the approximate seven biodiesel plants, approximately 76 percent would go to Erie and the others would only get approximately 4 percent.

And there are other biodiesel plants in the State that can produce 5 million gallons a year, 20 million gallons a year, but they are located in the interior of the State. They do not have the opportunity to be located in a great location. My hat is off to Erie; Erie is located in a location where they have the ability to bring in feedstock from out of State, and they have the ability to put biodiesel on a barge and send it to Canada or to Europe. These other biodiesel plants do not have that ability to do that. They only have the Susquehanna, the Allegheny, and the Schuylkill Rivers. Thank you.

The SPEAKER. Representative Payne.

Mr. PAYNE. Thank you, Mr. Speaker.

I rise to oppose the Maher amendment. If one vendor in Erie gets 70 to 80 percent of the State funds, then this body should not be concerned about one vendor doing health care. I do not know why we have Ford, Chrysler, or Chevy; let us just have one auto manufacturer.

If we are ever going to get out of the energy crisis, it is not going to be done by having most of the State money, three-quarters or 80 percent of the State money, going to one vendor. We need young, energetic startup companies. They have got a lot of ideas to get us out of this energy crisis.

And finally, this is an agreement with the Senate. They are not going to accept any amendments on this bill except the Kessler amendment.

Thank you, Mr. Speaker.

The SPEAKER. Representative Denlinger.

Mr. DENLINGER. Thank you, Mr. Speaker.

Mr. Speaker, I rise in support of the Maher amendment, and I do so because of the many unknowns, quite frankly, that we have in energy policy and because this is a developing area. Certainly, biofuels is exciting new technology, but it is unproven in the economic sense.

Mr. Speaker, if we go down the road of giving a tax credit, that means that the companies that are behind this have to be profitable before they can earn that credit. If, in fact, we subsidize this – currently diesel fuel is running about \$5 a gallon – what is the right answer? Is it profitable at \$5.75 or is it profitable at \$7 or \$8 or \$9? That is a situation, Mr. Speaker, that I do not think that we should put taxpayer dollars into to bring about profitability, to cause it. I think we should have these companies prove their economic viability on their own, and we should reward their operations with a tax credit system.

So, Mr. Speaker, I do rise in support of the Maher amendment and encourage my fellow legislators to support it. Thank you.

The SPEAKER. Is there any member seeking recognition?

The Chair recognizes the prime sponsor of the amendment, Representative Maher, for the second time.

Mr. MAHER. Thank you, Mr. Speaker.

You know, I have heard a lot of good comments talking about why a subsidy program is not attractive, and frankly, I agree with you. Now, if it is going to be a subsidy program, I think it ought to be a fair one, and what is in this bill right now is not very fair because some producers would get 3 cents a gallon, others get 75 cents a gallon. But a subsidy, after all, only really serves to create a dependency instead of rewarding companies who invest here and are able to manage profitably and therefore create jobs which endure.

AMENDMENT WITHDRAWN

Mr. MAHER. And I have been so persuaded by so many of the speakers that I think we ought to just go ahead and start talking about tax credits, and I am going to save us a few minutes, Mr. Speaker, and I am going to withdraw this amendment in order to move forward with the one I had hoped to offer originally.

The SPEAKER. The Chair thanks the gentleman.

LEAVES OF ABSENCE

The SPEAKER. The Chair recognizes the minority whip, who requests that Representative BENNINGHOFF, Representative STAIRS, and Representative MACKERETH be placed on leave. The Chair sees no objection. These leaves will be granted.

CONSIDERATION OF SB 22 CONTINUED

On the question recurring,

Will the House agree to the bill on second consideration?

The SPEAKER. The Chair recognizes the gentleman from Berks County, Representative Kessler, who offers amendment A08543, which the clerk will read.

The Chair corrects its announcement. There is a replacement amendment. The Chair recognizes the gentleman from Berks County, Representative Kessler, who offers amendment A08593, which the clerk will read.

On the question recurring,

Will the House agree to the bill on second consideration?

Mr. **KESSLER** offered the following amendment No. **A08593**:

Amend Sec. 1 (Sec. 2), page 2, by inserting between lines 5 and 6 "Biomass-based diesel." The term shall have the meaning set forth in section 211(o)(1)(D) of the Clean Air Act (69 Stat. 322, 121 Stat. 1519, 42 U.S.C. § 7545(o)(1)(D)) and shall meet the ASTM Specification D6751 Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels or its successor standard.

* * *

Amend Sec. 1 (Sec. 2), page 2, by inserting between lines 11 and 12

"Qualified biomass-based diesel producer." A producer of 25,000 gallons or more of biomass-based diesel per month with its principal production facility in this Commonwealth that has complied with the requirements of section 3.1(a)(ii) and that is in compliance with all laws and current in all obligations to the Commonwealth.

Amend Sec. 2 (Sec. 3), page 4, line 2, by striking out "1%" and inserting

1.5%

Amend Sec. 2 (Sec. 3), page 4, line 4, by striking out "1%" and inserting

0.5%

Amend Sec. 2 (Sec. 3), page 5, line 4, by striking out "biodiesel" and inserting

plug-in hybrid

Amend Sec. 2 (Sec. 3), page 5, line 5, by inserting brackets before and after the period after "vehicle" and inserting immediately thereafter

as follows:

Amend Sec. 2 (Sec. 3), page 5, line 17, by inserting after "hybrid"

plug-in hybrid or other alternative fuel

Amend Sec. 2 (Sec. 3), page 5, line 21, by inserting a bracket before "the" and after "hybrid" and inserting immediately thereafter

a hybrid, plug-in hybrid or other alternative fuel

Amend Sec. 3 (Sec. 3.1), page 5, line 27, by striking out "BIODIESEL" and inserting

Biomass-based diesel

Amend Sec. 3 (Sec. 3.1), page 5, lines 28 through 30; page 6, lines 1 through 14, by striking out "PAY A QUALIFIED" in line 28

and all of lines 29 and 30, page 5, and all of lines 1 through 14, page 6, and inserting

expend up to \$5,300,000 annually from the fund unless the balance of the fund is less than \$5,300,000 on the first day of the fiscal year, in which case the department shall expend up to one-third of the balance of the fund:

(1) As a production incentive of 75¢ per gallon for biomass-based diesel produced in this Commonwealth beginning July 1, 2008, and sold in this Commonwealth for commercial transportation purposes or for residential heating. In the case of biomass-based diesel, this incentive shall be available through June 30, 2011. If the total monthly amount of production incentives applied for by all qualified applicants exceeds the remaining amount available for those incentives, then the incentive shall be prorated among all qualified applicants. An individual qualified biomass-based diesel producer shall not receive more than \$1,900,000 in incentives in any one fiscal year. For purposes of this section, all facilities under common ownership shall be counted as a single facility.

(2) A producer of biomass-based diesel in this Commonwealth shall file for the production incentive on a monthly basis on a form furnished by the department. The form shall require the producer to submit proof of production of the biomass-based diesel and the number of gallons sold during the previous calendar month and such other information as the department deems appropriate. A biomass-based diesel producer shall also submit a certificate of analysis from an accredited laboratory for every 500,000 gallons of biomass-based diesel produced showing that the biodiesel meets the ASTM Specification D6751, Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels or its successor standard.

Amend Sec. 3 (Sec. 3.1), page 6, line 15, by striking out "(C)" and inserting

(b)

On the question,

Will the House agree to the amendment?

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

Mr. KESSLER. Thank you, Mr. Speaker.

As I mentioned before—

The SPEAKER. The gentleman will suspend.

PARLIAMENTARY INQUIRY

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

Mr. MAHER. Thank you, Mr. Speaker. Just for a clarification.

You indicated this is a replacement amendment. Can you clarify why it is considered timely filed? Was it a technical error?

The SPEAKER. The Chair corrects itself. It is a corrective amendment.

Mr. MAHER. Thank you, sir.

The SPEAKER. Representative Kessler.

Mr. KESSLER. Thank you, Mr. Speaker.

As I mentioned before, there are approximately seven biodiesel plants in Pennsylvania. The purpose of this bill is to build the industry throughout the whole State. There are several of those biodiesel plants that are struggling because there are incentives in 20-plus other States, offering up to

\$1.50 a gallon. Of those seven, as we already know, one is located in Erie, Pennsylvania, and my hat is off to them, because they have taken advantage of a location where they are able to bring in feedstock from out of State and they are able to put biodiesel on a barge and send it to Canada and Europe where they are paying \$8, \$9, \$10 a gallon.

As far as the other six biodiesel plants in the State, as I mentioned, they are on the interior of the State, which creates a problem for them. They cannot get to that market. What my plan does, it is a 75-cent incentive. It has a cap of \$5.3 million, only for 3 years. It sunsets after 3 years. The cap per producer is \$1.9 million. Based on those numbers, Erie will get approximately 36 percent and the others will get approximately 10.6 percent. As you have heard, there are other amendments where Erie would get approximately 76 percent and the others would get approximately 4 percent.

You received a letter, maybe last week it was; it was based on Erie's business plan only. They were talking about up to 25 cents per gallon, and you heard that about three were only getting 3 cents a gallon. Well, everybody is getting 75 percent on what qualifies under that \$5.3 million. It would be great to be able to have \$10, \$15, \$20 million set aside so everybody could get their 75 cents. With the other producers, what they produce, their cents per gallon will drop below 75 cents as well if you take the 75 cents and divide it into the amount that they produce. The amount that they produce, we do not have enough money set aside to satisfy 75 cents for every gallon.

As I stated earlier, I think it is very important that when we offer an incentive, that it needs to be utilized in Pennsylvania, and I cannot stress enough that importance, and my amendment is the only amendment that states that it should be produced in Pennsylvania and sold in Pennsylvania so it benefits all 12 million Pennsylvanians, just not one area.

As Representative Russ Fairchild mentioned, the Pennsylvania Farm Bureau is backing this bill. Currently, there is an association set up amongst these six biodiesel plants, and they are working with the Farm Bureau on setting up a co-op. Soybeans right now, the prices are all over the board. By setting up a co-op, it will give a consistent price to the farmer and benefit all the farmers in Pennsylvania, and it will also help the biodiesel plants with a steady income.

In the business plan that we are working on with this co-op with the Farm Bureau, it shows in the second or third year that they will be able to sell biodiesel less than what diesel is being sold today without the 75 cents. That is the goal. We have got to get to a point where they can be profitable on their own without the 75 cents, but we have got to give them that kick-start.

I also have a letter from PennFuture who is backing this bill as well, and they see the reality of this by trying to help all the biodiesel plants in Pennsylvania and not just driving the majority of the money to one. Thank you.

The SPEAKER. The Chair recognizes Representative Saylor.

Mr. SAYLOR. Thank you, Mr. Speaker.

I rise to support the Kessler amendment.

As I said earlier about the other firms in Pennsylvania and their importance to the Pennsylvania farmers throughout our Commonwealth, not just in one particular region, this Kessler amendment is supported by the Pennsylvania Farm Bureau. And not only that, even with the Kessler amendment, the Erie facility will receive \$1 1/2 million out of the \$5 million allocated for this. I think that is pretty good.

I also believe that, again, it comes down to being about fairness in Pennsylvania and distributing the money so that we have an overall benefit to the Commonwealth, not just one sector of the Commonwealth. Many times, that is one of the arguments we get into on this House floor many times when we talk about bills, is how one part of the State benefits from a piece of legislation over another part of the State, from school funding to whatever.

So I believe tonight that the best thing for Pennsylvania and the best thing for our energy future is to pass the Kessler amendment and send it to the Senate. Thank you.

The SPEAKER. Representative Maher.

Mr. MAHER. Thank you, Mr. Speaker.

Would the gentleman making the amendment answer some questions, please?

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

Mr. MAHER. Thank you, Mr. Speaker.

These payments, the subsidy payments to biodiesel producers, do you know if they are taxable for Federal income tax purposes?

Mr. Speaker, I would ask that since we are under a tight clock, if people are spending time saying nothing, that we hold the clock.

Mr. KESSLER. Can you put 10 seconds back on the clock, please?

Mr. MAHER. It has been 30 seconds since I asked my question, Mr. Speaker.

Mr. KESSLER. Oh; I am sorry. Well, I am ready to answer it if you will let me answer it, please.

Your income is taxable.

Mr. MAHER. And this would be part of income?

Thank you, Mr. Speaker. That concludes my—

Mr. KESSLER. We will clarify— Okay.

Mr. MAHER. That concludes my question on that subject.

You are speaking of this co-op. Do you imagine this co-op will be able to offset world agricultural trends?

Thank you, Mr. Speaker. That concludes my interrogation.

Mr. Speaker, this amendment will ask the people of Pennsylvania to write a check for \$9 to \$15 million, a third of which will be mailed to Uncle Sam.

The SPEAKER. Has the gentleman concluded his interrogation?

Mr. MAHER. I said I had, Mr. Speaker, and I am speaking on the amendment now, if that is all right.

The SPEAKER. The Chair gives permission for the gentleman to speak on the amendment.

Mr. MAHER. Thank you for using the clock.

Once again, once again, this amendment would say that the taxpayers of Pennsylvania should write \$9 to \$15 million worth of checks to companies that will have to turn around and send a third of that money to Uncle Sam. Now, why should Pennsylvania taxpayers be taxed to send more taxes to Uncle Sam? How does that make sense? It makes no sense.

I cannot possibly believe that a co-op established here in Pennsylvania will somehow or another be able to overcome the commodities markets for this entire world, but that is a premise on this amendment. Now, if you believe that a handful of folks here in Pennsylvania can offset world agricultural trends, well, then this is your ticket, but I do not. I believe that is an imagination, it is a fantasy, and it will not happen. So if you

really want to do something useful, you will not pass this amendment.

We have heard that all this money will go to one company, so much to one company. Well, that is only true if the program fails. If this incentive program succeeds, we will have biodiesel production cropping up all over. The small companies will become big companies, bigger companies will become even bigger companies, and the companies that are not even in this State will arrive. The only reason to assume that so much of this would go towards one company is to say that this incentive program will not work as an incentive program. Well, why in heaven's name would we want to have an incentive program that you have already concluded will not change the status quo?

So very simply, it makes no sense to tax our neighbors so they can mail more taxes to Uncle Sam. It makes no sense to believe that a co-op established here in Pennsylvania will overcome world commodity price trends. And it makes no sense to vote for a program that you believe will not work. So I would ask that you pass by the Kessler amendment.

Thank you, Mr. Speaker.

The SPEAKER. Representative Stevenson.

Mr. STEVENSON. Thank you, Mr. Speaker.

I would like to interrogate the maker of the amendment.

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

Mr. STEVENSON. Thank you, Mr. Speaker.

My first question would be – if the gentleman is ready – my first question would be, is there an economic justification for the subsidy being 75 cents a gallon, and how did you arrive at that figure? How did you arrive at 75 cents a gallon?

Mr. KESSLER. Yes. As Representative Saylor had mentioned, he gave some prices as to what biodiesel can be bought for from out of State in Pennsylvania, and on average, it is around 80 cents. So that is why we came up with the 75 cents.

Mr. STEVENSON. Did you look at other States and their incentive programs in preparing this amendment?

Mr. KESSLER. Yes, I did.

Mr. STEVENSON. And what did you find there?

Mr. KESSLER. I found that Iowa offers \$1.50 incentive.

Mr. STEVENSON. Is that \$1.50 direct subsidy or is that \$1.50 tax credit?

Mr. KESSLER. I can pull it out and tell you exactly what it is here.

What Iowa does is, it is initially a tax credit, but on their tax form, if you do not use all of that tax credit, there is a line where you fill in that you get reimbursed back from the State, and I do have that tax form in my file here. I cannot find it right now, but I would be more than willing to share that with you.

Oh, here it is right here.

Mr. STEVENSON. Thank you very much.

Mr. KESSLER. It is entitled the "Biodiesel Blended Fuel Tax Credit," Iowa's Department of Revenue. Under the instructions, it says, "Any credit in excess of the tax liability can be refunded," and you fill out the form right here.

Mr. STEVENSON. Do you know of any State which has a larger direct subsidy or payment incentive than 40 cents?

Mr. KESSLER. A direct—

Mr. STEVENSON. Subsidy.

Mr. KESSLER. Subsidy—

Mr. STEVENSON. Payment incentive.

Mr. KESSLER. Not that I am aware of. Iowa has the \$1.50; Indiana has a \$1 tax incentive.

Mr. STEVENSON. Thank you, Mr. Speaker. If I could speak on the amendment?

The SPEAKER. Representative Stevenson is in order and may proceed.

Mr. STEVENSON. Thank you.

I do not question the gentleman's intent here in offering this amendment. Certainly, we all want to see biodiesel incentivized in Pennsylvania. However, I certainly question the direction he is going. As he answered himself, Iowa, which has the largest subsidy of any kind, provides a tax credit of \$1.50 and not a direct payment subsidy.

If you look at the other States who are doing this across the country, Indiana and Kentucky have a \$1 per gallon tax credit, and Iowa has no producer program. The Iowa tax credit is a tax credit for retailers that ranges from 3 cents per gallon for sales to 2 percent biodiesel blends and is entirely different from the proposal offered here by the gentleman from Berks County.

So as we have already established, I think several speakers on this side of the aisle, the gentleman from Lancaster County indicated that a tax credit is a much fairer, if we are talking about equity and fairness across the system, is a much fairer way to incentivize biodiesel production, which is the end goal. Very few of us are aware of any government programs of direct subsidy which, once started, actually sunset as this is projected to do in 3 years.

My concern is the same as the gentleman from Allegheny, that this program will not only continue beyond 3 years but, with all its good intention, will not provide the production that we need. If we incentivize companies which are successful, know how to do this technology, then I think we will be much more successful in the long run.

Thank you, Mr. Speaker.

The SPEAKER. Representative Mensch.

Mr. MENSCH. I, too, do not question the motivation of the maker of this bill; I think he is well intended. But I do have a question or two for the maker of the bill, and I am wondering, would he please stand? Excuse me; for the amendment. Would he please stand?

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

Mr. MENSCH. Thank you, Mr. Speaker.

Mr. Speaker, as I stated, I think the intention is very good, but I do have a couple of questions.

What is your intent with the crafting of this amendment for that 75 cents or that 75 percent? How would you see that being utilized when it is driven back to the producer? What do you think they are going to do with that 75 cents?

Mr. KESSLER. They will be able to start production, because they can buy biodiesel from out of State but it would cost them approximately 80 cents more, so they will be able to start production with the incentive in place.

Mr. MENSCH. So your intent then is not to invest in a new plant but rather to be able to buy biodiesel?

Mr. KESSLER. No, to be able to bring in feedstock – say, soybeans, animal fats – and create biodiesel at a price that is competitive with biodiesel that is being bought from other States, because the other States are offering incentives.

Mr. MENSCH. And that 75 cents that the State would give that producer, that makes it competitive? That almost narrows the gap to that 80 cents that you have just referred to?

Mr. KESSLER. That is correct.

Mr. MENSCH. This will be treated as operating income, though, by that producer. Would you agree?

Mr. KESSLER. It—

Mr. MENSCH. In other words, it is taxable.

Mr. KESSLER. Oh, it will be income, because we talked about, what they do is they will pay, a company pays taxes on the income.

Mr. MENSCH. That is right. In fact, it is going to be treated, in terms of an income statement, it is going to be treated first as gross income. It will appear on the income statement right below "Cost of goods sold."

Mr. KESSLER. Yes.

Mr. MENSCH. So that means it will drive down to the operating level, and it will be affected by taxes.

Mr. KESSLER. I am sorry; can you repeat that?

Mr. MENSCH. I am saying that it will end up at the operating income level on the income statement.

Mr. Speaker, could we have a little— He is having trouble hearing me.

The SPEAKER. The House will come to order. The House will come to order. Members will take their seats. Conferences on the floor will break up.

Mr. MENSCH. As I was saying, Mr. Speaker—

The SPEAKER. Representative Mensch.

Mr. MENSCH. Thank you.

This will drive, in the income statement, to the operating income level. That is also known as income before taxes. It will be affected by taxes, so if it is 75 cents— And arbitrarily, let us just assume that tax rates, Federal and State, are 50 percent. That means 37 1/2 cents of your program will actually be used to offset that 80 cents that they are paying for biodiesel feedstock.

Mr. KESSLER. I am sorry; I did not follow that. What is your point?

Mr. MENSCH. My point is that taxes are going to eat half of what we, the State, are giving back to the producer to buy biofeedstocks. It is really inefficient.

Mr. KESSLER. Half of it back? They would be paying 50 percent of that back of the 75 cents?

Mr. MENSCH. Well, the Federal income tax level—

Mr. KESSLER. What if you are in a 20-percent tax bracket or a 15-percent tax bracket?

Mr. MENSCH. Show me a C corporation that is in that tax bracket.

Pennsylvania is 49th out of 50 for C corporation tax structures. When you add the State and the Federal, we are almost at a 50-percent tax bracket.

Mr. Speaker, on the amendment, please.

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

Mr. MENSCH. I will say, again, I think it is a really well-intended effort, but I do believe that economically, financially, it is very inefficient, that too much of the revenue that we are giving from the State to this producer is lost through the effective taxes. It will not have the offsetting effect that the author of the amendment has proposed to us this evening.

So I would oppose this amendment. Thank you.

The SPEAKER. The Chair thanks the gentleman.

PARLIAMENTARY INQUIRY

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

Mr. BOYD. A parliamentary inquiry, please.

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

Mr. BOYD. What effect, if the Kessler amendment is adopted, will it have on the other amendments that are proposed on this legislation?

The SPEAKER. The House will be at ease.

The House will come to order.

The Chair does not see any conflict with any of the other amendments.

Mr. BOYD. Thank you.

The SPEAKER. The Chair thanks the gentleman.

Is there anyone seeking recognition before the Chair recognizes the prime sponsor for the second time?

Representative McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, I am going to ask the members to support the Kessler amendment.

Mr. Speaker, this issue has been negotiated and debated by the two Houses, both the House and the Senate, conferees, negotiators, budget negotiators, whatever you want to call them, for the last 3 or 4 weeks, and it is a product that I think is fair. It is a product that will help the farm community in Pennsylvania. It is a product that will help small producers of biodiesel. It will help consumers with home-heating fuel as well as farmers running their farm tractors and trucks running their tractor-trailers.

It is a good product, and I would ask the members of the House to support it with an affirmative vote.

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

The following roll call was recorded:

YEAS—156

Table listing names of members who voted 'YEAS' in 156 total votes. Includes names like Adolph, Geist, Markosek, Sabatina, etc.

Table listing names of members who voted 'NAYS' in 43 total votes. Includes names like Curry, Kessler, Payton, Wagner, etc.

NAYS—43

Table listing names of members who voted 'NOT VOTING' in 0 total votes. Includes names like Baker, Brooks, Causer, etc.

NOT VOTING—0

EXCUSED—4

Table listing names of members who were 'EXCUSED' in 4 total votes. Includes names like Benninghoff, Harper, Mackereth, Stairs.

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. HARKINS offered the following amendment No. A08513:

Amend Sec. 2 (Sec. 3), page 4, line 5, by inserting after "dealers" , wholesalers, retailers
Amend Sec. 2 (Sec. 3), page 4, line 6, by inserting after "program" and the benefits of alternative fuels
Amend Sec. 3 (Sec. 3.1), page 5, line 30, by striking out "75¢" and inserting 30¢
Amend Sec. 3 (Sec. 3.1), page 6, lines 1 through 4, by striking out "QUALIFIED BIODIESEL PRODUCERS" in line 1, all of lines 2 and 3 and "THAN \$2,000,000 IN INCENTIVES ANNUALLY." in line 4 and inserting To prevent giving any producer a marketing and pricing advantage, if the amount of incentive required exceeds available funds in any month, the payments will be allocated pro rata on the producer's total percentage of overall production in this Commonwealth.
Amend Sec. 3 (Sec. 3.1), page 6, line 5, by striking out "2010" and inserting 2011
Amend Sec. 3 (Sec. 3.1), page 6, line 12, by striking out "500,000" and inserting 100,000

Amend Sec. 3 (Sec. 3.1), page 6, line 13, by inserting after "PRODUCED"

and for every batch of biodiesel produced following a change in feedstock or feedstock supplier

Amend Sec. 3 (Sec. 3.1), page 6, line 17, by inserting after "AN" additional

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

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

The House will please come to order. The gentleman indicates that he is withdrawing the amendment?

Representative Harkins.

Mr. HARKINS. Thank you, Mr. Speaker.

I would ask for an affirmative vote for the betterment of the Erie community. Thank you.

The SPEAKER. Will the House agree to the amendment? Representative Vitali? The gentleman waives off.

Will the House agree to the amendment?

Mr. McCALL. Mr. Speaker?

The SPEAKER. Representative McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, for some of the reasons explained before, the Harkins amendment, with all due respect to my colleague, is also pro rata language that would appropriate the money, what I consider, disproportionately to Erie. Again, 76 percent of the money would go to Erie and about 3 1/2 percent would go to the other producers, and for that reason I would ask the members to vote against the Harkins amendment.

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

The following roll call was recorded:

YEAS—46

Baker	Gibbons	Markosek	Ross
Boback	Harhart	McIlhattan	Sainato
Brooks	Harkins	Metcalfe	Siptroth
Cappelli	Hornaman	O'Brien, M.	Smith, S.
Causer	Hutchinson	Pallone	Sonney
Conklin	Kortz	Petrarca	Stern
Costa	Kotik	Pickett	Stevenson
Ellis	Longietti	Rapp	Tangretti
Evans, J.	Maher	Readshaw	Vitali
Everett	Mahoney	Reichley	White
Fabrizio	Major	Roae	Yudichak
Galloway	Mann		

NAYS—153

Adolph	Freeman	McCall	Rubley
Argall	Gabig	McGeehan	Sabatina
Barrar	Geist	McI. Smith	Samuelson
Bastian	George	Melio	Santoni
Bear	Gerber	Mensch	Saylor
Belfanti	Gergely	Micozzie	Scavello
Bennington	Gillespie	Millard	Schroder
Beyer	Gingrich	Miller	Seip
Biancucci	Godshall	Milne	Shapiro
Bishop	Goodman	Moul	Shimkus
Blackwell	Grell	Moyer	Smith, K.
Boyd	Grucela	Mundy	Smith, M.

Brennan	Haluska	Murt	Solobay
Buxton	Hanna	Mustio	Staback
Caltagirone	Harhai	Myers	Steil
Carroll	Harris	Nailor	Sturla
Casorio	Helm	Nickol	Surra
Civera	Hennessey	O'Neill	Swanger
Clymer	Hershey	Oliver	Taylor, J.
Cohen	Hess	Parker	Taylor, R.
Cox	Hickernell	Pashinski	Thomas
Creighton	James	Payne	True
Cruz	Josephs	Payton	Turzai
Curry	Kauffman	Peifer	Vereb
Cutler	Keller, M.K.	Perry	Vulakovich
Daley	Keller, W.	Perzel	Wagner
Dally	Kenney	Petri	Walko
DeLuca	Kessler	Petrone	Wansacz
Denlinger	Killion	Phillips	Waters
DePasquale	King	Preston	Watson
Dermody	Kirkland	Pyle	Wheatley
DeWeese	Kula	Quigley	Williams
DiGirolamo	Leach	Quinn	Wojnaroski
Donatucci	Lentz	Ramaley	Yewcic
Eachus	Levdansky	Raymond	Youngblood
Evans, D.	Manderino	Reed	
Fairchild	Mantz	Rock	O'Brien, D., Speaker
Fleck	Marshall	Roebuck	
Frankel	Marsico	Rohrer	

NOT VOTING—0

EXCUSED—4

Benninghoff	Harper	Mackereth	Stairs
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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. **SONNEY** offered the following amendment No. **A08523**:

Amend Sec. 3 (Sec. 3.1), page 6, by inserting between lines 14 and 15

(c) Proration required with balance of funds.—If a balance remains from the \$5,000,000 appropriated for this purpose, the balance shall be prorated among all qualified applicants who would otherwise have been limited to a \$2,000,000 reimbursement.

Amend Sec. 3 (Sec. 3.1), page 6, line 15, by striking out "(C)" and inserting

(d)

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

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

Mr. SONNEY. Thank you, Mr. Speaker.

This amendment simply removes the cap and lets the remaining money that is left available in the account be distributed on a prorated basis.

The SPEAKER. Will the House agree to the amendment? Representative McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, this is a pro rata amendment again. The majority of the money would go to the Erie facility and a lesser amount would go to the rest of the producers.

I would ask for a "no" vote.

The SPEAKER. Will the House agree to the amendment? Representative Rapp.

Ms. RAPP. Thank you, Mr. Speaker.

I would like to interrogate the maker of the amendment.

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

Ms. RAPP. Mr. Speaker, if the maker of the amendment could tell me, how many counties in the northwest as far as farming communities, how many counties that have farming communities have agricultural products that support the Erie plant?

Mr. SONNEY. Well, Mr. Speaker, actually, there are 10 counties throughout the Commonwealth that support the entire biofuels industry.

Ms. RAPP. So, Mr. Speaker, just as southeast and central Pennsylvania have agricultural communities that are depending on their biodiesel plants, there are, as you said, 10 counties in the northwest and around the Commonwealth where agricultural products, including organic farming products, go to support this biodiesel plant in Erie?

Mr. SONNEY. Yes, Mr. Speaker.

You know, Pennsylvania produces about 22 million gallons of soy oil, and Erie biodiesel alone would consume about 45 million gallons, and again, Pennsylvania produces only about 22 million gallons. So I do not care who the producer is, they are going to have to import from out of State.

Ms. RAPP. Thank you, Mr. Speaker.

If I may comment on the amendment?

The SPEAKER. Representative Rapp is in order and may proceed.

Ms. RAPP. Mr. Speaker, we are very unique in the northwest. We have the first oil well that was ever drilled in the town of Titusville, Pennsylvania, and now, Mr. Speaker, we have the largest biodiesel plant in the northwest in Erie that is being supported by 10 counties, agricultural communities in the northwest.

I sit here day after day and hear legislation that is more beneficial to the southeast and to the Philly area, and for this reason, Mr. Speaker, I am asking my colleagues, for a change, to consider northwest rural Pennsylvania and the city of Erie and to support a biodiesel plant, the first biodiesel plant in the State that is actually producing a good product and putting biodiesel on the map for Pennsylvania.

Thank you, Mr. Speaker.

The SPEAKER. The House will come to order.

The Chair recognizes Representative George.

Mr. GEORGE. Thank you, Mr. Speaker.

Mr. Speaker, I have no argument about those who would stand to inquire about what it is we are doing, for there is not anyone that is sitting here tonight that does not know that we are in deep trouble.

You know, back in my area, fuel is \$4.24 plus 20 cents tax, and the truck drivers that I see daily, I am ashamed to say hello because they are paying \$5.12 for a gallon of diesel. And all you folks have the same problems and the same responsibilities as I do. When these older people on fixed incomes start calling you about in October and November, you might wish you were not

down here, because your phones are going to melt right off the wall.

Now, everyone in this room, if I may, Mr. Speaker, they know what the story is. We are investing hundreds of millions of dollars, simply because we were a little bit lazy 30, 40, 50, 60 years ago, when just today, Mr. Speaker— If I may, Mr. Speaker, I would like for them to hear me even though they are not happy about it.

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

Mr. GEORGE. I thank you, sir.

The SPEAKER. Representative George is in order and may proceed.

Mr. GEORGE. I thank you very much.

But they were talking today about coal gasification, and I remember, under President Carter in 1978, he came into Clearfield County, and there was a Republican Congressman by the name of Clinger whose family was very, very well known in that they were in the oil business and basically controlled it. And that Republican Congressman had the foresight to know that one of these days, in years to come, we were going to be in trouble. So he joined with us Democrats so we could get either the coal liquefaction or the coal gasification plant somewhere in either the Clearfield area or Warren.

Mr. Speaker, I want them to hear this because in Clearfield, there was a coal gasification unit, a Cooper-Bessemer, when I was a kid, and that had to be more than 80 years ago, and no one argued about the carbon or the problems. All we knew is that it produced more Btu's (British thermal units) than just plain coal because it gave them a gas and that gas has more Btu's. And yet we got lazy, and we went, from my time, to 9 cents a gallon, when I got out of the Navy, 7 gallons of gas for a dollar, and here we are, all talking and yapping and carrying on, and do you know what? We are in deep doo-doo. We are in trouble.

Now, nothing could be better than for us to get out of this trouble, and nothing could be better than doing what you, most of you and the Governor and all concerned, want to do, and that includes you, is to be able to put this State where it ought to be in regard to getting the production of the necessary materials so that we can get the freedom that we deserve from the foreign oils.

So this little bill that they are talking about that is going to have either \$3 or \$5 million for 3 years, let us do what the lady, Ms. Rapp, said and let us turn it down, the amendment, and let us get forth for the rest of the evening and however long it takes to show these people back home that we are trying, that we do understand, that we have families and we have relatives, and we know what fixed incomes should be, and let us get on with the task of putting the State of Pennsylvania where it ought to be. Thank you.

The SPEAKER. The House will come to order.

Representative Everett, on the amendment.

Mr. EVERETT. Mr. Speaker, I rise in support of this amendment, and I would just like to point out that there is a co-op in Lycoming County, which is about 4 hours from Erie, that supplies agricultural product to the Erie plant. So this is something that spreads all across Pennsylvania; it is just not isolated to the northwest part of the State.

Also, I would like to point out that all this amendment does is, if all the money has not been allocated to the producers, that it allows Erie to participate in the money that is left over.

I would ask you to take that into consideration and vote in favor of this amendment. Thank you.

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

The Chair recognizes Representative Sonney for the second time.

Mr. SONNEY. Thank you, Mr. Speaker.

As the previous speaker pointed out, my amendment does not take away from anything. It does not remove any money from any of the other producers. All this amendment does is simply say that if all of the money is not expended, and the only way that that "if" comes into play is if all of these small producers are not increasing their production. If they do not increase their production to be able to draw down these dollars, then there is going to be money left. And if there is money left, then what my amendment does is says that this money will be let out and that all of the producers will be included back in the mix and it would be prorated, based on your production, on how much of that money that you would receive from what is left in the pot.

So I encourage a "yes" vote. Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—92

Adolph	Fairchild	McIlhattan	Reed
Argall	Fleck	Mensch	Reichley
Baker	Gabig	Metcalfe	Roe
Bastian	Geist	Micozzie	Rock
Beyer	Gillespie	Millard	Rohrer
Bishop	Godshall	Miller	Ross
Boback	Harhart	Milne	Rubley
Boyd	Harkins	Moul	Saylor
Brooks	Harris	Murt	Scavello
Cappelli	Hennessey	Mustio	Schroder
Causer	Hershey	Nailor	Siptroth
Civera	Hess	Nickol	Smith, S.
Clymer	Hornaman	O'Neill	Sonney
Costa	Hutchinson	Pallone	Stern
Cox	Kauffman	Peifer	Stevenson
Creighton	Keller, M.K.	Perry	Swanger
Dally	Kenney	Perzel	Taylor, J.
Denlinger	Killion	Phillips	True
DiGirolo	Lentz	Pickett	Turzai
Ellis	Maher	Pyle	Vulakovich
Evans, J.	Major	Quigley	Watson
Everett	Mann	Quinn	Williams
Fabrizio	Marshall	Rapp	Yudichak

NAYS—107

Barrar	Gerber	Markosek	Seip
Bear	Gergely	Marsico	Shapiro
Belfanti	Gibbons	McCall	Shimkus
Bennington	Gingrich	McGeehan	Smith, K.
Bianucci	Goodman	McI. Smith	Smith, M.
Blackwell	Grell	Melio	Solobay
Brennan	Grucela	Moyer	Staback
Buxton	Haluska	Mundy	Steil
Caltagirone	Hanna	Myers	Sturla
Carroll	Harhai	O'Brien, M.	Surra
Casorio	Helm	Oliver	Tangretti
Cohen	Hickernell	Parker	Taylor, R.
Conklin	James	Pashinski	Thomas

Cruz	Josephs	Payne	Vereb
Curry	Keller, W.	Payton	Vitali
Cutler	Kessler	Petrarca	Wagner
Daley	King	Petri	Walko
DeLuca	Kirkland	Petrone	Wansacz
DePasquale	Kortz	Preston	Waters
Dermody	Kotik	Ramaley	Wheatley
DeWeese	Kula	Raymond	White
Donatucci	Leach	Readshaw	Wojnarowski
Eachus	Levdansky	Roebuck	Yewcic
Evans, D.	Longiotti	Sabatina	Youngblood
Frankel	Mahoney	Sainato	
Freeman	Manderino	Samuelson	O'Brien, D., Speaker
Galloway	Mantz	Santoni	
George			

NOT VOTING—0

EXCUSED—4

Benninghoff	Harper	Mackereth	Stairs
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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. MAHER offered the following amendment No. A08433:

Amend Title, page 1, lines 1 through 11, by striking out all of said lines and inserting

Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An act relating to tax reform and State taxation by codifying and enumerating certain subjects of taxation and imposing taxes thereon; providing procedures for the payment, collection, administration and enforcement thereof; providing for tax credits in certain cases; conferring powers and imposing duties upon the Department of Revenue, certain employers, fiduciaries, individuals, persons, corporations and other entities; prescribing crimes, offenses and penalties," providing for a biofuels production and distribution tax credit.

Amend Bill, page 1, lines 17 through 21; pages 2 through 5, lines 1 through 30; page 6, lines 1 through 24, by striking out all of said lines on said pages and inserting

Section 1. The act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, is amended by adding an article to read:

**ARTICLE XVIII-C
BIODIESEL PRODUCTION AND
DISTRIBUTION TAX CREDIT**

Section 1801-C. Scope.

This article relates to biodiesel production and distribution tax credit.

Section 1802-C. Definitions.

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

"Biodiesel." A renewable, biodegradable, mono-alkyl ester combustible liquid fuel derived from agricultural plant oils or animal fats that meets American Society for Testing and Materials specification D6751-03a Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels.

"Biodiesel producer." A producer in Pennsylvania manufacturing biodiesel.

"Department." The Department of Revenue of the Commonwealth.

"Pass-through entity." A partnership as defined under section 301(n.0) or a Pennsylvania S corporation as defined under section 301(n.1).

"Retail distributor." Any person engaged in the retail sale of liquid fuels or fuels.

"Taxpayer." An entity subject to taxes imposed by Article III, IV or VI. The term shall include a pass-through entity. Section 1803-C. Tax credit.

A biodiesel producer may claim a 75¢ per gallon tax credit for biodiesel produced at a Pennsylvania facility during the taxable year if certified by the department as being eligible for a tax credit under this section. The tax credit may be applied against the taxpayer's tax liability under Article III, IV or VI for the taxable year during which the tax credit is approved. The department shall determine the maximum amount of tax credit that a taxpayer is eligible to receive under this section.

Section 1804-C. Retail distributor.

A retail distributor may claim a tax credit to be applied against the tax liability of the retail distributor under Article III, IV or VI. The amount of tax credit for a retail distributor shall be calculated by multiplying a designated rate by the total number of gallons of each class of biodiesel fuel sold and dispensed by the retail distributor through all motor fuel pumps operated by the retail distributor during the retail distributor's tax year and approved by the department. The biodiesel must meet the standards provided for as follows:

(1) Three cents for biodiesel fuel which is classified as B-2 or higher, but lower than B-5.

(2) Seven and one-half cents for biodiesel fuel which is classified as B-5 or higher, but lower than B-10.

(3) Fifteen cents for biodiesel fuel which is classified as B-10 or higher, but lower than B-20.

(4) Thirty cents for biodiesel fuel which is classified as B-20 or higher.

Section 1805-C. Limitations.

The total amount of credits that the department may grant to a taxpayer under this article is \$3,000,000 unless a greater amount of up to \$5,000,000 is approved by the department.

Section 1806-C. Applicability.

This article shall apply to tax years beginning after December 31, 2008.

Section 2. This act shall take effect immediately.

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

PARLIAMENTARY INQUIRY

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

Mr. MAHER. Actually, Mr. Speaker, I am seeking recognition, at the moment, on a parliamentary inquiry.

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

Mr. MAHER. Since the Kessler amendment was adopted, does 8433 need to be redrafted? I think it does.

The SPEAKER. The answer is no.

Mr. MAHER. Well, that is very good news. Then I will seek recognition on the amendment, Mr. Speaker.

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

Mr. MAHER. I have in my hand a letter from one of the small biodiesel operators dated yesterday to the Governor, AMERIGreen. AMERIGreen asks for a tax credit and asks for a sliding scale of credits for retailers so that we are not just dealing with the supply side but the demand side, and they asked that it be like the Iowa law.

Now, the Iowa law is a tax credit law that is geared towards prompting not just production but distribution, pushing on the retail end so that interstate truckers like those that mean so much to the economy of central Pennsylvania, northeastern Pennsylvania, northwestern Pennsylvania, south-central Pennsylvania, southwestern Pennsylvania, everywhere in Pennsylvania, commerce matters. It would provide a credit, a credit that would go and help reduce the cost for diesel fuel used by truckers as well as provide a tax credit for production.

Now, I have heard before, what we have right now is a proposition that will send somewhere in the neighborhood of 40 to 50 percent on the dollar of Pennsylvania taxpayers' money; instead of it going to the biodiesel plants, it will be going to the Federal government. It does not really help anybody, but it means that Pennsylvania taxpayers basically pay extra Federal taxes. Whereas a tax-credit approach actually provides savings, and savings that will reward profitable companies, and profitable operations are those that can be sustained into the future. Profitable operations are those which create family-sustaining jobs. Profitable operations are the only ones that can, in the long run, help us promote energy independence.

Unprofitable operations, on the other hand, like some of these smaller producers that have already received State money to build their plants and now say they need State money to operate their plants, well, maybe when government is picking winners and losers like that, it does not always do such a swell job, for the tax credit that is open to all does not require, does not require this crystal ball to be crystal clear in the halls of government but rather says, this is an industry we want to promote, and anybody who wants to invest in Pennsylvania is welcome. And those who will find this most attractive are those who will be able to promote an industry in a fashion that will lead to their long-term success because they will be profitable entities.

I should mention, if you were to look at the letter that was sent to Ed Rendell by one of the small producers, now, that letter is asking for tax credits based on the Iowa model. That is exactly what is in this amendment. The Iowa model, which I think in some hearings that were held on this subject, was cited as the gold standard – black gold, biodiesel fuel. Not quite Texas Tea; Pennsylvania Tea, black gold, the gold standard. Instead of Iowa corn, we are going with biodiesel from Pennsylvania using the gold-standard model. The Iowa model that has served Iowa well can serve Pennsylvania well instead of setting up a subsidy program for businesses that have already been subsidized and still cannot function.

It really makes sense. If you really want to promote energy independence, let us do it in a way that we can expect companies to succeed. If you really want to help trigger investment in Pennsylvania, let us do it in a way that is going to have a credit, saying Pennsylvania is open for business; we welcome this industry; and we can attract good-paying jobs, not just coddle those who are already here, but really bring new investment into Pennsylvania.

And as Kathy Rapp so well put it, if a little bit disproportionately goes into the northwestern 10 counties of this State, well, I say it is about time. It is about time. We all have often supported things in Pittsburgh and Philadelphia, and if we can for once – for once – do something that might just

disproportionately benefit those 10 counties, I say that is just great.

Please join with me and support this amendment.

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

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

Mr. DENLINGER. Thank you, Mr. Speaker.

For all of the reasons that I so passionately argued for tax credits just a few minutes ago, on what was the wrong amendment at that point, I do encourage my colleagues to support the Maher amendment.

Obviously, at that time, I made a point about subsidies and the path that we go down when we distort markets and artificially inflate the cost structure in that way. It is much better to take successful companies that have a viable economic model and support them with tax credits and reinforce what they are trying to do as they seek to build infrastructure and get volumes up to the levels that are needed.

So I support the Maher amendment and hope that my colleagues will as well. Thank you, Mr. Speaker.

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

Mr. KESSLER. Would the maker of the amendment answer a question?

The SPEAKER pro tempore. Will the maker of the amendment, Mr. Maher, stand for interrogation?

Mr. MAHER. I am always encouraged when people ask me to approach the mike, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Mr. Kessler, you are in order and may proceed.

Mr. KESSLER. My understanding is the administration is in favor of my amendment. You mentioned AMERIGreen – are you 100 percent sure they are a producer, not a marketer?

Mr. MAHER. You are making a very good point, Mr. Speaker. They are a distributor, which points out that it is not just enough to produce, it is also very important that we promote the demand part of the equation. We need to promote the use of the fuels with the truckers in industry and elsewhere, and the ability to help allow our fuels to be cost-competitive is very important, and I thank you for that clarification.

Mr. KESSLER. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

He ends his interrogation, and the Chair recognizes the gentleman, Mr. Thomas.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, I just want to correct the record.

On the Sonney amendment, 8523, my button malfunctioned. I want to be recorded in the affirmative.

The SPEAKER pro tempore. Mr. Thomas, could you do that at a later time, please?

Mr. THOMAS. Sure.

The SPEAKER pro tempore. Thank you, sir.

The Chair recognizes the gentleman, Mr. Stevenson.

Mr. STEVENSON. Thank you, Mr. Speaker.

Very simply, tax credits work; artificial incentives in the marketplace do not. That is why the major producers of

biodiesel in this country, Iowa and Indiana, use tax credits, and that is why they have been successful.

Support the Maher amendment. Thank you.

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 the members to vote against the Maher amendment.

It really guts the bill and replaces the bill as a tax reform bill. But be that as it may, there are a couple of inherent flaws in it, and I think the members should be enlightened and hopefully will vote to not support it.

His amendment gives credit to producers and distributors, but it does not specify that the distributors have to be from Pennsylvania. And the bigger problem that I see, on page 2, is that he allows the credits to go to retail distributors, which means Exxon Mobil – \$39 billion worth of profits – BP, all of those retail distributors will be eligible for this tax credit. Just for that reason alone, we should vote "no" on this amendment, but for the disproportionate movement of money to one large producer, again, against the other six smaller producers to keep them viable. I would ask that we vote against the Maher amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentlelady, Ms. Rapp.

Ms. RAPP. Thank you, Mr. Speaker.

If I may interrogate the maker of the amendment?

The SPEAKER pro tempore. The gentleman, Mr. Maher, will stand for interrogation and you may proceed.

Ms. RAPP. Mr. Speaker, I just heard the previous speaker talk about the tax credit for the distributors, and he named some big oil companies and distribution companies throughout the United States. Indeed, Mr. Speaker, this tax credit would also go to some of our smaller refineries right here in Pennsylvania. Is that correct?

Mr. MAHER. The distribution side of the equation is critically important, and it is my intent that the distribution credits, to the extent that the refineries are also distributing, that would provide an avenue. I would note, though, that it seems from recent information that many of the refineries in Pennsylvania are not actively pursuing this because, frankly, it has not been cost-effective to sell it to anybody. So this would help make it cost-effective to sell the product here in Pennsylvania and promote energy independence in Pennsylvania.

Ms. RAPP. If I am correct, Mr. Speaker, the people who are actually manufacturing the biodiesel still have to have some type of blending plant or a refinery to market their product to so that it can actually get to the pump. Am I correct?

Mr. MAHER. I am not a petroleum engineer, but that certainly sounds right to me.

Ms. RAPP. And indeed, Mr. Speaker, there are smaller refineries in this State who would benefit and might possibly buy this product if it became cost-effective for them to be able to blend and distribute biodiesel at the pump here in Pennsylvania instead of exporting it to another State or elsewhere. Am I correct?

Mr. MAHER. I think the wisdom of your observation is exactly right, that we could sell more biodiesel in Pennsylvania if the infrastructure were there. The credit certainly would serve that purpose. And selling more biodiesel in Pennsylvania, and I heard others talk about getting it to market, and if people are

concerned about getting it to market across short distances in Pennsylvania, then getting it to market with having the infrastructure in place for getting it to market is certainly going to help all those smaller producers.

Ms. RAPP. Thank you, Mr. Speaker.

If I may comment on the amendment?

The SPEAKER pro tempore. The gentlelady is in order and has concluded her interrogation.

Ms. RAPP. Thank you, Mr. Speaker.

Mr. Speaker, indeed, there are small refineries in the State of Pennsylvania who, if they had the incentives to be able to make purchasing biodiesel cost-effective to those refineries, may indeed be willing to purchase that biodiesel instead of it going, right now, out of this State. And indeed, Mr. Speaker, I have such a refinery in my area and the barrier to them purchasing biodiesel at this point in time is because it is not cost-effective for them to purchase the biodiesel and then to blend that biodiesel and set up the infrastructure to sell that biodiesel at the pump. I ask for the support of my colleagues to consider, this refinery is a business. It is like any other business; it is there to make a profit. I ask my colleagues to consider voting for and supporting the Maher amendment.

Thank you, Mr. Speaker.

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

Mr. FAIRCHILD. Thank you, Mr. Speaker.

I have listened to the arguments and there is one fatal flaw. Actually, there are a number, but probably the number one fatal flaw is that if this amendment goes in, you do not have to worry about competition. You are not going to worry about the other six small distributors because they will cease to exist. The big guys will take over the credits because they can offset those tax credits against their profit. Small businesses that are startups cannot do that. That is why we have loss carryforward. The same people, including myself, who argue for the loss carryforward, that is the same argument that the little guys are making here against the tax credits – zero times zero is zero. And we have to give them, we have got to give them a jump start.

You and I and everyone else promised Pennsylvanians an energy policy, something that we could hang our head on and not get us that cheap fuel tomorrow or next near, but a long-range policy. Unless we have competition in that industry, you might as well forget about the policy because it is not going to work. As the majority whip pointed out, the retail credits – why are we giving them to big oil? Can somebody explain why we are making not only our American oil companies wealthier, but the rest of the oil companies around the world that own interest in oil distributorships and oil retail operations here, why would we give them money? It does not make sense. Let us keep this money in Pennsylvania. Let us help our Pennsylvanians, our farmers, do the right thing. It makes sense.

This amendment is opposed by the Farm Bureau. It is going to be opposed by PennEnvironment, I guarantee it. It is not the right way to go. And last, I would like to say that in that framework that we call the budget, it is my understanding – and I would love somebody to tell me I am wrong – it is my understanding that certain things were agreed to and negotiated through that process.

This bill came over from the Senate. I have been informed it was a negotiated bill by all parties, all parties. And this amendment can be a deal breaker, and if we are going to break

that deal, then I think we are making a big mistake. We have to move forward in Pennsylvania, and this amendment does not help us do that.

Thank you, Mr. Speaker.

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

Mr. METCALFE. Mr. Speaker, this is the second year, second budget of the major reform movement that swelled the ranks of this House with about 25 percent new members. And, Mr. Speaker, for the 10 years that I have been here and seen so many changes in membership, things just keep moving the same direction year after year after year. We hear one speaker after another rise up and talk about the deal we have made; this is not part of the deal that we have made. Well, Mr. Speaker, there are close to 200 members in here that were not part of the deal, but there is a majority of members that will go ahead and vote for the deal that they were not part of because they are told to be good soldiers. Well, Mr. Speaker, if we are going to ever see this State turn things around and become the Keystone State that we once were, and actually turn the policies around—

The SPEAKER pro tempore. Will the gentleman suspend. Will the gentleman kindly suspend. We are on the Maher amendment. Are you getting to the amendment, Mr. Metcalfe?

The gentleman may proceed.

Mr. METCALFE. Thank you, Mr. Speaker.

Mr. Speaker, this amendment that would actually move things in the right direction with tax credits might not be part of the deal, but it would be good policy. Mr. Speaker, we were not individually elected to be rubber stamps for a deal. I think the people of this State have become fed up with the dealmakers and would like to see them actually vote for good policies like this amendment that puts tax credits in place rather than taking more money from the taxpayers and putting it in the pockets of special interests and those individuals that are jockeying for it and trying to find favor with those that are dispensing it out of the trough. Mr. Speaker, tax credits are the way to go over subsidies. And I hope that when everybody goes back home, that the ones who actually just endorsed this because it is part of the deal, let their constituents know that they have elected them to be a rubber stamp.

Thank you, Mr. Speaker.

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

Mr. MENSCH. Thank you, Mr. Speaker.

When I go into a restaurant and I order ham and eggs for breakfast, I expect to get ham and eggs. I just heard an argument, a few speakers ago, about the net operating loss and that somehow that was in conflict with investment tax credits, and that is really not true. Our State has rather horrible net operating loss legislation, presently. It is almost a non sequitur to suggest that the NOL (net operating loss) and the investment tax credit work hand in hand in this State; they do not. Therefore, my analogy of the ham and eggs. The NOL and the ITC (investment tax credit) need to work together. We need to give our businesses both the ham and the eggs when they sit down for breakfast. We cannot offer them only one of the two. So the investment tax credit is a very good idea. It is complimentary to the net operating loss, which needs to be improved even more. The investment tax credit is the most efficient way to give financial incentive to these businesses.

I also heard, a little while ago, a very emotional argument about Exxon and Mobil and all the money that they are making.

It seems that when we want to make a point, we jump to the emotion and we forget the facts and we forget the logic of the argument. The fact of the matter is that some big companies may benefit from this. So, too, may some small companies, and those small companies employ people in Pennsylvania – our neighbors, our relatives, our friends, people we go to church with, people we shop with. This is not about some amorphous being, Mobil, that is also comprised of our friends, our neighbors, and our relatives, but this is about incenting economic growth in our State of Pennsylvania. I think the investment tax credit is an ideal way, very economically efficient way to go about this, and I support this amendment.

Thank you, Mr. Speaker.

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

Mr. CALTAGIRONE. Thank you, Mr. Speaker.

I have been listening to this debate on this very issue about the investment tax credits because I have been working with a firm in Manhattan, New York who is very interested in looking to Pennsylvania to build a biodiesel plant worth \$30 million, also working with the transportation authorities in the southeast, and even up into this area. One of the main things that they have been looking at is how do we produce the biodiesel in the most efficient manner? This firm is definitely interested in doing business in Pennsylvania, and one of the things that they have looked at was the investment tax credit. I have to weigh in on this because I have been working on this for quite some time, and I do think that this would be at least an inducement to try to attract this firm to do something in Pennsylvania.

So with all due respect, I must say that I do support this amendment. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Are there any other members seeking recognition before we go to the maker of the amendment for the second time?

The Chair recognizes the gentlelady, Mrs. Brooks.

Mrs. BROOKS. Thank you, Mr. Speaker.

I rise in support of amendment A08433. What this amendment does is incentivizes good business practices; subsidies just augment. There is no guarantee that that subsidy will decrease the cost of anything, but yet, tax credits show that a company is succeeding and working in the open market. I have heard mention of farmers. Well, we have many farmers in the northwest, and we have a company that would have benefited greatly, and our farmers would have benefited, from the prior amendments.

Please support the amendment. Thank you.

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

Mr. SONNEY. Thank you, Mr. Speaker.

I rise in support of the Maher amendment. As we have heard many of the previous speakers state, incentives are absolutely the way to go; incentives absolutely reward those businesses that put their dollars into their business. Giving away free money does not incentivize these companies one bit to improve their business and increase their production – not one bit. So we are just going to give away free money. That is absolutely not the way to go. We should allow businesses to grow, and we should allow those businesses to do that using their money but giving them incentives to do so.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Seeing no other members, the gentleman, Mr. Maher, maker of the amendment, is recognized for the second time.

Mr. MAHER. I think the most important point that remains to be made is, having conferred with the leadership team on my side of the aisle, it is quite clear that the Kessler amendment, which is now described as being part of the budget deal, was not part of any budget deal. In fact, as of yesterday afternoon the issue of how to address biodiesel was still up in the air. So I think our members can be fairly content that this is really a question for you to decide. If you are pursuing energy independence, do you not wish to improve the ability of Pennsylvanians to obtain biodiesel? Do you not want the trucking industry and trucking firms to have the ability to afford alternative energy? I do. And when you want to incentivize businesses to invest in Pennsylvania, we have seen in recent years how effective tax credits are to encourage migration of investment into Pennsylvania. If we are going to provide economic incentives, let us do it a way that we know is more apt to work than one we know is more apt to fail.

Please join me in supporting this opportunity to advance energy independence and advance investment in Pennsylvania in a way that clearly is more desirable than a program that would send half of Pennsylvania's tax dollars to Uncle Sam as Federal taxes, and which is intended to only maintain the status quo rather than to advance the expansion of this important technology.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Does the gentleman, Mr. Smith, seek recognition?

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

Mr. Speaker, there is a little bit of discussion about what was negotiated and what was agreed to, and I wanted to add a little clarification, at least from my perspective, Mr. Speaker. When we were talking over the many bills that accompanied the budget and the process, clearly there is a commitment on the part of all sides to put a bill that contains the broad issues, the cornerstones of this legislation, on the Governor's desk in conjunction with these other budget-related bills. I would add, Mr. Speaker, that in the course of that, there are some subsequent negotiations and discussion between members and staff from the four caucuses and the Governor's Office in which we try to iron out the fine details.

However, Mr. Speaker, the fact remains that the members certainly have their opportunity when a bill comes across the floor on second consideration to voice their concerns, vote their districts, and see these issues as they will. To the best of our ability, we try to measure those issues. Certainly, as these issues are debated through the course of maybe a previous running of a similar bill, if a House bill came through here that addressed a similar subject, we try to measure those in the course of the various levels of negotiation on the bills. So, Mr. Speaker, I guess what I am trying to say is that when a better idea comes along, it is not— This process should not shut that idea down, that we should afford the members the opportunity to vote their districts. I think, when we look at the Maher amendment, that very well could be the case, at least from my perspective. That is what I wanted to add, Mr. Speaker, relative to clarifying the status of this legislation and where we are in the course of

collectively working together to try to put a quality bill before the Governor for his signature.

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—95

Adolph	Everett	Markosek	Readshaw
Argall	Fabrizio	Marshall	Reed
Baker	Fleck	McIlhattan	Reichley
Barrar	Gabig	Mensch	Roe
Bastian	Geist	Metcalfe	Rock
Bear	Godshall	Micozzie	Rohrer
Beyer	Harhart	Millard	Ross
Boback	Harkins	Milne	Rubley
Boyd	Harris	Moul	Scavello
Brooks	Hennessey	Murt	Schroder
Caltagirone	Hershey	Mustio	Smith, S.
Cappelli	Hickernell	Nailor	Solobay
Causar	Hornaman	Nickol	Sonney
Civera	Hutchinson	O'Brien, M.	Stern
Clymer	Kauffman	Pallone	Stevenson
Costa	Keller, M.K.	Peifer	Taylor, J.
Cox	Kenney	Perry	True
Creighton	Killion	Perzel	Turzai
Cruz	Kotik	Petrarca	Vereb
Cutler	Lentz	Pickett	Vulakovich
Dally	Maher	Pyle	Watson
Denlinger	Major	Quigley	Youngblood
Ellis	Mann	Quinn	Yudichak
Evans, J.	Mantz	Rapp	

NAYS—104

Belfanti	Gergely	McGeehan	Shapiro
Bennington	Gibbons	McI. Smith	Shimkus
Bianucci	Gillespie	Melio	Siptroth
Bishop	Gingrich	Miller	Smith, K.
Blackwell	Goodman	Moyer	Smith, M.
Brennan	Grell	Mundy	Staback
Buxton	Grucela	Myers	Steil
Carroll	Haluska	O'Neill	Sturla
Casorio	Hanna	Oliver	Surra
Cohen	Harhai	Parker	Swanger
Conklin	Helm	Pashinski	Tangretti
Curry	Hess	Payne	Taylor, R.
Daley	James	Payton	Thomas
DeLuca	Josephs	Petri	Vitali
DePasquale	Keller, W.	Petrone	Wagner
Dermody	Kessler	Phillips	Walko
DeWeese	King	Preston	Wansacz
DiGirolamo	Kirkland	Ramaley	Waters
Donatucci	Kortz	Raymond	Wheatley
Eachus	Kula	Roebuck	White
Evans, D.	Leach	Sabatina	Williams
Fairchild	Levdansky	Sainato	Wojnaroski
Frankel	Longietti	Samuelson	Yewcic
Freeman	Mahoney	Santoni	
Galloway	Manderino	Saylor	O'Brien, D., Speaker
George	Marsico	Seip	
Gerber	McCall		

NOT VOTING—0

EXCUSED—4

Benninghoff Harper Mackereth Stairs

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, at the rostrum, six amendments that have been filed late and so suspension of the rules would be required to move these amendments.

The first one is by the gentleman, Mr. Fabrizio. Do you seek to offer your amendment? The gentleman withdraws.

The next one we have is the gentleman, Mr. Yudichak. Do you seek to offer your amendments? Both amendments withdrawn? The Chair thanks the gentleman.

The next one we have is the gentleman, Mr. Conklin. Does the gentleman, Mr. Conklin— He withdraws. The Chair thanks the gentleman.

The next one is the gentleman, Mr. Maher. Do you seek to suspend the rules? He withdraws. The Chair thanks the gentleman.

And the last one is the gentleman, Mr. Yudichak. Do you wish to offer your amendment? Fantastic, thank you.

The Chair thanks all the gentlemen.

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 (DENNIS M. O'BRIEN) PRESIDING

The SPEAKER. The House will be at ease.

The House will come to order.

VOTE CORRECTION

The SPEAKER. Are there any announcements?

For what purpose does the gentleman rise?

Mr. THOMAS. To correct the record on SB 22.

On the Sonney amendment, 8523, my button malfunctioned. I would like to be recorded in the affirmative.

The SPEAKER. The gentleman's remarks will be spread upon the record.

Are there any other announcements in special session?

The Chair recognizes Representative Cutler of Lancaster County who moves this special—

The House will be at ease.

The House will come to order.

CALENDAR**BILLS AND RESOLUTION PASSED OVER**

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

ADJOURNMENT

The SPEAKER. The Chair recognizes Representative Cutler of Lancaster County, who moves this special session of the House do now adjourn until Thursday, July 3, 2008, until the call of the Chair, unless sooner recalled by the Speaker.

On the question,

Will the House agree to the motion?

Motion was agreed to, and at 8:25 p.m., e.d.t., the House adjourned.