

# COMMONWEALTH OF PENNSYLVANIA

## LEGISLATIVE JOURNAL

FRIDAY, JULY 4, 2008

FIRST SPECIAL SESSION OF 2007-2008

No. 45

### HOUSE OF REPRESENTATIVES

The House convened at 12:25 p.m., e.d.t.

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

#### PRAYER

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. JERRY A. STERN, member of the House of Representatives, offered the following prayer:

Dear Heavenly Father, we gather today with a grateful heart, thanking You for the many blessings bestowed upon us, O Lord. Thank You for the rain You have provided us today. We are reminded by the Psalmist that it is good for us to draw near to You, O God, that we may put our trust in You, Lord God, that we may declare all Your works. On this Independence Day, let us debate, deliberate in a way that is pleasing and respectful to one another. Let us remember what our Founding Fathers stated in the Declaration; that we hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness; that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed.

Thank You for everything, dear Lord, this day. And bless those who are away from their families, serving our nation around the world. Protect them, keep them safe, and guide this nation, dear Lord. Give us wisdom today and patience, as You have given us this day. Let us be a blessing to one another today. Thank You for the staff, dear Lord, that have put in countless hours and much effort in getting to the point where we are today and carrying out the people's business here in Pennsylvania. We pray, Lord, we thank You for them. We also pray, dear Lord, that You will be with our family members back home on this Fourth of July. Just keep them safe, watch over them. Be with those in this chamber, dear Lord, that are bearing sad hearts and burdened hearts, that You would just be with them and watch over them and protect them today.

We thank You again for everything that You have provided us, and we just pray all these things in Your son's most precious name. Amen.

### JOURNAL APPROVED

The SPEAKER. The Journal of Wednesday, January 16 of 2008 is now in print. Will the House approve the Journal?

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

### JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, approval of the Journal of Thursday, July 3, 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 call for the special session? The Chair hears none.

The House will be at ease.

The House will come to order.

### CALENDAR

#### BILL ON THIRD CONSIDERATION

The House proceeded to third consideration of **SB 22, PN 56**, 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 third consideration?

Mr. **KESSLER** offered the following amendment No. **A08764**:

Amend Title, page 1, line 10, by striking out "biodiesel" and inserting

biomass-based diesel

Amend Sec. 1 (Sec. 2), page 2, line 20, by striking out "3.1(A)(II)" and inserting

3.1(a)(2)

Amend Sec. 3 (Sec. 3.1), page 7, line 29, by striking out "biodiesel" and inserting

biomass-based diesel

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.  
This is a technical amendment. Thank you.

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

The following roll call was recorded:

YEAS—203

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

Ellis	Longietti	Rapp	Williams
Evans, D.	Mackereth	Raymond	Wojnarowski
Evans, J.	Maher	Readshaw	Yewcic
Everett	Mahoney	Reed	Youngblood
Fabrizio	Major	Reichley	Yudichak
Fairchild	Manderino	Roae	
Fleck	Mann	Rock	O'Brien, D.,
Frankel	Mantz	Roebuck	Speaker
Freeman			

NAYS—0

NOT VOTING—0

EXCUSED—0

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 third consideration as amended?  
Bill as amended 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—177

Adolph	Gerber	McGeehan	Sainato
Argall	Gergely	McI. Smith	Samuelson
Baker	Gibbons	McIlhattan	Santoni
Barrar	Gingrich	Melio	Saylor
Bastian	Godshall	Mensch	Scavello
Bear	Goodman	Micozzie	Schroder
Belfanti	Grell	Millard	Seip
Bennington	Grucela	Miller	Shapiro
Beyer	Haluska	Milne	Shimkus
Biancucci	Hanna	Moul	Siptroth
Bishop	Harhai	Moyer	Smith, K.
Blackwell	Harkins	Mundy	Smith, M.
Boback	Harper	Murt	Smith, S.
Boyd	Harris	Mustio	Solobay
Brennan	Helm	Myers	Staback
Buxton	Hennessey	Nailor	Stairs
Caltagirone	Hershey	Nickol	Steil
Cappelli	Hess	O'Brien, M.	Stern
Carroll	Hickernell	O'Neill	Sturla
Casorio	James	Oliver	Surra
Civera	Josephs	Pallone	Swanger
Cohen	Keller, M.K.	Parker	Tangretti
Conklin	Keller, W.	Pashinski	Taylor, J.
Costa	Kenney	Payne	Taylor, R.
Cruz	Kessler	Payton	Thomas
Curry	Killion	Peifer	True
Daley	King	Perzel	Vereb
Dally	Kirkland	Petrarca	Vitali
DeLuca	Kortz	Petri	Vulakovich
DePasquale	Kotik	Petrone	Wagner
Dermody	Kula	Phillips	Walko

DeWeese	Leach	Pickett	Wansacz
DiGirolamo	Lentz	Preston	Waters
Donatucci	Levdansky	Pyle	Watson
Eachus	Longietti	Quigley	Wheatley
Evans, D.	Mackereth	Quinn	White
Everett	Mahoney	Ramaley	Williams
Fabrizio	Major	Raymond	Wojnaroski
Fairchild	Manderino	Readshaw	Yewcic
Fleck	Mann	Reed	Youngblood
Frankel	Mantz	Reichley	Yudichak
Freeman	Markosek	Roebuck	
Galloway	Marshall	Ross	O'Brien, D., Speaker
Geist	Marsico	Rubley	
George	McCall	Sabatina	

## NAYS—26

Benninghoff	Denlinger	Hutchinson	Roae
Brooks	Ellis	Kauffman	Rock
Causar	Evans, J.	Maher	Rohrer
Clymer	Gabig	Metcalfe	Sonney
Cox	Gillespie	Perry	Stevenson
Creighton	Harhart	Rapp	Turzai
Cutler	Hornaman		

NOT VOTING—0

EXCUSED—0

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 House will be at ease.

The House will come to order.

**RECESS**

The SPEAKER. Special session of the House will now stand in recess till the call of the Chair.

**AFTER RECESS**

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

**SENATE MESSAGE**

AMENDED HOUSE BILL RETURNED  
FOR CONCURRENCE AND  
REFERRED TO COMMITTEE ON RULES

The clerk of the Senate, being introduced, returned **HB 1, PN 86**, with information that the Senate has passed the same with amendment in which the concurrence of the House of Representatives is requested.

**BILL ON CONCURRENCE  
REPORTED FROM COMMITTEE**

**HB 1, PN 86**

By Rep. DeWEESE

An Act providing for alternative sources of energy; establishing the Alternative Energy Development Program, the Consumer Energy Program, the Home Energy Efficiency Loan Program, the Home Energy Efficiency Loan Fund and the Alternative Energy Production Tax Credit Program; and providing for the powers and duties of the Department of Environmental Protection.

## RULES.

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

The House will be at ease.

The House will come to order

**SUPPLEMENTAL CALENDAR A**

**BILL ON CONCURRENCE  
IN SENATE AMENDMENTS**

The House proceeded to consideration of concurrence in Senate amendments to **HB 1, PN 86**, entitled:

An Act providing for alternative sources of energy; establishing the Alternative Energy Development Program, the Consumer Energy Program, the Home Energy Efficiency Loan Program, the Home Energy Efficiency Loan Fund and the Alternative Energy Production Tax Credit Program; and providing for the powers and duties of the Department of Environmental Protection.

On the question,

Will the House concur in Senate amendments?

The SPEAKER. Representative Hutchinson, on concurrence. Mr. HUTCHINSON. Thank you, Mr. Speaker.

Mr. Speaker, I rise in opposition to HB 1 for many, many reasons. Number one, I think that this bill is based on a false premise, and that premise is that only by counting on a windfall tax increase, a windfall tax increase on people's electric bills, can we pay to decrease energy costs. Mr. Speaker, we should be cutting that tax, a direct cost that the consumers of Pennsylvania will be paying, and reducing electric bills. That is a smarter way for Pennsylvania to produce energy.

Number two, I believe that the only true way to energy independence in this day and age is not for some super bureaucratic agency located in Harrisburg to float bond issues and then pick winners and losers, doling the money back out, borrowing \$500 million to eventually be repaid at a clip of about \$800 million. I think that is the wrong way to go. I think that the true way to energy independence is to responsibly harvest proven domestic energy resources.

Pennsylvania is blessed with many proven energy resources. The experts say that the coal reserves of Pennsylvania could fuel us for 200-plus years. A huge and exciting new find of natural gas called the Marcellus shale reserve has been proven in Pennsylvania and is now accessible because of new technology and improvements in geology. We should be using those resources to truly move Pennsylvania to energy

independence, not doing what Pennsylvania has continued to do, which is, whenever there is a source of energy, it seems like Pennsylvania piles on new regulations, adds additional requirements to get that energy. New requirements have already been added for Marcellus shale drillers. A couple years ago additional mercury regs were making Pennsylvania coal less competitive. We keep doing those kinds of things, stopping energy production instead of promoting proven energy production.

Mr. Speaker, a small technical problem with this bill that I think deserves to be aired is the fact that not only are we borrowing that \$500 million, part of those funds, which we are borrowing over 30 years, we are borrowing money for 30 years, and some of it is being used, \$40 million, as a matter of fact, is being used for current expenditures in the LIHEAP program (Low-Income Home Energy Assistance Program). Mr. Speaker, LIHEAP may or may not deserve more funding, but we should not borrow for 30 years and then spend that money on one-time help with people's energy bills. That is wrong and maybe even not allowed.

Mr. Speaker, this bill goes a step further than some other legislation we have worked on in the past week as we create a super agency called the Commonwealth Financing Agency. Just in this past week alone, we have poured hundreds of millions of dollars into this super agency that is politically controlled, and somehow they are an expert on every issue. I do not know how they developed an expertise to pick winners and losers in the energy field. Earlier this week we said they were expert enough to give out money for water, sewer, and dams, and flood protection. They must be one super group.

Mr. Speaker, as I said, the \$500 million in debt is a major problem for our children and grandchildren, and it is based upon the premise of collecting new taxes as if we in Pennsylvania want people to pay higher energy bills, because that is the only way that this program will be funded.

And quite frankly, at the end of the day, I think you will find after we implement this bill, go 5 years down the road, 10 years down the road, we still will not be any more independent than we are today. Mark my word. Not only that, our energy costs will still be higher and we will be stuck with a bill to pay back for the borrowing.

I think this is a truly bad bill. It is not the right thing for Pennsylvania, and I ask my colleagues to join me in opposing HB 1.

Thank you, Mr. Speaker.

The SPEAKER. Representative Saylor.

Mr. SAYLOR. Mr. Speaker, I rise today to support HB 1 on concurrence from the Senate.

I understand where some of my colleagues here in the House are very disappointed with this bill, and I, too, am disappointed that we have not looked at the way we fund money in Pennsylvania in the area of borrowing, but I do believe that we do have to take some steps forward, and I believe this bill does make those first initial steps.

I am pleased to see that as the Senate sent this bill to us, that they have incorporated a lot of the things that the House Republican energy task force wanted to see included, free market things like \$92 million for various consumer energy conservation measures, \$25 million for funding for loans and grants to the individuals and small businesses in Pennsylvania to help them build high-performance buildings and energy-conserving technologies to be used in homes. There is

an assistance program as well for this coming winter, \$40 million, that will go to LIHEAP to help people pay their energy bills this fall and winter. There is \$25 million that will go to fund small coal-fired power plants to help them with more pollution reduction and make them more environmentally friendly. Those are things we need to do in Pennsylvania to clean up our environment.

And also, Mr. Speaker, there is \$50 million in tax credits for companies to produce alternative energy in this State; \$40 million for the Ben Franklin Technology, which is an outstanding program for this Commonwealth that has been here for many, many years; and a \$25 million fund for loans and grants for small-scale renewable energy projects, including geothermal and solar projects throughout the Commonwealth of Pennsylvania.

Mr. Speaker, I think this bill today is the beginning. It is not the end of what this State needs to do to become energy independent. It is a beginning. We need to commit ourselves to come back here and continue having a policy in Pennsylvania that moves Pennsylvania to energy independence.

Today I ask for a confirmation vote, and send this bill to the Governor's desk and get Pennsylvania started on the road to energy independence. Thank you.

The SPEAKER. Representative George.

Mr. GEORGE. Thank you, Mr. Speaker.

Mr. Speaker, I will be careful, for I would not want to impugn my cochair. I think the world of him, but I daresay that the reason that this State of Pennsylvania is in dire straits is because there were many that philosophically were in tune as that gentleman. That is why now we have these problems.

The truth is that if we keep on as we have, our citizens will soon see that they have been forgotten. The truth is that I would want to be around here when that rate cap comes off and hear this individual and others talk about what we are, where we are going, and what we are going to do. The fact is that now there is more power coming into Pennsylvania from out of State than there is from in State, and I will get into this more so as we go on, but it is hard for me to go any further without daring to say something that I would not want to say.

You are individuals. You represent as many people as each of us, and I think you know your responsibilities as well as we do, and I know you will find that we had better start doing something. Let us forget that we are 40 years late, but let us not be another year late.

Thank you very much.

The SPEAKER. Representative DePasquale.

Mr. DePASQUALE. Thank you, Mr. Speaker.

This has been 18 months of hard work, and I just want to thank all the people, all the members that were involved. This, obviously, changed a lot from the beginning introduction of this legislation, and I want to thank everyone for their insight. I want to especially thank the staff both from the House side of it and the Governor's Office that worked so very hard on the details, and I also want to thank the Senate for working with us for this bipartisan bill that we now have today, and I would ask for an affirmative vote.

Thank you, Mr. Speaker.

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—172

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

NAYS—31

Bear	Ellis	Metcalfe	Rohrer
Benninghoff	Everett	Moul	Stern
Boyd	Gabig	Perry	Stevenson
Brooks	Gillespie	Pyle	True
Cox	Hickernell	Quigley	Turzai
Creighton	Hutchinson	Rapp	Vulakovich
Cutler	Kauffman	Roae	Yewcic
Denlinger	Mensch	Rock	

NOT VOTING—0

EXCUSED—0

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 House will be at ease.

The House will come to order.

RECESS

The SPEAKER. The special session of the House will now stand in recess to the call of the Chair.

AFTER RECESS

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

BILL SIGNED BY SPEAKER

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

HB 1, PN 86

An Act providing for alternative sources of energy; establishing the Alternative Energy Development Program, the Consumer Energy Program, the Home Energy Efficiency Loan Program, the Home Energy Efficiency Loan Fund and the Alternative Energy Production Tax Credit Program; and providing for the powers and duties of the Department of Environmental Protection.

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

RECESS

The SPEAKER. The special session of the House will now stand in recess to the call of the Chair.

AFTER RECESS

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

SENATE MESSAGE

HOUSE AMENDMENTS  
CONCURRED IN BY SENATE

The clerk of the Senate, being introduced, informed that the Senate has concurred in the amendments made by the House of Representatives to **SB 22, PN 57**.

BILL SIGNED BY SPEAKER

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

SB 22, PN 57

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 biomass-based diesel production incentives.

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

### SENATE MESSAGE

#### RECESS RESOLUTION FOR CONCURRENCE

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

In the Senate,  
July 4, 2008

RESOLVED, (the House of Representatives concurring), Pursuant to Article II, Section 14 of the Pennsylvania Constitution, that when Special Session No. 1 of the Senate recesses this week, it reconvene on Tuesday, September 16, 2008, unless sooner recalled by the President Pro Tempore of the Senate; and be it further

RESOLVED, Pursuant to Article II, Section 14 of the Pennsylvania Constitution, that when Special Session No. 1 of the House of Representatives recesses this week, it reconvene on Monday, September 15, 2008, unless sooner recalled by the Speaker of the House of Representatives.

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

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

The SPEAKER. Is there any further business, any announcements in special session?

Does the gentleman want to be recognized? Does the majority leader want to be recognized in special session? The Chair thanks the gentleman.

### BILLS AND RESOLUTION PASSED OVER

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

### RECESS

The SPEAKER. The Chair recognizes Representative Shimkus from Lackawanna County, who moves the special session of the House do now recess until Monday, September 15, 2008, to 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 5:22 p.m., e.d.t., the House recessed.