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SESSION OF 2009

193D OF THE GENERAL ASSEMBLY

No. 106

HOUSE OF REPRESENTATIVES

The House convened at 10 a.m., e.d.t.

**THE SPEAKER (KEITH R. McCALL)
PRESIDING**

PRAYER

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

Let us bow our heads:

Dear Heavenly Father, we come before You today with a thankful heart. Let us remember our soldiers that are serving our nation. I pray for their well-being and also for their families as they handle the stress of war and having loved ones away from home and facing danger. Keep them safe, Lord, under Your wing of divine protection. Please be with each member of this General Assembly and continue to guide and bless them in their lives. Continue to be with our families, dear Lord, to keep them safe and healthy. We especially remember this morning the Republican leader's daughter as she had surgery. Be with Alex, dear Lord, and just heal her.

There are many prayer concerns here today in this Capitol Building that members and staff and those visiting today have on their minds. You know our needs and our hearts, and we appreciate Your love for us. Many today are weary and tired; may we receive blessings today from You to refresh us.

We are reminded by King David in the Book of Psalms that "The meek shall inherit the earth; and shall delight themselves in the abundance of peace." He goes on to say that "The steps of a good man are ordered by the Lord, and he delights in his way. Though he fall, he shall not be utterly cast down, for the Lord upholds him with His hand." Please uphold us today and continue to be with the leadership of this chamber, the Senate, our Governor, and all of those in authority, that we may live in a peaceable manner and abide faithfully in You. Amen.

PLEDGE OF ALLEGIANCE

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

APPROPRIATIONS COMMITTEE MEETING

The SPEAKER. There will be an immediate meeting of the Appropriations Committee; an immediate meeting of the House Appropriations Committee in the majority caucus room.

The House will come to order. Members will please report to the floor. The Appropriations Committee has recessed.

JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, approval of the Journal of Wednesday, October 7, 2009, will be postponed until printed. The Chair hears no objection.

LEAVES OF ABSENCE

The SPEAKER. Turning to leaves of absence, the Chair recognizes the minority whip, Representative Turzai, who requests a leave of absence for: Representative MUSTIO from Allegheny County for the day; Representative Sam SMITH from Jefferson County for the day. Without objection, the leaves will be granted.

There are no leaves requested for the Democratic side.

MASTER ROLL CALL

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

The following roll call was recorded:

PRESENT—199

Adolph	Evans, J.	Lentz	Reed
Baker	Everett	Levdansky	Reese
Barbin	Fabrizio	Longiotti	Reichley
Barrar	Fairchild	Maher	Roae
Bear	Farry	Mahoney	Rock
Belfanti	Fleck	Major	Roebuck
Benninghoff	Frankel	Manderino	Rohrer
Beyer	Freeman	Mann	Ross
Bishop	Gabig	Markosek	Sabatina
Boback	Gabler	Marshall	Sainato
Boyd	Galloway	Marsico	Samuelson
Boyle	Geist	Matzie	Santarsiero
Bradford	George	McGeehan	Santoni
Brennan	Gerber	McI. Smith	Saylor
Briggs	Gergely	Melio	Scavello
Brooks	Gibbons	Mensch	Schroder
Brown	Gillespie	Metcalfe	Seip
Burns	Gingrich	Metzgar	Shapiro
Buxton	Godshall	Micozzie	Siptroth
Caltagirone	Goodman	Millard	Smith, K.
Carroll	Grell	Miller	Smith, M.
Casorio	Grove	Milne	Solobay
Causer	Grucela	Mirabito	Sonney
Christiana	Haluska	Moul	Staback
Civera	Hanna	Mundy	Stern
Clymer	Harhai	Murphy	Stevenson

Cohen	Harhart	Murt	Sturla
Conklin	Harkins	Myers	Swanger
Costa, D.	Harper	O'Brien, D.	Tallman
Costa, P.	Harris	O'Brien, M.	Taylor, J.
Cox	Helm	O'Neill	Taylor, R.
Creighton	Hennessey	Oberlander	Thomas
Cruz	Hess	Oliver	True
Curry	Hickernell	Pallone	Turzai
Cutler	Hornaman	Parker	Vereb
Daley	Houghton	Pashinski	Vitali
Dally	Hutchinson	Payne	Vulakovich
Day	Johnson	Payton	Wagner
Deasy	Josephs	Peifer	Walko
DeLozier	Kauffman	Perzel	Wansacz
DeLuca	Keller, M.K.	Petrarca	Waters
Denlinger	Keller, W.	Petri	Watson
DePasquale	Kessler	Phillips	Wheatley
Dermody	Killion	Pickett	White
DeWeese	Kirkland	Preston	Williams
DiGrolamo	Knowles	Pyle	Youngblood
Donatucci	Kortz	Quigley	Yudichak
Drucker	Kotik	Quinn	
Eachus	Krieger	Rapp	McCall,
Ellis	Kula	Readshaw	Speaker
Evans, D.			

ADDITIONS—0

NOT VOTING—0

EXCUSED—4

Miccarelli	Mustio	Perry	Smith, S.
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LEAVES ADDED—3

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

CALENDAR

BILLS ON SECOND CONSIDERATION

The House proceeded to second consideration of **HB 1407, PN 1729**, entitled:

An Act amending the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, further providing for property held by financial institutions, for property held by insurers, for property held by utilities, for property held by business associations, for property held by fiduciaries, for property held by courts and public officers and agencies and for miscellaneous property held for or owing to another.

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

The SPEAKER. It is the Chair's understanding that the gentleman, Mr. Eachus, is withdrawing amendment A04335. The Chair thanks the gentleman.

The gentleman from Delaware County, Representative Barrar, is withdrawing amendment A04367.

The gentleman, Mr. Cox, is withdrawing amendment A4373 – actually, both amendments 4367 and 4373 are out of order. They were drawn to the Eachus amendment that was just withdrawn.

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

Mr. **EACHUS** offered the following amendment
No. **A04410**:

Amend Bill, page 1, lines 1 through 27; page 2, lines 1 through 8, by striking out all of said lines on said pages and inserting Amending the act of April 9, 1929 (P.L.343, No.176), entitled, as amended, "An act relating to the finances of the State government; providing for the settlement, assessment, collection, and lien of taxes, bonus, and all other accounts due the Commonwealth, the collection and recovery of fees and other money or property due or belonging to the Commonwealth, or any agency thereof, including escheated property and the proceeds of its sale, the custody and disbursement or other disposition of funds and securities belonging to or in the possession of the Commonwealth, and the settlement of claims against the Commonwealth, the resettlement of accounts and appeals to the courts, refunds of moneys erroneously paid to the Commonwealth, auditing the accounts of the Commonwealth and all agencies thereof, of all public officers collecting moneys payable to the Commonwealth, or any agency thereof, and all receipts of appropriations from the Commonwealth, authorizing the Commonwealth to issue tax anticipation notes to defray current expenses, implementing the provisions of section 7(a) of Article VIII of the Constitution of Pennsylvania authorizing and restricting the incurring of certain debt and imposing penalties; affecting every department, board, commission, and officer of the State government, every political subdivision of the State, and certain officers of such subdivisions, every person, association, and corporation required to pay, assess, or collect taxes, or to make returns or reports under the laws imposing taxes for State purposes, or to pay license fees or other moneys to the Commonwealth, or any agency thereof, every State depository and every debtor or creditor of the Commonwealth," providing for method of filing; further providing for definitions and for notice and publication of lists of property; providing for borrowing for capital facilities, for water and sewer systems assistance bond authorization, for H2O Act implementation, for municipal landfills, recycling, waste tires and solid waste disposal and for oil and gas wells; reenacting and amending provisions relating to State Workers' Insurance Board and for expiration; further providing for Department of Community and Economic Development, for Department of Corrections, for Department of Education, for Department of Environmental Protection, for Pennsylvania State Police and for Pennsylvania Emergency Management Agency; providing for 2009-2010 budget implementation and for 2009-2010 restrictions on appropriations for funds and accounts; abolishing the Scranton State School for the Deaf and the Board of Trustees of the Scranton State School for the Deaf; and making related repeals.

Amend Bill, page 2, lines 11 through 34; pages 3 through 8, lines 1 through 30; page 9, lines 1 through 24, by striking out all of said lines on said pages and inserting

Section 1. The act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, is amended by adding a section to read:

Section 10. Method of Filing.—(a) The Department of Revenue may require any return, report or other document required to be filed for a tax administered by the department to be filed by any method prescribed by the department including by telephonic, electronic or other method. Notice of the method of filing shall be published in the Pennsylvania Bulletin and on the Department of Revenue's Internet website at least sixty days prior to the due date of the return, report or other document required to be filed by telephonic, electronic or other method. The notice shall refer to this section.

(b) Failure to file a return, report or other document by the

method required under subsection (a) shall subject the taxpayer to a penalty of one percent of the tax due on the return, report or other document up to a maximum of five hundred dollars (\$500), but not less than ten dollars (\$10). This penalty shall be assessed and collected in the manner provided by the act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971." This penalty shall be in addition to any civil penalty imposed in the applicable article of the "Tax Reform Code of 1971" for failure to file a return, report or other document. The criminal penalty for failure to file a return, report or other document by the method required under subsection (a) shall be the same as the criminal penalty for failure to file a return, report or other document under the applicable article of the "Tax Reform Code of 1971."

(c) (1) The Department of Revenue may waive the requirement to file by the method required under subsection (a) when any of the following apply:

(i) The department determines that the prescribed filing method causes an undue hardship.

(ii) The preparer or taxpayer requests a waiver in writing that clearly states why the filing method causes an undue hardship.

(2) In determining whether filing by the method required under subsection (a) causes an undue hardship, the Department of Revenue may consider unusual circumstances that may prevent the person from filing by the prescribed method or any other factor that the department determines is relevant.

Section 1.1. The definition of "cigarettes" in section 202-A of the act, added July 2, 1993 (P.L.250, No.46), is amended and the section is amended by adding a definition to read:

Section 202-A. Definitions.—As used in this article—

* * *

"Cigarettes" shall mean and include any roll for smoking made wholly or in part of tobacco, irrespective of size or shape, and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco, and shall not include cigars. For purposes of licensing under this article only, the term shall include little cigars.

* * *

"Little cigars" shall mean any roll for smoking that weighs not more than four pounds per thousand, where the wrapper or cover is made of natural leaf tobacco or of any substance containing tobacco.

* * *

Section 2. Section 1301.12(c) and (d) of the act, amended June 29, 2002 (P.L.614, No.91), are amended to read:

Section 1301.12. Notice and Publication of Lists of Property Subject to Custody and Control of the Commonwealth under this Article.—* * *

(c) The State Treasurer is not required to [publish in such notice] include in such notice published in an English language newspaper of general circulation any item of less than [one hundred dollars (\$100)] two hundred fifty dollars (\$250) or to include in such notice published in a legal newspaper any item of less than two hundred fifty dollars (\$250), unless the State Treasurer, in either instance, deems such publication to be in the public interest.

(d) Within nine (9) months from the receipt of the report required by section 1301.11, the State Treasurer shall mail a notice to each person having an address listed who appears to be entitled to property of the value of [one hundred dollars (\$100)] two hundred fifty dollars (\$250) or more subject to custody and control of the Commonwealth under this article. The mailed notice shall contain:

* * *

Section 3. The act is amended by adding articles to read:

ARTICLE XVI-B

BORROWING FOR CAPITAL FACILITIES

Section 1601-B. Scope.

This article relates to neighborhood improvement zones.

Section 1602-B. 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:

"Capital Facilities Debt Enabling Act." The act of February 9, 1999 (P.L.1, No.1), known as the Capital Facilities Debt Enabling Act.

"City." A city of the third class with, on the effective date of this section, a population of at least 106,000 and not more than 107,000, based on the 2000 Federal decennial census.

"Contracting authority." An authority created under 53 Pa.C.S. Ch. 56 (relating to municipal authorities) for the purpose of designating a neighborhood improvement zone and constructing a facility or other authority created under the laws of this Commonwealth which is eligible to apply for and receive redevelopment assistance capital grants under Chapter 3 of the act of February 9, 1999 (P.L.1, No.1), known as the Capital Facilities Debt Enabling Act, and which is under a contract with the Office of the Budget to receive those grants.

"Facility." A stadium, arena or other structure owned or leased by professional sports organization at which professional athletic events are conducted in the presence of individuals who pay admission to view the event constructed or operated by the contracting authority.

"Facility complex." A development or complex of residential, commercial, exhibition, hospitality, conference, retail and community uses which includes a stadium arena or other place owned, leased or utilized by a professional sports organization at which a professional athletic event or other events are conducted in the presence of individuals who pay admission to view the event.

"Fund." The Neighborhood Improvement Zone Fund established under section 1604-B.

"Neighborhood improvement zone." A neighborhood improvement zone designated by the contracting authority for the purposes of neighborhood improvement and development within a city.

"Professional sports organization." A sole proprietorship, corporation, limited liability company, partnership or association that meets all of the following:

(1) Owns a professional sports franchise.

(2) Conducts professional athletic events of the sports franchise at a facility.

"Qualified business." An entity authorized to conduct business in this Commonwealth which is located or partially located within a neighborhood improvement zone and is engaged in the active conduct of a trade or business for the taxable year. An agent, broker or representative of a business shall not be considered to be in the active conduct of trade or business for the business.

Section 1603-B. Facility.

The contracting authority may designate a neighborhood improvement zone of not greater than 130 acres, in which a facility or facility complex may be constructed, and may borrow funds for the purpose of improvement and development within the neighborhood improvement zone and construction of a facility or facility complex within the zone.

Section 1604-B. Neighborhood Improvement Zone Fund.

(a) Special fund.—There is established a special fund known as the Neighborhood Improvement Zone Fund. Interest income derived from investment of the money in the fund shall be credited by the Treasury Department to the fund.

(b) Calculation.—Within 60 days of the end of each quarter, the contracting authority shall calculate and notify the Department of Revenue of the amounts under this subsection for improvement and development in the neighborhood improvement zone, the facility complex and the facility. The contracting authority shall provide good faith estimates of the quarterly amounts to be calculated in the event that information necessary to complete the calculation is not available. In that event, complete documentation of the estimating sources and methods shall be provided with the estimate to the Department of Revenue. The Department of Revenue shall review and adjust the amounts calculated for accuracy and completeness. The secretary or the department shall certify the amounts to the Office of the Budget within 90 days of the end of the quarter. A unit of local government collecting a local tax within the neighborhood improvement zone shall, within 30 days of the end of a fiscal quarter, submit all of the local taxes collected

that are to be calculated under this subsection to the State Treasurer for transfer to the fund under subsection (d). The following shall be the amounts calculated:

(1) An amount equal to all corporate net income tax, capital stock and franchise tax, personal income tax, business privilege tax, business privilege licensing fees and earned income tax related to the ownership and operation of a professional sports organization conducting professional athletic events at the facility or facility complex.

(2) An amount equal to all of the following:

(i) All personal income tax, earned income tax and local services tax withheld from its employees by a professional sports organization conducting professional athletic events at the facility or facility complex.

(ii) All personal income tax, earned income tax and local services tax withheld from the employees of any provider of events at or services to, or any operator of an enterprise in, the facility or facility complex.

(iii) All personal income tax, earned income tax and local services tax to which the Commonwealth would be entitled from performers or other participants, including visiting teams, at an event or activity at the facility or facility complex.

(3) An amount equal to all sales and use tax related to the operation of the professional sports organization and the facility and enterprises developed as part of the facility complex. This paragraph shall include sales and use tax paid by any provider of events or activities at or services to the facility or facility complex, including sales and use tax paid by vendors and concessionaires and contractors at the facility or facility complex.

(4) An amount equal to all tax paid to the Commonwealth related to the sale of any liquor, wine or malt or brewed beverage in the facility or facility complex.

(5) The amount paid by the professional sports organization or by any provider of events or activities at or services to the facility or facility complex of any new tax enacted by the Commonwealth following the effective date of this section.

(6) An amount equal to all personal income tax, earned income tax and local services tax withheld from personnel by the professional sports organization or by a contractor or other entity involved in the construction of the facility or facility complex.

(7) An amount equal to all sales and use tax paid on materials and other construction costs, whether withheld or paid by the professional sports organization or other entity, directly related to the construction of the facility or facility complex.

(8) An amount equal to all of the following:

(i) All corporate net income tax, capital stock and franchise tax, personal income tax, business privilege tax, business privilege licensing fees and earned income tax related to the ownership and operation of any qualified business within the neighborhood improvement zone.

(ii) All personal income tax, earned income tax and local services tax withheld from its employees by a qualified business within the neighborhood improvement zone.

(iii) All personal income tax, earned income tax and local services tax withheld from the employees of a qualified business that provides events, activities or services in the neighborhood improvement zone.

(iv) All personal income tax, earned income tax and local services tax to which the Commonwealth would be entitled from performers or other participants at an event or activity in the neighborhood improvement zone.

(v) All sales and use tax related to the operation

of a qualified business within the neighborhood improvement zone. This subparagraph shall include sales and use tax paid by a qualified business that provides events, activities or services in the neighborhood improvement zone.

(vi) All tax paid by a qualified business to the Commonwealth related to the sale of any liquor, wine or malt or brewed beverage within the neighborhood improvement zone.

(vii) The amount paid a qualified business within the neighborhood improvement zone of any new tax enacted by the Commonwealth following the effective date of this section.

(viii) All personal income tax, earned income tax and local services tax withheld from personnel by a qualified business involved in the improvement, development or construction of the neighborhood improvement zone.

(ix) All sales and use tax paid on materials and other construction costs, whether withheld or paid by the professional sports organization or other qualified business, directly related to the improvement, development or construction of the neighborhood improvement zone.

(x) An amount equal to any amusement tax paid by a qualified business operating in the neighborhood improvement zone. No political subdivision or other entity authorized to collect amusement taxes may impose or increase the rate of any tax on admissions to places of entertainment, exhibition, amusement or upon athletic events in the neighborhood improvement zone which are not in effect on the date the neighborhood improvement zone is designated by the contracting authority.

(9) Except for a tax levied against real property, an amount equal to any tax imposed by the Commonwealth or any of its political subdivisions on a qualified business engaged in an activity within the neighborhood improvement zone.

(c) Income apportionment.—For the purpose of making the calculations under subsection (b), the taxable income of a corporation that is a qualified business shall be apportioned to the neighborhood improvement zone by multiplying the Pennsylvania taxable income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is three, in accordance with the following:

(1) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the neighborhood improvement zone during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this Commonwealth during the tax period but shall not include the security interest of any corporation as seller or lessor in personal property sold or leased under a conditional sale, bailment lease, chattel mortgage or other contract providing for the retention of a lien or title as security for the sales price of the property.

(2) The following apply:

(i) The payroll factor is a fraction, the numerator of which is the total amount paid in the neighborhood improvement zone during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid in this Commonwealth during the tax period.

(ii) Compensation is paid in the neighborhood improvement zone if:

(A) the person's service is performed entirely within the neighborhood improvement zone;

(B) the person's service is performed

both within and without the neighborhood improvement zone, but the service performed without the neighborhood improvement zone is incidental to the person's service within the neighborhood improvement zone; or

(C) some of the service is performed in the neighborhood improvement zone and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the neighborhood improvement zone, or the base of operations or the place from which the service is directed or controlled is not in any location in which some part of the service is performed, but the person's residence is in the neighborhood improvement zone.

(3) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in the neighborhood improvement zone during the tax period and the denominator of which is the total sales of the taxpayer in this Commonwealth during the tax period.

(i) Sales of tangible personal property are in the neighborhood improvement zone if the property is delivered or shipped to a purchaser that takes possession within the neighborhood improvement zone regardless of the F.O.B. point or other conditions of the sale.

(ii) Sales other than sales of tangible personal property are in the neighborhood improvement zone if:

(A) the income-producing activity is performed in the neighborhood improvement zone; or

(B) the income-producing activity is performed both within and without the neighborhood improvement zone and a greater proportion of the income-producing activity is performed in the neighborhood improvement zone than in any other location, based on costs of performance.

(d) Transfers.—

(1) Within ten days of receiving notification under subsection (b), the Secretary of the Budget shall direct the State Treasurer to, notwithstanding any other law, transfer the amounts calculated under subsection (b) from the General Fund to the fund.

(2) The State Treasurer shall provide quarterly payments to the contracting authority until the bonds issued to finance the improvement and development of the neighborhood improvement zone and the construction of the contracted facility or facility complex are retired. The payment in each quarter shall be equal to the balance of the fund on the last day of the prior calendar quarter.

(e) Restriction on use of funds.—Funds transferred under subsection (d):

(1) May only be utilized for payment of debt service on bonds issued for the improvement and development of all or any part of the neighborhood improvement zone and the purpose of constructing a facility or facility complex.

(2) May not be utilized for purposes of renovating or repairing a facility or facility complex, except for capital maintenance and improvement projects.

(f) Ticket surcharge.—The entity operating the facility may collect a capital repair and improvement ticket surcharge, the proceeds of which shall be deposited into the fund. The funds shall be maintained and utilized as follows:

(1) The money deposited under this subsection may not be encumbered for any reason and shall be transferred to the entity for capital repair and improvement projects upon request from the entity.

(2) Upon the expiration of the neighborhood improvement zone under section 1606-B, any and all portions of the fund attributable to the ticket surcharge shall be immediately transferred to the contracting authority to be held in escrow where they shall be unencumbered and maintained by the contracting authority in the same manner as the fund. Upon the transfer, any ticket surcharge collected by the operating entity shall thereafter be deposited in the account maintained by the contracting authority and dispersed for a capital repair and improvement project upon request by the operating entity.

Section 1605-B. Keystone Opportunity Zone.

Within 30 days of the effective date of this section, the city shall apply to the department to decertify and remove the designation of all or part of the Keystone Opportunity Zone in accordance with section 309 of the act of October 6, 1998 (P.L.705, No.92), known as the Keystone Opportunity Zone, Keystone Opportunity Expansion Zone and Keystone Opportunity Improvement Zone Act. The department shall act on the application within 30 days.

Section 1606-B. Duration.

The neighborhood improvement zone shall be in effect for a period equal to the length of time of the bonds that are initially issued.

ARTICLE XVI-E

WATER AND SEWER SYSTEMS

ASSISTANCE BOND AUTHORIZATION

Section 1601-E. Scope.

This article deals with water and sewer systems assistance bond authorization.

Section 1602-E. 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:

"Assistance Act." The act of July 9, 2008 (P.L.915, No.64), known as the Water and Sewer Systems Assistance Act.

"Fund." The Water and Sewer Systems Assistance Bond Fund.

"Issuing officials." The Governor, the Auditor General and the State Treasurer.

"Municipality." As defined in section 3 of the Assistance Act.

"Nutrient credit." As defined in section 3 of the Assistance Act.

"Project." As defined in section 3 of the Assistance Act.

Section 1603-E. Water and Sewer Systems Assistance Bond Fund.

(a) Establishment.—The Water and Sewer Systems Assistance Bond Fund, which is created in the State Treasury, shall be the source from which all payments are authorized, with the approval of the Governor, to carry out the purposes of this section and as otherwise provided for in the Assistance Act.

(b) Purpose of fund.—The money in the fund shall only be utilized in accordance with the provisions of the Assistance Act for grants and loans to municipalities, public utilities and other entities implementing projects and for the purchase or trading of nutrient credits.

(c) Exemption.—Money in the fund is exempt and not to be considered under the limitations of section 5(c)(2) of the act of March 1, 1988 (P.L.82, No.16), known as the Pennsylvania Infrastructure Investment Authority Act.

Section 1604-E. Commonwealth indebtedness.

(a) Borrowing authorized.—

(1) If the electorate approves a referendum question, in accordance with the provisions of the Assistance Act, for incurring indebtedness in the amount and for the purposes prescribed in the Assistance Act and this article, the issuing officials, pursuant to the provisions of section 7(a)(3) of Article VIII of the Constitution of Pennsylvania, are authorized and directed to borrow, on the credit of the Commonwealth, money not exceeding in the aggregate the sum of \$400,000,000, in increments of not more than \$150,000,000 every year over a three-year period after the effective date of this section, not including money borrowed to refund outstanding bonds, notes or replacement notes, as may be found necessary to carry out the

purposes of the Assistance Act.

(2) As evidence of the indebtedness, general obligation bonds of the Commonwealth shall be issued to provide money necessary to carry out the purposes of the Assistance Act and this article for the total amounts, in the form, in the denominations and subject to the terms and conditions of issue, redemption and maturity, rate of interest and time of payment of interest, as the issuing officials direct, except that the latest stated maturity date shall not exceed 20 years from the date of the first obligation issued to evidence the debt.

(3) All bonds and notes issued under the authority of this article must bear facsimile signatures of the issuing officials and a facsimile of the Great Seal of the Commonwealth and must be countersigned by an authorized officer of an authorized loan and transfer agent of the Commonwealth.

(4) All bonds and notes issued in accordance with the provisions of this section shall be direct obligations of the Commonwealth; and the full faith and credit of the Commonwealth is pledged for the payment of the interest on them, as it becomes due, and for the payment of the principal at maturity. The principal of and interest on the bonds and notes shall be payable in lawful money of the United States.

(5) All bonds and notes issued under the provisions of this section shall be exempt from taxation for State and local purposes.

(6) The bonds may be issued as coupon bonds or registered as to both principal and interest as the issuing officials determine. If interest coupons are attached, they shall contain the facsimile signature of the State Treasurer.

(7) The issuing officials shall provide for amortization of the bonds in substantial and regular amounts over the term of the debt so that the bonds of each issue allocated to the projects to be funded from the bond issue shall mature within a period not to exceed the appropriate amortization period for each project as specified by the issuing officials, but in no case in excess of 20 years. The first retirement of principal shall be stated to mature prior to the expiration of a period of time equal to one-tenth of the time from the date of the first obligation issued to evidence the debt to the date of the expiration of the term of the debt. Retirements of principal shall be regular and substantial if made in annual or semiannual amounts, whether by stated serial maturities or by mandatory sinking fund retirements.

(8) The issuing officials are authorized to provide by resolution for the issuance of refunding bonds for the purpose of refunding any debt issued under the provisions of this article and outstanding, either by voluntary exchange with the holders of the outstanding debt or by providing funds to redeem and retire the outstanding debt with accrued interest, any premium payable on the debt and the costs of issuance and retirement of the debt, at maturity or at any call date. The issuance of the refunding bonds, the maturities and other details of the refunding bonds, the rights of the holders of the refunding bonds and the duties of the issuing official in respect to the refunding bonds shall be governed by the applicable provisions of this section. Refunding bonds, which are not subject to the aggregate limitation of \$400,000,000 of debt to be issued under the Assistance Act and this article, may be issued by the issuing officials to refund debt originally issued or to refund bonds previously issued for refunding purposes.

(9) If action is to be taken or decision made by the issuing officials and the issuing officials are not able unanimously to agree, the action or decision of the Governor and either the Auditor General or the State Treasurer shall be binding and final.

(b) Sale of bonds.—

(1) When bonds are issued, they shall be offered for sale at not less than 98% of the principal amount and accrued interest and shall be sold by the issuing officials to the highest and best bidder or bidders after due public advertisement on the terms and

conditions and upon open competitive bidding as the issuing officials direct. The manner and character of the advertisement and the time of advertising shall be prescribed by the issuing officials. No commission shall be allowed or paid for the sale of any bonds issued under the authority of this article.

(2) Any portion of any bond issue so offered and not sold or subscribed for at public sale may be disposed of by private sale by the issuing officials in the manner and at prices, not less than 98% of the principal amount and accrued interest, as the Governor directs. No commission shall be allowed or paid for the sale of any bonds issued under the authority of this article.

(3) When bonds are issued, the bonds of each issue shall constitute a separate series to be designated by the issuing officials or may be combined for sale as one series with other general obligation bonds of the Commonwealth.

(4) Until permanent bonds can be prepared, the issuing officials may issue, in lieu of permanent bonds, temporary bonds in the form and with the privileges as to registration and exchange for permanent bonds as determined by the issuing officials.

(5) The proceeds realized from the sale of bonds and notes, except refunding bonds and replacement notes, under the provisions of the Assistance Act and this article shall be paid into the fund. The proceeds shall be paid by the State Treasurer periodically to those Commonwealth officers and Commonwealth agencies authorized to expend them at the times and in the amounts necessary to satisfy the funding needs of those Commonwealth agencies. The proceeds of the sale of refunding bonds and replacement notes shall be paid to the State Treasurer and applied to the payment of principal, any accrued interest and premium and the cost of redemption of the bonds and notes for which the obligations shall have been issued.

(6) Pending application for the purposes authorized, money held or deposited by the State Treasurer may be invested or reinvested as are other funds in the custody of the State Treasurer in the manner provided by law. All earnings received from the investment or deposit of the funds shall be paid into the State Treasury to the credit of the fund. The earnings in excess of bond discounts allowed, expenses paid for the issuance of bonds and notes and interest arbitrage rebates due to the Federal Government shall be transferred annually to the fund. Any interest or investment income shall be applied to assist in the payment of the debt service incurred in connection with the Assistance Act and this article.

(7) The Auditor General shall prepare the necessary registry book to be kept in the office of the authorized loan and transfer agent of the Commonwealth for the registration of any bonds, at the request of owners of the bonds, according to the terms and conditions of issue directed by the issuing officials.

(8) There is appropriated to the State Treasurer from the fund as much money as may be necessary for all costs and expenses in connection with the issue of and sale and registration of the bonds and notes in connection with the Assistance Act and this article and the payment of interest arbitrage rebates or proceeds of the bonds and notes.

(c) Temporary financing authorization.—

(1) Pending the authorized issuance of bonds of the Commonwealth, the issuing officials are authorized, in accordance with the provisions of the Assistance Act and this article and on the credit of the Commonwealth, to make temporary borrowings not to exceed three years in anticipation of the issue of bonds in order to provide funds in the amounts deemed advisable prior to the issue of bonds. In order to provide for and in connection with the temporary borrowings, the issuing officials are authorized in the name and on behalf of the Commonwealth to enter into any purchase, loan or credit agreement or other agreement with any bank, trust company or other lending institution, investment banking firm or person, in

the United States having power to enter into the agreement. The agreement may contain provisions which are not inconsistent with the provisions of the Assistance Act or this article and authorized by the issuing officials.

(2) All temporary borrowings made under the authorization of this section shall be evidenced by notes of the Commonwealth, which shall be issued for amounts not exceeding in the aggregate the applicable statutory and constitutional debt limitation in the form and in the denominations and subject to terms and conditions of sale and issue, prepayment or redemption and maturity, rate of interest and time of payment of interest as the issuing officials authorize and direct and in accordance with the Assistance Act and this article. The authorization and direction may provide for the subsequent issuance of replacement notes to refund outstanding notes or replacement notes. The replacement notes shall, upon issuance, evidence the borrowing and may specify other terms and conditions with respect to the notes and replacement notes as the issuing officials determine and direct.

(3) If the authorization and direction of the issuing officials provide for the issuance of replacement notes, the following shall apply:

(i) The issuing officials are authorized in the name and on behalf of the Commonwealth to issue, enter into or authorize and direct the State Treasurer to enter into an agreement with any bank, trust company, investment banking firm or other institution or person, in the United States having the power to enter the agreement:

(A) To purchase or underwrite an issue or series of issues or notes.

(B) To credit, to enter into any purchase, loan or credit agreement, to draw money pursuant to the agreement on the terms and conditions set forth in the agreement and to issue notes as evidence of borrowings made under the agreements.

(C) To appoint an issuing and payment agent or agents with respect to the notes.

(D) To do other acts as necessary or appropriate to provide for the payment, when due, of the interest on and the principal of the notes.

(ii) The agreements may provide for the compensation of any purchasers or underwriters of notes or replacement notes by discounting the purchase price of the notes or by payment of a fixed fee or commission at the time of issuance; and all other costs and expenses, including fees for agreements related to the notes, issuing and paying agent costs and costs and expenses of issuance, may be paid from the proceeds of the notes.

(4) If the authorization and direction of the issuing officials provide for the issuance of replacement notes, all subject to the authorization and direction of the issuing officials, the following apply:

(i) At or prior to the time of delivery of the notes or replacement notes, the State Treasurer shall determine the principal amount, date of issue, interest rate or procedure for establishing interest rate, rate of discount, denominations and all other terms and conditions relating to the issuance.

(ii) The State Treasurer shall perform all acts and things necessary to pay or cause to be paid, when due, all principal of and interest on the notes being refunded by replacement notes and to assure that the replacement notes may draw upon any money available for that purpose pursuant to any purchase, loan or credit agreement established with respect to the replacement

notes.

(5) Outstanding notes evidencing the borrowings may be funded and retired by the issuance and sale of the bonds of the Commonwealth as authorized in this article. The refunding bonds shall be issued and sold no later than a date three years after the date of issuance of the first notes evidencing the borrowings to the extent that payment of the notes has not otherwise been made or provided for by sources other than proceeds of replacement notes.

(6) The proceeds of all the temporary borrowing shall be paid to the State Treasurer to be held and disposed of in accordance with the provisions of the Assistance Act and this article.

(d) Debt retirement.—

(1) All bonds issued under the authority of the Assistance Act and this article shall be redeemed at maturity, together with all interest due on the bonds; and these principal and interest payments shall be paid from the Water and Sewer Systems Assistance Bond Sinking Fund, which is hereby created. For the specific purpose of redeeming the bonds at maturity and paying all interest on the bonds in accordance with the information received from the Governor, the General Assembly shall appropriate money to the Water and Sewer Systems Assistance Bond Sinking Fund for the payment of interest on the bonds and notes and their principal at maturity. All money paid into the Water and Sewer Systems Assistance Bond Sinking Fund and all of the money not necessary to pay accruing interest shall be invested by the State Treasurer in the securities as are provided by law for the investment of the sinking funds of the Commonwealth.

(2) The State Treasurer, with the approval of the Governor, is authorized to use any of the money in the fund not necessary for the purposes of the referendum authorizing the indebtedness necessary to carry out the Assistance Act and this article for the purchase and retirement of all or any part of the bonds and notes issued pursuant to the authorization of this article. If all or any part of the bonds and notes are purchased, they shall be canceled and returned to the loan and transfer agent as canceled and paid bonds and notes; and, after the purchase, all payments of interest on them shall cease. The canceled bonds, notes and coupons, together with any other canceled bonds, notes and coupons, shall be destroyed as promptly as possible after cancellation but no later than two years after cancellation. A certification evidencing the destruction of the canceled bonds, notes and coupons shall be provided by the loan and transfer agent to the issuing officials. All canceled bonds, notes and coupons shall be so marked as to make the canceled bonds, notes and coupons nonnegotiable.

(3) The State Treasurer shall determine and report to the Secretary of the Budget by November 1 of each year the amount of money necessary for the payment of interest on outstanding obligations and the principal of the obligations, if any, for the following fiscal year and the times and amounts of the payments. It shall be the duty of the Governor to include in every budget submitted to the General Assembly full information relating to the issuance of bonds and notes under the provisions of the Assistance Act and this article and the status of the Water and Sewer Systems Assistance Bond Sinking Fund for the payment of interest on the bonds and notes and their principal at maturity.

(4) The General Assembly shall appropriate an amount equal to the sums necessary to meet repayment obligations for principal and interest for deposit into the Water and Sewer Systems Assistance Bond Sinking Fund.

(e) Expiration.—Authorization to issue bonds and notes, not including refunding bonds and replacement notes, for the purpose of the Assistance Act and this article, shall expire ten years from the effective date of this section.

ARTICLE XVI-F
H2O ACT IMPLEMENTATION

Section 1601-F. Scope.

This article provides for the certification of funds, requests for additional appropriations and flood control and high hazard unsafe dam projects and for limitations on compensation contingent on awarding of contracts.

Section 1602-F. 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:

"Affiliated entity." Any of the following:

(1) A subsidiary or holding company of a lobbying firm or other business entity owned in whole or in part by a lobbying firm.

(2) An organization recognized by the Internal Revenue Service as a tax-exempt organization under section 501(c) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)) established by a lobbyist or lobbying firm or an affiliated entity.

"Authority." As defined in section 102 of the H2O PA Act.

"Eligible applicant." As defined in section 102 of the H2O PA

Act.

"High hazard unsafe dam." As defined in section 102 of the H2O PA Act.

"H2O PA Act." The act of July 9, 2008 (P.L.908, No.63), known as the H2O PA Act.

"Lobbying." As defined in 65 Pa.C.S. § 13A03 (relating to definitions). The term includes an effort to influence the authority's expenditure, appropriation, deposit, award, grant or denial of funds. The term does not include the assistance by a person with the completion or preparation of application materials for submission to the authority if all of the following are true:

(1) The person is not identified in the submitted materials.

(2) The person has no direct contact with the authority unless the person is responding to requests for additional information or clarification.

(3) If the person is compensated for the assistance, the person is paid:

(i) a reasonable flat fee for the assistance; or

(ii) a percentage of the amount of the proposed grant of up to 0.5% but not more than \$5,000.

"Project." As defined in section 102 of the H2O PA Act.

"Secretary." The Secretary of the Budget.

Section 1603-F. Certification of funds.

By January 1 of each year, the secretary shall certify to the authority and the State Treasurer the amount of funds available for transfer under the provisions of section 301 of the H2O PA Act for the next fiscal year.

Section 1604-F. Request for appropriation.

If inadequate funds are available to the authority to pay all the costs related to indebtedness incurred to fund projects under section 301 of the H2O PA Act, the secretary on behalf of the authority shall seek an appropriation from the General Fund to fully pay the costs.

Section 1605-F. Amount of grants.

Notwithstanding the provisions of section 501(d) of the H2O PA Act, grants shall be made as follows:

(1) A minimum of \$85,000,000 shall be awarded to flood control projects.

(2) A minimum of \$50,000,000 shall be awarded to high-hazard unsafe dam projects. No more than \$20,000,000 may go to an eligible applicant that is the Commonwealth or an independent agency.

Section 1606-F. Eligible applicants.

Notwithstanding any other provision of the H2O PA Act to the contrary, a not-for-profit organization that owns a high-hazard unsafe dam and has filed with the authority an application for a grant under

section 502(a)(3) of the H2O PA Act prior to the effective date of this section shall be an eligible applicant for a grant under section 502(a)(3) of the H2O PA Act.

Section 1607-F. Prohibited activity.

(a) Limitation on giving compensation.—A person or its affiliated entity may not engage in or agree to engage in lobbying for compensation or incur an obligation to compensate a person to engage in lobbying for compensation contingent, in whole or in part, upon the approval, award, denial, receipt or rejection of a grant under Chapters 1 through 7 of the H2O PA Act.

(b) Limitation on receiving compensation.—A person or its affiliated entity may not engage in or agree to engage in lobbying for compensation contingent, in whole or in part, upon the approval, award, denial, receipt or rejection of a grant under Chapters 1 through 7 of the H2O PA Act.

(c) Violation.—A violation of this section shall be considered an intentional violation of 65 Pa.C.S. § 13A09(e) (relating to penalties).

ARTICLE XVI-G

MUNICIPAL LANDFILLS, RECYCLING,
WASTE TIRES AND SOLID WASTE DISPOSAL

Section 1601-G. Scope.

This article relates to municipal waste, recycling, waste tires and solid waste disposal.

Section 1602-G. 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:

"Abatement." As defined in section 103 of the Recycling Act.

"Adjacent municipality." A municipality other than a county that:

(1) is located within one mile of the footprint of a permit area of a proposed new municipal waste landfill or resource recovery facility, or of a proposed expansion of a municipal waste landfill or resource recovery facility; and

(2) has notified the department in writing of its intention to be considered an adjacent municipality under the Recycling Act.

"Average daily volume." As defined in section 103 of the Recycling Act.

"Commission." As defined in section 103 of the Recycling Act.

"Commonwealth agency." As defined in section 103 of the Recycling Act.

"Degradable plastic beverage carrier." As defined in section 103 of the Recycling Act.

"Department." As defined in section 103 of the Recycling Act.

"Disposal." As defined in section 103 of the Recycling Act.

"Feasibility study." As defined in section 103 of the Recycling Act.

"Host municipality." As defined in section 103 of the Recycling Act.

"Leaf waste." As defined in section 103 of the Recycling Act.

"Local public agency." As defined in section 103 of the Recycling Act.

"Management." As defined in section 103 of the Recycling Act.

"Municipal recycling program." As defined in section 103 of the Recycling Act.

"Municipal waste." As defined in section 103 of the Recycling Act.

"Municipal waste landfill." As defined in section 103 of the Recycling Act.

"Municipality." As defined in section 103 of the Recycling Act.

"Operator." As defined in section 103 of the Recycling Act.

"Person." As defined in section 103 of the Recycling Act.

"Plastic beverage carrier." As defined in section 103 of the Recycling Act.

"Pollution." As defined in section 103 of the Recycling Act.

"Postconsumer material." As defined in section 103 of the Recycling Act.

"Processing." As defined in section 103 of the Recycling Act.
"Project development." As defined in section 103 of the Recycling Act.

"Public agency." As defined in section 103 of the Recycling Act.
"Reasonable expansion." As defined in section 103 of the Recycling Act.

"Recycled content." As defined in section 103 of the Recycling Act.

"Recycling." As defined in section 103 of the Recycling Act.
"Recycling Act." The act of July 28, 1988 (P.L.556, No.101), known as the Municipal Waste Planning, Recycling and Waste Reduction Act.

"Recycling facility." As defined in section 103 of the Recycling Act.

"Remaining available permitted capacity." As defined in section 103 of the Recycling Act.

"Remaining permitted capacity." As defined in section 103 of the Recycling Act.

"Residual waste." As defined in section 103 of the Recycling Act.

"Resource recovery facility." As defined in section 103 of the Recycling Act.

"Secretary." As defined in section 103 of the Recycling Act.
"Solid waste." As defined in section 103 of the Recycling Act.

"Solid Waste Abatement Fund." As defined in section 103 of the Recycling Act.

"Solid Waste Management Act." As defined in section 103 of the Recycling Act.

"Source-separated recyclable materials." As defined in section 103 of the Recycling Act.

"Storage." As defined in section 103 of the Recycling Act.
"Transportation." As defined in section 103 of the Recycling Act.

"Treatment." As defined in section 103 of the Recycling Act.
"Waste reduction." As defined in section 103 of the Recycling Act.

"Waste Tire Recycling Act." Chapter 1 of the act of December 19, 1996 (P.L.1478, No.190), entitled "An act relating to the recycling and reuse of waste tires; providing for the proper disposal of waste tires and the cleanup of stockpiled tires; authorizing investment tax credits for utilizing waste tires; providing remediation grants for the cleanup of tire piles and for pollution prevention programs for small business and households; establishing the Small Business and Household Pollution Prevention Program and management standards for small business hazardous waste; providing for a household hazardous waste program and for grant programs; making appropriations; and making repeals."

Section 1603-G. Information provided to adjacent municipalities.
 (a) Departmental information.—The department shall provide all of the information under section 1101(a) of the Recycling Act to the governing bodies of adjacent municipalities.
 (b) Operator information.—Every operator of a municipal waste landfill or resource recovery facility shall provide to adjacent municipalities copies of all air and water quality monitoring data, as required by the department for the facility, conducted by or on behalf of the operator, within five days after such data becomes available to the operator.
 (c) Public information.—All information provided to adjacent municipalities under this section shall be made available to the public for review upon request.
 (d) Information to county.—Information provided to a county within which the landfill or facility is located or proposed to be located under section 1101(d) shall be provided to adjacent municipalities.

Section 1604-G. Joint inspections.

(a) Training of inspectors.
 (1) The department shall establish and conduct a training program to certify adjacent municipality inspectors for municipal waste landfills and resource recovery facilities. This program will be available to no more than two persons who have been

designated in writing by the adjacent municipality. The department shall offer training programs at least twice a year. The department shall certify adjacent municipality inspectors upon completion of the training program and satisfactory performance in an examination administered by the department.

(2) Certified adjacent municipal inspectors are authorized to enter property, inspect only those records required by the department, take samples and conduct inspections in accordance with department regulations as applicable to department inspectors. However, certified adjacent municipal inspectors may not issue orders except as provided in this subsection. A certified adjacent municipal inspector may order the operator of a facility to cease any operation or activity at the facility which constitutes an immediate threat to public health and safety and which represents a violation of the Solid Waste Management Act, the regulations promulgated under that act, any order issued under that act or the terms or conditions of a permit issued under that act. The order shall expire within two hours unless the inspector notifies the department and the governing body of the adjacent municipality. The department may, after conducting an inspection, supersede the inspector's order by issuing an order of its own which vacates or modifies the terms of the inspector's order. If the department does not supersede the order, the order shall expire after 24 hours unless otherwise extended, continued or modified by a court pursuant to section 1703(b) of the Recycling Act.

(3) The department may decertify adjacent municipality inspectors pursuant to regulations promulgated by the Environmental Quality Board.

(b) Departmental information.—

(1) Whenever any adjacent municipality presents information to the department which gives the department reason to believe that any municipal waste landfill or resource recovery facility is in violation of any requirement of the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law, the act of January 8, 1960 (1959 P.L.2119, No.787), known as the Air Pollution Control Act, the act of November 26, 1978 (P.L.1375, No.325), known as the Dam Safety and Encroachments Act, the Solid Waste Management Act, any regulation promulgated pursuant thereto, any order issued pursuant thereto or the condition of any permit issued pursuant thereto, the department will promptly conduct an inspection of such facility.

(2) The department will notify the adjacent municipality of this inspection and will allow a certified municipal inspector from the adjacent municipality to accompany the inspector during the inspection.

(3) If there is not sufficient information to give the department reasons to believe that there is a violation, the department will provide a written explanation to the adjacent municipality of its decision not to conduct an inspection within 30 days of the request for inspection.

(4) Upon written request of an adjacent municipality to the department, the department will allow a certified inspector of such municipality to accompany department inspectors on routine inspections of municipal waste landfills and resource recovery facilities.

(c) County involvement.—The training and inspection requirements of section 1102 of the Recycling Act available to the county within which the landfill or facility is located under section 1102(c) of the Recycling Act shall be available to adjacent municipalities.

Section 1605-G. Claims resulting from pollution occurrences.

An adjacent municipality within the planning area may not be held liable for bodily injury or property damage resulting from pollution occurrences solely by reasons of participation in the preparation or adoption of a county or municipal solid waste plan. Nothing in this section shall be construed to prevent an adjacent

municipality within the planning area from obtaining or giving such indemnities as may be appropriate in connection with the ownership, operation or control of a municipal solid waste facility.
Section 1606-G. Independent evaluation of permit applications.

(a) Reimbursement.—Upon request of an adjacent municipality, the department may reimburse the adjacent municipality for costs incurred for an independent permit application review, by a professional engineer who is licensed in this Commonwealth and who has previous experience in preparing such permit applications, of an application under the Solid Waste Management Act, for a new municipal waste landfill or resource recovery facility or that would result in additional capacity for a municipal waste landfill or resource recovery facility. Reimbursement shall not exceed \$10,000 per complete application.

(b) Time frame.—

(1) Except as set forth in this subsection, an adjacent municipality that chooses to conduct an independent evaluation of a permit application must do so within 60 days of the department's receipt of the permit application.

(2) Notwithstanding paragraph (1), an adjacent municipality affected by an application already received by the department as of the effective date of this section shall have 60 days from the effective date of this section to conduct an independent evaluation.

(3) Nothing in this subsection shall be construed to alter an existing permit review time frame that was negotiated prior to the effective date of this section.

Section 1607-G. Benefit fee.

Nothing in the Recycling Act shall prevent an adjacent municipality from negotiating a fee or fee in a different form if the adjacent municipality and the operator of the municipal waste landfill or resource recovery facility agree in writing. Any adjacent municipality which has negotiated a fee as of the effective date of this section may require that the fee be continued.

Section 1608-G. Recycling fee.

Notwithstanding any provision of the Recycling Act to the contrary, the fee imposed under section 701 of the Recycling Act may be imposed until January 1, 2020.

Section 1609-G. Used tire pile remediation.

(a) Funding transfer.—Beginning in fiscal year 2009-2010 through and including fiscal year 2012-2013, \$1,250,000 shall be transferred from the Recycling Fund created under section 706 of the Recycling Act to the Used Tire Pile Remediation Restricted Account established under section 110 of the Waste Tire Recycling Act.

(b) Use of funding.—For fiscal year 2009-2010 through fiscal year 2012-2013, moneys in the account shall be used for the following purposes:

(1) The remediation of waste tire piles on the priority enforcement list maintained by the department pursuant to section 107(a) and (b) of the Waste Tire Recycling Act.

(2) The remediation of waste tire piles on the list of additional waste tire sites maintained by the department pursuant to section 107(d) of the Waste Tire Recycling Act.

(3) The award of grants pursuant to section 111 of the Waste Tire Recycling Act for remediation of waste tire piles as provided in this subsection or for activities authorized under that section which the department determines will assist with the remediation of waste tire piles as provided in this subsection.

(c) Annual report by department.—No later than December 31, 2010, and no later than each December 31 thereafter, the department shall provide a report to the Environmental Resources and Energy Committee of the Senate, the Appropriations Committee of the Senate, the Environmental Resources and Energy Committee of the House of Representatives and the Appropriations Committee of the House of Representatives on the Used Tire Pile Remediation Restricted Account and the remediation of used tire piles. The last report to be submitted by the department pursuant to this subsection shall be submitted no later than December 31, 2014. Within seven days following submission

of each report to the Senate and House of Representatives committees, the department shall post the report on the department's publicly accessible Internet website. The report shall include:

(1) The current balance of the account and the projected balance of the account at the end of the fiscal year for which the department's budget is being submitted.

(2) A listing of waste tire piles remediated or to be remediated pursuant to subsection (b) during the prior fiscal year and cumulatively since the effective date of this subsection.

(3) Those waste tire piles which the department expects to remediate pursuant to subsection (b) during the fiscal year for which its budget is being submitted and the projected cost for remediation of those waste tire piles.

(4) Those waste tire piles which will remain to be remediated pursuant to subsection (b) and the projected cost for remediation of those waste tire piles.

Section 1610-G. Solid waste disposal (Reserved).

ARTICLE XVI-H

OIL AND GAS WELLS

SUBARTICLE A

PRELIMINARY PROVISIONS

Section 1601-H. Definitions.

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

"Active production well." An oil, gas or coal bed methane well which is certified by the Department of Environmental Protection as a well from which oil, gas or coal bed methane was extracted during the fiscal year.

"Commonwealth lands." Land owned by the Commonwealth. The term does not include land owned by the Commonwealth administered by the Pennsylvania Game Commission or the Pennsylvania Fish and Boat Commission.

"Department." The Department of Conservation and Natural Resources.

"Fund." The Oil and Gas Lease Fund established under the act of December 15, 1955 (P.L.865, No.256), entitled "An act requiring rents and royalties from oil and gas leases of Commonwealth land to be placed in a special fund to be used for conservation, recreation, dams, and flood control; authorizing the Secretary of Forests and Waters to determine the need for and location of such projects and to acquire the necessary land."

"Marcellus well." An active production well certified by the Department of Environmental Protection as a well from which gas from the Marcellus Shale formation as determined by the United States Geological Survey was extracted during the fiscal year, including wells on Commonwealth and non-Commonwealth land.

"Responsible bidder." The term shall have the same meaning as the term "responsible bidder" as defined in 62 Pa.C.S. § 103 (relating to definitions).

SUBARTICLE B

ADMINISTRATION

Section 1611-H. Contracts.

In fiscal year 2009-2010 and in fiscal year 2010-2011, the department shall conduct a competitive public auction to lease up to 30,000 acres each year of State forest land for the production of Marcellus Shale gas reserves. The department shall advertise each auction once a week for three weeks in at least two newspapers of general circulation published nearest to the locality of the State forest land to be leased and in the Pennsylvania Bulletin. The department may not accept a bid for the rights to explore and develop Marcellus Shale gas reserves unless the bid is in an amount that reflects a reasonable market price and maximizes revenues for the Commonwealth and is at least \$3,000 per acre. A lease contract shall be awarded to the highest responsible bidder and shall require the posting of a bond and carry a primary term of ten years, which may be extended. Each lease contract shall reserve as royalty payable to the Commonwealth not less than 18% of the market value of all marketable gas produced at each

wellhead. Lease and royalty payments received by the Commonwealth under a lease awarded under this paragraph shall be deposited into the fund.

Section 1611.1-H. Wellhead meter.

Each active production well leased under section 1611-H shall be equipped with a wellhead meter maintained according to industry standards and accessible to the department.

Section 1612-H. Reports.

By June 1 of each year, the department, in cooperation with the Department of Environmental Protection, shall certify to the State Treasurer the number of Marcellus wells located in each municipality on the first day of May of each year.

Section 1613-H. (Reserved).

Section 1614-H. Use of funds.

Notwithstanding the provision of the act of December 15, 1955 (P.L.865, No.256), entitled "An act requiring rents and royalties from oil and gas leases of Commonwealth land to be placed in a special fund to be used for conservation, recreation, dams, and flood control; authorizing the Secretary of Forests and Waters to determine the need for and location of such projects and to acquire the necessary land," in fiscal year 2009-2010, the State Treasurer shall transfer the amount of \$60,000,000 from the fund to the General Fund.

Section 3.1. Sections 1731-A and 1732-A of the act, added July 7, 2005 (P.L.174, No.41), are reenacted and amended to read:

Section 1731-A. State Workers' Insurance Board.

Notwithstanding any inconsistent provisions of section 1512 of the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, section 504 of the act of November 30, 1965 (P.L.847, No.356), known as the Banking Code of 1965, section 922 of the act of December 14, 1967 (P.L.746, No.345), known as the Savings Association Code of 1967, and any other law of this Commonwealth, the power of the State Workers' Insurance Board to invest money shall include the power to hold, purchase, sell, assign, transfer and dispose of securities, including common stock with the following restrictions:

(1) Investments in equities may not exceed the lesser of:

- (i) 20% of the State Workers' Insurance Fund's assets; or

- (ii) the State Workers' Insurance Fund's statutory surplus after discount, except that in the event that the statutory surplus is less than 7 1/2% of the book value of the assets of the State Workers' Insurance Fund, the investment in equities may not exceed the percentage set forth in the provisions applicable to savings banks in section 504 of the Banking Code of 1965.

(1.1) Investments in equities shall be made subject to the prudent man rule of section 504(c) of the Banking Code of 1965.

(2) The State Workers' Insurance Board shall establish a policy for investments and shall meet at least annually to develop a schedule for rebalancing its investments in securities to meet the restriction of paragraph (1).

Section 1732-A. Expiration.

This subarticle shall expire June 30, [2009] 2010.

Section 4. Sections 1719-E, 1721-E, 1722-E, 1723-E, 1733-E and 1735-E of the act, added July 17, 2007 (P.L.141, No.42), are amended to read:

Section 1719-E. Department of Community and Economic Development.

(a) Appropriations.—The following shall apply to appropriations for the Department of Community and Economic Development:

(1) No more than 20% of funds appropriated for grants under the act of May 20, 1949 (P.L.1633, No.493), known as the Housing and Redevelopment Assistance Law, shall be allocated to any one political subdivision.

(2) (Reserved).

(b) Debt limitations.—Notwithstanding 64 Pa.C.S. § 1543(b) (relating to indebtedness), the following indebtedness limitations to be incurred by the Commonwealth Financing Authority shall apply:

(1) \$50,000,000 for the program established in 64

Pa.C.S. § 1556 (relating to Tax Increment Financing Guarantee Program).

(2) \$100,000,000 for the program established in 64 Pa.C.S. § 1553 (relating to Second Stage Loan Program).

(c) Second Stage Loan Program.—

(1) Notwithstanding 64 Pa.C.S. § 1553(e)(1)(ii), the only limit on how long a borrower's business has been in existence is a minimum of two years.

(2) Notwithstanding 64 Pa.C.S. § 1553(f)(1), during the entire term of the loan for which a guarantee certificate has been issued, the guarantee may not exceed 50% of the outstanding principal amount of the loan.

(3) Notwithstanding 64 Pa.C.S. § 1553(f)(2), at no time may a guarantee exceed \$5,000,000 for any one loan.

Section 1721-E. Department of Corrections [(Reserved)].

The following shall apply to appropriations for the Department of Corrections:

(1) When making expenditures from appropriations for the operation of State correctional institutions, the Department of Corrections shall give consideration to minimum relief factor values calculated when determining staffing levels for corrections officers and food service instructors at each State correctional institution.

(2) (Reserved).

Section 1722-E. Department of Education [(Reserved)].

(a) General rule.—For the 2010-2011 school year and every school year thereafter, payments under section 1376.1(b.2) of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, for a chartered school that establishes a satellite campus with the approval of the department for the purpose of enrolling students previously enrolled in a school for the deaf formerly operated by the Commonwealth shall, in addition to any amount otherwise calculated under section 1376.1(b.2), include the amount provided in fiscal year 2009-2010 pursuant to section 1722-J(10)(ii). The total shall be subject to the annual adjustment under section 1376.1(b.2)(1) of the Public School Code of 1949.

(b) Additional funding.—For the 2010-2011 and 2011-2012 school years, in addition to any other funds provided to it, the department shall provide to a chartered school that establishes a satellite campus with approval of the department for the purpose of enrolling students previously enrolled in a school for the deaf formerly operated by the Commonwealth, out of funds appropriated to the department, an amount equal to \$500,000 annually to the extent appropriated by the General Assembly.

Section 1723-E. Department of Environmental Protection [(Reserved)].

The Department of Environmental Protection may assess a fee to applicants who apply for funds under section 306 of the act of July 9, 2008 (1st Sp.Sess., P.L.1873, No.1), known as the Alternative Energy Investment Act. The department shall publish the fee on its publicly accessible Internet website. Proceeds from the fee shall be used to administer the provision of loans, grants, reimbursements or rebates under section 306 of the Alternative Energy Investment Act. No fee authorized under this section may exceed \$100 for residential applicants and \$150 for small business applicants.

Section 1733-E. Pennsylvania State Police [(Reserved)].

The following shall apply to appropriations for the Pennsylvania State Police:

(1) The Pennsylvania State Police may not close a barracks until the Pennsylvania State Police conducts a public hearing and provides 30 days' notice, which shall be published in the Pennsylvania Bulletin and in at least two local newspapers.

(2) (Reserved).

Section 1735-E. Pennsylvania Emergency Management Agency [(Reserved)].

The Pennsylvania Emergency Management Agency shall provide semiannual reports of all grants awarded by the Pennsylvania Emergency Management Agency from Federal disaster assistance or

relief funds, homeland security and defense funds, avian flu/pandemic preparedness or other public health emergency funds to the chairman and minority chairman of the Appropriations Committee of the Senate and the chairman and minority chairman of the Appropriations Committee of the House of Representatives. The reports shall include information relating to the entity receiving grant money from the agency, including the name and address of the entity, the amount of the grant, the date of issuance and the purpose of the grant. Reports shall be submitted by August 15 for grants awarded during the period from January 1 through June 30 and by February 15 for grants awarded during the period from July 1 through December 31.

Section 5. The act is amended by adding articles to read:

ARTICLE XVII-J

2009-2010 BUDGET IMPLEMENTATION

SUBARTICLE A

PRELIMINARY PROVISIONS

Section 1701-J. Applicability.

Except as specifically provided in this article, this article applies to the General Appropriation Act of 2009, the Supplemental Appropriation Act of 2009, and, as appropriate, all other appropriation acts of 2009.

Section 1702-J. Definitions and abbreviations.

(a) 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:

"General Appropriation Act." The act of August 5, 2009 (P.L. No.1A), known as the General Appropriation Act of 2009, and the act of , 2009 (P.L. , No.), known as the Supplemental Appropriation Act of 2009.

"Secretary." The Secretary of the Budget of the Commonwealth.

(b) Abbreviations.—The following abbreviations when used in this article shall have the meanings given to them in this section:

"AIDS." Acquired Immune Deficiency Syndrome.

"ARC." Appalachian Regional Commission.

"ARRA." The American Recovery and Reinvestment Act of 2009 (Public Law 111-5, 123 Stat. 115).

"BG." Block Grant.

"CCDFBG." Child Care and Development Fund Block Grant.

"CSBG." Community Services Block Grant.

"DCSI." Drug Control and Systems Improvement Formula Grant Program.

"DFSC." The Safe and Drug-Free Schools and Communities Act (Public Law 107-110, 20 U.S.C. § 7101 et seq.).

"DOE." Department of Energy.

"EEOC." Equal Employment Opportunity Commission.

"EPA." Environmental Protection Agency.

"ESEA." The Elementary and Secondary Education Act of 1965 (Public Law 89-10, 20 U.S.C. § 6301 et seq.).

"FEMA." Federal Emergency Management Agency.

"FTA." Federal Transit Administration.

"HUD." Department of Housing and Urban Development.

"LIHEABG." Low-Income Home Energy Assistance Block Grant.

"LSTA." The Library Services and Technology Act (Public Law 104-208, 20 U.S.C. § 9101 et seq.).

"MCHSBG." Maternal and Child Health Services Block Grant.

"MHSBG." Mental Health Services Block Grant.

"MR." Mental Retardation.

"PAFE." Pennsylvania Agricultural Food Exposition.

"PHHSBG." Preventive Health and Health Services Block Grant.

"RSAT." Residential Substance Abuse Treatment.

"SABG." Substance Abuse Block Grant.

"SCDBG." Small Communities Development Block Grant.

"SDA." Service Delivery Area.

"SSBG." Social Services Block Grant.

"TANF." Temporary Assistance for Needy Families.

"TANFBG." Temporary Assistance for Needy Families Block Grant.

Grant.

"TEFAP." Temporary Emergency Food Assistance Program.

"WIA." The Workforce Investment Act of 1998 (Public Law 105-220, 112 Stat. 936).

"WIC." Women, Infants and Children Program.

Section 1703-J. Warrants (Reserved).

SUBARTICLE B

EXECUTIVE DEPARTMENT

Section 1711-J. Governor (Reserved).

Section 1712-J. Executive offices.

Funds appropriated for public television station grants shall be paid in an amount equal to the formula award amount determined by the Pennsylvania Public Television Commission for fiscal year 2008-2009. If insufficient funds are appropriated, such payments shall be paid on a pro rata basis.

Section 1713-J. Lieutenant Governor (Reserved).

Section 1714-J. Attorney General (Reserved).

Section 1715-J. Auditor General (Reserved).

Section 1716-J. Treasury Department (Reserved).

Section 1717-J. Department of Aging (Reserved).

Section 1718-J. Department of Agriculture (Reserved).

Section 1719-J. Department of Community and Economic Development.

The sum of \$12,000,000 is transferred from the Small Business First Fund to the Machinery and Equipment Loan Fund to be used in accordance with the provisions of 12 Pa.C.S. § 2905 (relating to eligibility for loans; terms and conditions).

Section 1720-J. Department of Conservation and Natural Resources (Reserved).

Section 1721-J. Department of Corrections (Reserved).

Section 1722-J. Department of Education.

The following shall apply to appropriations for the Department of Education from the General Appropriation Act:

(1) Notwithstanding any other provision of law, funds received under the ARRA shall be spent in accordance with the ARRA and applicable rules and guidelines developed by the Federal Government.

(2) Notwithstanding any other provision of law, a board of school directors of a school district may reopen its 2009-2010 budget to reflect Federal and State allocations for fiscal year 2009-2010 provided by the General Appropriation Act.

(3) Annual payments from the appropriation to institutions of higher learning for defraying the expenses of hearing-impaired or sight-impaired students shall not exceed \$500 per student.

(4) Notwithstanding any other provision of law, Federal and State funds shall be distributed to each community college in an amount equal to the amount paid under section 1913-A(b)(1.6) of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, during the 2008-2009 fiscal year. If insufficient funds are appropriated, the payments shall be made on a pro rata basis.

(5) Funds appropriated for special education payments to school districts shall be distributed to each school district in an amount equal to the amount paid during the 2008-2009 school year under section 2509.5(zz) of the Public School Code of 1949. If insufficient funds are appropriated, the payments shall be made on a pro rata basis.

(6) (i) Funds appropriated for the Educational Assistance Program shall be distributed to each school entity in an amount equal to the amount paid during the 2008-2009 school year. If insufficient funds are appropriated, the payments shall be made on a pro rata basis.

(ii) For purposes of the Educational Assistance Program established in section 1502-C of the Public School Code of 1949 and this paragraph, "school entity" shall mean any of the following located in this

Commonwealth: a school district, joint school district, area vocational-technical school or independent school.

(7) Funds appropriated for Pennsylvania accountability grants shall be distributed to each school district in an amount equal to the amount paid during the 2008-2009 school year. If insufficient funds are appropriated, such payments shall be made on a pro rata basis.

(8) The following shall apply to professional and temporary professional employees of a school formerly operated by the Commonwealth:

(i) The Commonwealth shall create a pool for each school comprised of the professional and temporary professional employees who have received formal notice of suspension from the Commonwealth as a result of the Commonwealth's decision to cease Commonwealth operation of the school.

(ii) For the three school years immediately following the formal notice of suspension from the Commonwealth, employees in a pool created under subparagraph (i) shall be offered employment by each eligible school entity as determined under subparagraph (iv) associated with the applicable pool created under subparagraph (i), when that eligible school entity has a vacancy for a position that an employee in the applicable pool is properly certified to fill, provided that no employee of the eligible school entity in which the vacancy exists, including a suspended or demoted employee, has a right to the vacancy under the Public School Code of 1949 or the collective bargaining agreement of the respective eligible school entity.

(iii) For the three school years immediately following the formal notice of suspension from the Commonwealth, no new employee shall be hired by an eligible school entity as determined under subparagraph (iv) associated with the applicable pool created under subparagraph (i), until the position has been offered, in order of seniority, to all properly certified members of the applicable pool created under subparagraph (i).

(iv) For the purpose of subparagraphs (ii) and (iii), an "eligible school entity" shall be determined as follows:

(A) a school district, vocational-technical school or intermediate unit, the administration building of which is 17 miles or less from the administration building of a school formerly operated by the Commonwealth or a school district which is adjacent to the school district in which a school formerly operated by the Commonwealth was situate; or

(B) a school district with average daily membership greater than or equal to 8,000, the administration building of which is 45 miles or less from the administration building of a school formerly operated by the Commonwealth, and which relies on State revenue for no less than 50% of the school district's total budget in the most recent year for which data has been published on the Department of Education's public Internet website.

(9) (i) Employees hired from a pool under paragraph (8) and former employees of a school formerly operated by the Commonwealth who resigned from a school formerly operated by the Commonwealth within the six months prior to the effective date of an act of the General Assembly declining to fund the school and who accepted employment at a school district, intermediate unit or vocational-technical school shall be credited by the

hiring school district, intermediate unit or vocational-technical school for all sick leave accumulated in the school and shall be credited for years of service in the school for purposes of salary schedule placement. Employees shall further be credited for their years of service in the school for purposes of sabbatical leave eligibility, suspension and realignment rights and eligibility for any retirement incentives or severance payments in a hiring school district, intermediate unit or vocational-technical school.

(ii) Nothing in this paragraph shall be construed to supersede or preempt any provision of an individual employment agreement between a school district, intermediate unit or vocational-technical school and an employee entered into prior to the effective date of this paragraph, or any provision of a collective bargaining agreement in effect as of the effective date of this paragraph and negotiated by a school entity and an exclusive representative of the employees in accordance with the act of July 23, 1970 (P.L.563, No.195), known as the Public Employee Relations Act.

(10) The appropriation for the Scranton State School for the Deaf transition funding shall be distributed as follows:

(i) In addition to any other funding provided pursuant to section 1376.1(b.2) of the Public School Code of 1949, the Department of Education shall provide to each chartered school in the 2009-2010 school year for enrollment during the 2009-2010 school year for one or more students who were enrolled as of May 1, 2009, in a school for the deaf formerly operated by the Commonwealth, an amount equal to the product of the following:

(A) The number of students enrolled in the chartered school as of October 1, 2009, who were enrolled as of May 1, 2009, in a school for the deaf formerly operated by the Commonwealth, divided by the total number of such students enrolled in all chartered schools as of October 1, 2009, who were enrolled as of May 1, 2009, in a school for the deaf formerly operated by the Commonwealth.

(B) Three million three hundred thousand dollars.

(ii) In addition to any other funds provided to a chartered school under subparagraph (i), the department shall provide to each chartered school that establishes a satellite campus with approval of the department for the purpose of enrolling students previously enrolled in a school for the deaf formerly operated by the Commonwealth, the amount of \$27,273 multiplied by the number of students enrolled in the chartered school as of October 1, 2009, who were enrolled as of May 1, 2009, in a school for the deaf formerly operated by the Commonwealth, provided that the total amount under this subparagraph shall not exceed \$2,100,000.

(11) The Department of Education, with assistance from the Department of Public Welfare and the Juvenile Court Judges Commission, shall submit a report to the General Assembly by June 1, 2010, detailing the costs to school districts and the Commonwealth to provide educational services to children who are adjudicated delinquent and committed to nonpublic residential facilities pursuant to 42 Pa.C.S. § 6352 (relating to disposition of delinquent child) for the 2008-2009 school year. The report shall identify the following information relating to each facility:

(i) Facility location.

(ii) School district where each facility is located.

(iii) Provider of educational services at each facility, including whether those services are under

contract or provided by an entity other than the facility.

(iv) Department of Education's classification of the education program at each facility.

(v) Number of students committed by the court receiving educational services at each facility.

(vi) School district of residence for each student committed by the court at each facility.

(vii) Tuition fee charged by the educational services provider per student committed by the court at each facility.

(viii) Entity responsible for each tuition payment for each student committed by the court at each facility.

The term "facility" shall mean any nonpublic program supervised or licensed pursuant to the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, that provides out-of-home, residential services to a child who is adjudicated delinquent.

(12) (i) Each school district shall take such steps as necessary during fiscal year 2009-2010 in order to have or maintain a certified safety committee by December 31, 2010, for the purposes of section 1002(b) of the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act. The Department of Labor and Industry shall provide the Department of Education with the list of school districts who have a certified safety committee. In the case of a school district that does not submit evidence to the Department of Education that complies with this paragraph, the Department of Education shall deduct from any allocation from the Commonwealth to which the school district is entitled the amount of the discount the school district would otherwise receive under section 1002(b) of the Workers' Compensation Act.

(ii) Subparagraph (i) shall not apply to a school district that cannot receive a premium discount under section 1002(b) of the Workers' Compensation Act, or an equivalent reduction in contribution rates, by establishing and maintaining a certified safety committee because it is authorized to self-insure its liabilities under section 305 of the Workers' Compensation Act or pool its liabilities under section 802 of the Workers' Compensation Act.

(13) Notwithstanding the provisions of 24 Pa.C.S. § 8329(a) (relating to payments on account of social security deductions from appropriations) when calculating payments by the Commonwealth under 24 Pa.C.S. § 8329, the Department of Education shall treat wages paid out of the ARRA State Stabilization Fund or out of ARRA funds appropriated for individuals with disabilities education (Part B/Preschool ages 3-5) as covered wages which are not federally funded.

(14) The following apply to libraries:

(i) Funds appropriated for libraries shall be distributed to each library under the following formula:

(A) Divide the sum of the amount of funding that the library received in fiscal year 2007-2008 under section 2316 of the Public School Code of 1949 by the total State-aid subsidy for fiscal year 2007-2008.

(B) Multiply the quotient under clause (A) by the total State-aid subsidy for 2009-2010.

(ii) Following distribution of funds appropriated for State aid to libraries, any remaining funds may be distributed at the discretion of the State Librarian.

(iii) If funds appropriated for State aid to libraries in fiscal year 2009-2010 are less than funds appropriated in fiscal year 2002-2003, the State Librarian may waive standards as prescribed in section 103 of the act of June 14, 1961 (P.L.324, No.188), known as The Library Code, relating to hours of operation, continuing professional development, collections, expenditures and

other aspects of library operation.

(iv) (A) Each library system receiving State aid under this subsection may distribute the local library share of that aid in a manner as determined by the board of directors of the library system.

(B) Clause (A) shall not apply to a library system operating in a county of the second class.

(15) (i) The Department of Education may utilize up to \$4,500,000 of undistributed funds not expended, encumbered or committed from appropriations for grants and subsidies made to the department to assist school districts certified as an education empowerment district under section 1705-B(h)(3) of the Public School Code of 1949.

(ii) There is hereby established a restricted account in the State Treasury from which payments under this paragraph shall be paid. Funds shall be transferred by the Secretary of the Budget to the restricted account to the extent necessary to make payments under this paragraph. Funds in the restricted account are hereby appropriated to carry out the purposes of this paragraph. The subsidy payment from this restricted account shall be utilized to supplement the operational budget of the eligible school districts.

(16) Notwithstanding section 2510.1 of the Public School Code of 1949, payments made to school districts for the instruction of homebound children shall only be made to the extent funds are appropriated for this purpose.

(17) The appropriation for basic education funding shall be distributed as follows:

(i) The Commonwealth shall pay to each school district a basic education funding allocation for the 2008-2009 school year which shall consist of the sum of the following:

(A) An amount equal to the allocations received by the school district for the 2007-2008 school year under section 2502.48(d)(1) and (2) and (e) of the Public School Code of 1949.

(B) If a school district has been declared a Commonwealth partnership school district under Article XVII-B of the Public School Code of 1949, an amount equal to \$2,000,000.

(C) (I) For a school district subject to section 2502.48(d)(3)(i) of the Public School Code of 1949, 27.82% of the amount determined under section 2502.48(c)(1) of the Public School Code of 1949.

(II) For a school district subject to section 2502.48(d)(3)(ii) of the Public School Code of 1949, 21.4% of the amount determined under section 2502.48(c)(1) of the Public School Code of 1949.

(III) Any additional amount required so that the total amount provided under clause (A) and this clause equals 2% greater than the amount provided under section 2502.48(d) and (e) of the Public School Code of 1949.

(ii) For the purpose of the calculation under section 2502.48(c)(1) of the Public School Code of 1949, for payments made under this subsection:

(A) The amount per student under section 2502.48(a) of the Public School Code of 1949 shall be increased by the index for the

school year in which funding will be paid. The term "index" shall have the meaning given to it under section 2501 of the Public School Code of 1949.

(B) The number used for the purpose of each school district's calculation under section 2502.48(b)(5)(ii)(B) of the Public School Code of 1949 shall not be less than one.

(iii) Any increase in basic education funding under this subsection shall qualify as an increase in basic education funding for the purpose of section 2502.49 of the Public School Code of 1949. The Department of Education may grant a waiver for the use of up to 25% of the funds subject to section 2502.49(a)(1) of the Public School Code of 1949 if all of the following apply:

(A) The school district would otherwise be required to reduce or eliminate one or more of the programs listed under section 2502.49(a)(1) of the Public School Code of 1949 due to a projected budget shortfall.

(B) The funds subject to the waiver will be used to maintain one or more existing programs listed under section 2502.49(a)(1) of the Public School Code of 1949.

(C) The school district has, in the determination of the Department of Education, pursued alternative opportunities for greater efficiency and internal savings in order to fund the program or programs without need for a waiver.

(D) The program to be maintained addresses a significant need of the school district's students and has demonstrated effectiveness at increasing student achievement in the school district, in the determination of the Department of Education.

(iv) The decision to grant a waiver shall be at the sole discretion of the Department of Education and shall not be subject to appeal.

(18) Community colleges shall comply with section 1737-J.

(b) Definitions.—The words and phrases used in this section shall have the meanings given to them in the Public School Code of 1949.
Section 1723-J. Department of Environmental Protection.

The following shall apply to appropriations for the Department of Environmental Protection in the General Appropriation Act:

(1) Appropriations include funds for the Water Resources Technical Assistance Center in an amount to be determined by the department in cooperation with the Water Conservation Subcommittee of the Statewide Water Resources Committee.

(2) Notwithstanding the act of July 9, 2008 (1st Sp.Sess., P.L.1873, No.1), known as the Alternative Energy Investment Act, in fiscal year 2009-2010, no funds shall be transferred from the General Fund to the department for the Consumer Energy Program.

Section 1724-J. Department of General Services (Reserved).

Section 1725-J. Department of Health.

The following shall apply to appropriations for the Department of Health in the General Appropriation Act:

(1) Funds appropriated for lupus programs shall be distributed in the same proportion as distributed in fiscal year 2007-2008.

(2) Funds appropriated for arthritis outreach and education shall be equitably distributed among the central, western and eastern regions of this Commonwealth based on the ratio of population served in each region to the total population served in this Commonwealth.

(3) Funds appropriated for biotechnology research include \$1,100,000 for a regenerative medicine center located in a county of the second class and \$1,500,000 for an institute for hepatitis and virus research located in a county of the second class A which conducts research related to developing new therapies for viral hepatitis and liver cancer.

Section 1726-J. Insurance Department (Reserved).

Section 1727-J. Department of Labor and Industry.

The following shall apply to appropriations for the Department of Labor and Industry in the General Appropriation Act:

(1) The appropriation for payment to the Vocational Rehabilitation Fund for work of the State Board of Vocational Rehabilitation includes \$2,153,000 for a Statewide professional service provider association for the blind to provide specialized services and prevention of blindness services and \$431,000 to provide specialized services and prevention of blindness services in cities of the first class.

(2) For the "Reed Act-Unemployment Insurance" and "Reed Act-Employment Services and Unemployment Insurance" appropriations, the total amount which may be obligated shall not exceed the limitations under section 903 of the Social Security Act (49 Stat. 620, 42 U.S.C. § 1103).

Section 1728-J. Department of Military and Veterans Affairs (Reserved).

Section 1729-J. Department of Public Welfare.

The following shall apply to appropriations for the Department of Public Welfare from the General Appropriation Act:

(1) Authorized transfers for child-care services. The following shall apply:

(i) The department, upon approval of the secretary, may transfer Federal funds appropriated for TANFBG Child Care Assistance to the CCDFBG Child Care Services appropriation to provide child-care services to additional low-income families if the transfer of funds will not result in a deficit in the appropriation. The secretary shall provide notice ten days prior to a transfer under this subparagraph to the chairman and minority chairman of the Appropriations Committee of the Senate and the chairman and minority chairman of the Appropriations Committee of the House of Representatives.

(ii) The department, upon approval of the secretary, may transfer Federal funds appropriated for CCDFBG Child Care Assistance to the CCDFBG Child Care Services appropriation to provide child-care services to additional low-income families provided that the transfer of funds will not result in a deficit in the appropriation. The secretary shall provide notice ten days prior to a transfer under this subparagraph to the chairman and minority chairman of the Appropriations Committee of the Senate and the chairman and minority chairman of the Appropriations Committee of the House of Representatives.

(2) Federal and State medical assistance payments. The following shall apply:

(i) When making payments for medical assistance outpatient or capitation services, the department shall not require a recipient to obtain a physician referral in order to receive chiropractic services.

(ii) No funds appropriated for approved capitation plans shall be used to pay a provider who fails to supply information in a form required by the department in order to facilitate claims for Federal financial participation for services rendered to general assistance clients.

(iii) For fiscal year 2009-2010, additional Federal and State inpatient funding is included to provide

for Community Access Fund payments. Payments to hospitals for Community Access Fund grants shall be distributed under the formulas utilized for these grants in fiscal year 2008-2009. If the total funding available for Community Access Fund payments are less than that available in fiscal year 2008-2009, payments shall be made on a pro rata basis.

(iv) Qualifying State-related academic medical centers shall not receive any less funding than received for the fiscal year 2004-2005 State appropriation level if Federal funding for academic medical centers is not made available to those academic medical centers during fiscal year 2009-2010.

(v) If supplemental Federal funding for physician practice plans is not made available during fiscal year 2009-2010, qualifying universities and affiliated physician practice plans shall not receive any less funding than the amount received for the fiscal year 2007-2008 State appropriation level.

(vi) Funds appropriated for medical assistance transportation shall only be utilized as a payment of last resort for transportation for eligible medical assistance recipients.

(vii) The department shall consider pharmaceutical services a covered benefit for recipients who are eligible for such services and whose care is managed through contracts between the department and managed care contractors. Pharmaceutical benefits shall remain a covered benefit in the contracts between the department and managed care contractors for fiscal years 2008-2009 and 2009-2010. If the department elects to bid a contract for fiscal year 2010-2011 that does not include pharmaceutical services as a covered benefit for recipients whose care is managed through contracts between the department and managed care contractors, the Secretary of Public Welfare shall do all of the following:

(A) By March 30, notify in writing the chair and minority chair of the Appropriations Committee of the Senate, the chair and minority chair of the Appropriations Committee of the House of Representatives, the chair and minority chair of the Public Health and Welfare Committee of the Senate and the chair and minority chair of the Health and Human Services Committee of the House of Representatives.

(B) Additionally bid a contract for fiscal year 2010-2011 that does include pharmaceutical services as a covered benefit for recipients who are eligible for such services and whose care is managed through contracts between the department and managed care contractors.

(C) Conduct any procurement for existing or new zones in a public manner, including publication of any request for proposal on the Department of Public Welfare's publicly accessible Internet website.

(viii) Amounts allocated from funds appropriated for medical assistance outpatient services for the Select Plan for Women Preventative Health Services shall be used for women's medical services, including noninvasive contraception supplies.

(ix) Federal or State funds appropriated under the General Appropriation Act in accordance with the act of March 24, 2004 (P.L.148, No.15), known as the Pennsylvania Trauma Systems Stabilization Act, not used to make payments to hospitals qualifying as Level III trauma centers shall be used to make payments to

hospitals qualifying as Level I and II trauma centers.

(3) Breast cancer screening. The following shall apply:

(i) Funds appropriated for breast cancer screening may be used for women's medical services, including noninvasive contraception supplies.

(ii) (Reserved).

(4) Women's service programs. The following shall apply:

(i) Funds appropriated for women's service programs grants to nonprofit agencies whose primary function is to provide alternatives to abortion shall be expended to provide services to women until childbirth and for up to 12 months thereafter, including food, shelter, clothing, health care, counseling, adoption services, parenting classes, assistance for postdelivery stress and other supportive programs and services and for related outreach programs. Agencies may subcontract with other nonprofit entities which operate projects designed specifically to provide all or a portion of these services. Projects receiving funds referred to in this subparagraph shall not promote, refer or perform abortions or engage in any counseling which is inconsistent with the appropriation referred to in this subparagraph and shall be physically and financially separate from any component of any legal entity engaging in such activities.

(ii) Funds appropriated for women's service programs shall be used for women's medical services, including noninvasive contraception supplies.

(iii) Federal funds appropriated for TANF/BG Alternatives to Abortion shall be utilized solely for services to women whose gross family income is below 185% of the Federal poverty guidelines.

(5) County children and youth programs. The following shall apply:

(i) No more than 50% of funds allocated from the State appropriation for county children and youth programs to each county shall be expended until each county submits to the department data for the prior State fiscal year, and updated quarterly, on the unduplicated caseloads, unduplicated services and number of caseworkers by county program. Data shall be submitted in a form acceptable to the department. A copy of the data shall be sent to the chairman and minority chairman of the Appropriations Committee of the Senate and to the chairman and the minority chairman of the Appropriations Committee of the House of Representatives.

(ii) Reimbursement for children and youth services made pursuant to section 704.1 of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, shall not exceed the amount of State funds appropriated. It is the intent of the General Assembly that counties do not experience any adverse fiscal impact due to the department's maximization efforts.

(6) Community-based family centers. No funds appropriated for community-based family centers may be considered as part of the base for calculation of the county child welfare needs-based budget for a fiscal year.

Section 1730-J. Department of Revenue (Reserved).

Section 1731-J. Department of State (Reserved).

Section 1732-J. Department of Transportation (Reserved).

Section 1733-J. Pennsylvania State Police.

Payments made to municipalities under 53 Pa.C.S. § 2170 (relating to reimbursement of expenses) shall be limited to funds available. If funds are not available to make full payments, the Municipal Police Officers' Education and Training Commission shall make payments on a pro rata basis.

Section 1734-J. State Civil Service Commission (Reserved).

Section 1735-J. Pennsylvania Emergency Management Agency (Reserved).

Section 1736-J. Pennsylvania Fish and Boat Commission (Reserved).

Section 1737-J. State System of Higher Education.

The following shall apply to appropriations for the State System of Higher Education from the General Appropriation Act:

(1) Each public institution of higher education as defined in Article XX-C of the Public School Code of 1949 shall do all of the following:

(i) Agree to accept with full junior standing the Associate of Arts or Associate of Science degree into a parallel baccalaureate program as outlined in subparagraph (iii) by the timelines established by the Transfer and Articulation Oversight Committee but no later than December 31, 2011. For purposes of this paragraph, an Associate of Arts or Associate of Science degree is a degree designed primarily for transfer to a baccalaureate institution and must contain a minimum of 60 credits.

(ii) Submit to the Department of Education interim reports outlining the actions that the public institution of higher education has undertaken or intends to undertake to comply with subparagraph (i), which shall be filed by December 31, 2009, June 30, 2010, and December 31, 2010.

(iii) As a member of the Transfer and Articulation Oversight Committee established in section 2004-C of the Public School Code of 1949:

(A) By December 1, 2009, consult with the Department of Education on a process and timeline, subject to approval by the department, to identify the Associate of Arts or Associate of Science degree aligned with the graduation requirements of the parallel baccalaureate degree in all public institutions of higher education in consultation with faculty and personnel.

(B) Identify Associate of Arts or Associate of Science degree programs for transfer with full junior standing into a parallel baccalaureate degree in consultation with faculty and personnel in those degree programs by December 31, 2011.

(C) Identify modifications that may be required in existing associate or baccalaureate degrees to satisfy external accreditation or licensure requirements in consultation with faculty and personnel. Approved modifications shall recognize all competencies attained within either the associate or baccalaureate programs.

(D) Define requirements, in consultation with faculty and personnel, for education degrees, including Early Childhood Education degrees, leading to certification to be included in an associate degree and to be accepted for transfer with full junior standing into a parallel baccalaureate degree program.

(2) (Reserved).

Section 1737.1-J. State-related institutions.

The following shall apply to State-related institutions:

(1) (i) No later than June 15, 2010, each State-related institution shall identify 30 credit hours of course content from equivalent courses identified under Article XX-C of the Public School Code of 1949 that it will accept from a student accepted for transfer from an institution of higher education participating in Article XX-C of the Public School Code of 1949. A State-related institution shall count a course in the same manner that it would count the

same or equivalent course if taken by a student at the State-related institution.

(ii) Each State-related institution shall make the information identified in subparagraph (i) available to the Department of Education for posting on the department's publicly accessible Internet website.

(iii) Nothing in this paragraph shall be construed to:

(A) Require a State-related institution to apply a course to graduation or degree requirements if that course or its equivalent course would not be applied to graduation or degree requirements if taken at the State-related institution.

(B) Infringe on a State-related institution's sole authority to accept a student for transfer, to determine acceptance into a major, to determine the campus assignment of such student or to determine how many and which credit hours shall apply for the transfer student toward the completion of a degree. The manner in which accepted courses apply toward completion of a degree and whether they are counted for general education, major or free elective credit shall be subject to the requirements established by the accepting State-related institution for each individual major or program of study.

(C) Prohibit a State-related institution's ability to enter into discussions with the Department of Education to increase the number of credits pursuant to subparagraph (i).

(iv) For the purpose of this paragraph, "State-related institution" shall have the meaning given to it in Article XX-C of the Public School Code of 1949.

(2) (Reserved).

Section 1738-J. Pennsylvania Higher Education Assistance Agency.

The following shall apply to appropriations for the Pennsylvania Higher Education Assistance Agency from the General Appropriation Act:

(1) Maximization of funds. The Pennsylvania Higher Education Assistance Agency shall use funds appropriated for matching payments for student aid funds to maximize the receipt of Federal funds to the fullest extent possible.

(2) Limitation. No college, university or institution receiving a direct appropriation from the Commonwealth shall be eligible to participate in the institutional assistance grants program.

(3) Agricultural loan forgiveness. In distributing funds appropriated for agricultural loan forgiveness, the agency shall give preference to renewal applicants.

Section 1739-J. Pennsylvania Historical and Museum Commission (Reserved).

Section 1740-J. Pennsylvania Infrastructure Investment Authority (Reserved).

Section 1741-J. Environmental Hearing Board (Reserved).

Section 1742-J. Pennsylvania Board of Probation and Parole (Reserved).

Section 1743-J. Pennsylvania Public Television Network Commission (Reserved).

Section 1744-J. Pennsylvania Securities Commission (Reserved).

Section 1745-J. State Tax Equalization Board (Reserved).

Section 1746-J. Health Care Cost Containment Council.

The following shall apply:

(1) The Health Care Cost Containment Council shall submit a report to the chairman and minority chairman of the Appropriations Committee of the Senate and the chairman and minority chairman of the Appropriations Committee of the House of Representatives specifying the amount and source of proceeds

received from the sale of data by the council. The report shall supplement the annual report of financial expenditures required under section 17.1 of the act of July 8, 1986 (P.L.408, No.89), known as the Health Care Cost Containment Act. Twenty-five percent of the proceeds received from the sale of data may be used for the operations of the council. The remainder of the proceeds shall be deposited in the General Fund and shall not be expended unless appropriated by the General Assembly.

(2) The sum of \$2,300,000 is transferred from the Health Care Cost Containment Council to the General Fund, including money appropriated to or received by the council prior to fiscal year 2008-2009 that is unspent or uncommitted.

Section 1747-J. State Ethics Commission (Reserved).

Section 1748-J. State Employees' Retirement System (Reserved).

Section 1749-J. Thaddeus Stevens College of Technology (Reserved).

Section 1750-J. Pennsylvania Housing Finance Agency (Reserved).

Section 1751-J. LIHEABG (Reserved).

Section 1752-J. Budget Stabilization Reserve Fund (Reserved).

SUBARTICLE C

LEGISLATIVE DEPARTMENT

(Reserved)

SUBARTICLE D

JUDICIAL DEPARTMENT

Section 1781-J. Supreme Court (Reserved).

Section 1782-J. Superior Court (Reserved).

Section 1783-J. Commonwealth Court (Reserved).

Section 1784-J. Courts of common pleas (Reserved).

Section 1785-J. Community courts; magisterial district judges (Reserved).

Section 1786-J. Philadelphia Traffic Court (Reserved).

Section 1787-J. Philadelphia Municipal Court (Reserved).

Section 1788-J. Judicial Conduct Board (Reserved).

Section 1789-J. Court of Judicial Discipline (Reserved).

Section 1790-J. Juror cost reimbursement (Reserved).

Section 1791-J. County court reimbursement (Reserved).

Section 1792-J. Senior judges (Reserved).

Section 1793-J. Transfer of funds by Supreme Court (Reserved).

ARTICLE XVII-K

2009-2010 RESTRICTIONS ON APPROPRIATIONS FOR FUNDS AND ACCOUNTS

Section 1701-K. Applicability.

Except as specifically provided in this article, this article applies to the General Appropriation Act of 2009, and as appropriate, all other appropriation acts of 2009.

Section 1702-K. State Lottery Fund.

The following shall apply to appropriations for the State Lottery Fund:

(1) Funds appropriated for PENNCARE shall not be utilized for administrative costs by the Department of Aging.

(2) (Reserved).

Section 1703-K. Energy Conservation and Assistance Fund (Reserved).

Section 1704-K. Judicial Computer System Augmentation Account.

The Supreme Court and the Court Administrator of Pennsylvania are prohibited from augmenting the amount appropriated to the Judicial Computer System Augmentation Account by billings to other appropriations to the judicial branch for the Statewide Judicial Computer System or for any other purpose.

Section 1705-K. Emergency Medical Services Operating Fund (Reserved).

Section 1706-K. State Stores Fund (Reserved).

Section 1707-K. Motor License Fund (Reserved).

Section 1708-K. Hazardous Material Response Fund (Reserved).

Section 1709-K. Milk Marketing Fund (Reserved).

Section 1710-K. Home Investment Trust Fund (Reserved).

Section 1711-K. Tuition Payment Fund (Reserved).

Section 1712-K. Banking Department Fund (Reserved).

Section 1713-K. Firearm Records Check Fund (Reserved).

Section 1714-K. Ben Franklin Technology Development Authority Fund (Reserved).

Section 1715-K. Tobacco Settlement Fund.

(a) Deposits.—

(1) Notwithstanding sections 303(b)(3) and (4) and 306 of the act of June 26, 2001 (P.L.755, No.77), known as the Tobacco Settlement Act, the following shall apply:

(i) For fiscal year 2009-2010, the strategic contribution payments received in fiscal year 2008-2009 pursuant to the Tobacco Master Settlement Agreement shall be deposited in the Tobacco Settlement Fund.

(ii) For fiscal year 2009-2010, \$15,000,000 of the funds derived under section 303(b)(3) of the Tobacco Settlement Act shall be deposited into the Tobacco Settlement Fund.

(iii) For fiscal year 2009-2010, \$10,000,000 of the funds derived under section 303(b)(4) of the Tobacco Settlement Act shall be deposited into the Tobacco Settlement Fund.

(iv) For fiscal year 2009-2010, 25% of the money appropriated under section 306(b)(1)(iii) of the Tobacco Settlement Act may not be expended, transferred or lapsed but shall remain in the Tobacco Settlement Fund.

(v) For fiscal year 2009-2010, 33.3% of the money appropriated under section 306(b)(1)(vi) of the Tobacco Settlement Act may not be expended, transferred or lapsed but shall remain in the Tobacco Settlement Fund.

(2) Money deposited into the fund under paragraph (1) shall be appropriated for health-related purposes. If applicable, the amount appropriated in accordance with this paragraph shall be matched by appropriated Federal augmenting funds.

(b) Transfers.—

(1) Notwithstanding sections 306 and 307 of the Tobacco Settlement Act, the following shall apply:

(i) For fiscal year 2009-2010, 37.5% of the money appropriated under section 306(b)(1)(iii) of the Tobacco Settlement Act is transferred from the Tobacco Settlement Fund to the General Fund.

(ii) For fiscal year 2010-2011, 37.5% of the money appropriated under section 306(b)(1)(iii) of the Tobacco Settlement Act is transferred from the Tobacco Settlement Fund to the General Fund.

(iii) For fiscal year 2009-2010, 100% of the money appropriated under section 306(b)(1)(i) of the Tobacco Settlement Act shall be transferred from the Health Endowment Account for Long-Term Hope to the Tobacco Settlement Fund.

(iv) For fiscal year 2009-2010, \$150,000,000 is transferred from the Health Endowment Account for Long-Term Hope to the General Fund.

(v) For fiscal year 2010-2011, \$250,000,000 is transferred from the Health Endowment Account for Long-Term Hope to the General Fund.

(2) Money transferred under paragraph (1)(iii) shall be appropriated for health-related purposes. If applicable, the amount appropriated in accordance with this paragraph shall be matched by appropriated Federal augmenting funds.

(c) Allocation.—Funding for local programs under section 708(b) of the Tobacco Settlement Act, shall be allocated as follows:

(1) Thirty percent of grant funding to primary contractors for local programs shall be allocated equally among each of the 67 counties.

(2) The remaining 70% of grant funding to primary contractors for local programs shall be allocated on a per capita basis of each county with a population greater than 60,000. The per capita formula shall be applied only to that portion of the

population that is greater than 60,000 for each county.

(3) Budgets shall be developed by each primary contractor to reflect service planning and expenditures in each county. Each primary contractor will ensure that services are available to residents of each county and must expend the allocated funds on a per county basis pursuant to paragraphs (1) and (2).

(4) The Department of Health shall compile a detailed annual report of expenditures per county and the specific programs offered in each region. This report shall be made available on the Department of Health's publicly available Internet website 60 days following the close of each fiscal year.

(5) During the third quarter of the fiscal year, funds which have not been spent within a service area may be reallocated to support programming in the same region.

(d) Use of money for lobbying prohibited.—No money derived from an appropriation by the General Assembly from the Tobacco Settlement Fund may be used for the lobbying of any State public official.

Section 1716-K. Community Health Reinvestment Restricted Account.

(a) Establishment.—There is established in the State Treasury a restricted receipts account in the Tobacco Settlement Fund to be known as the Community Health Reinvestment Restricted Account. Interest earned on money in the account shall remain in the account.

(b) Agreement on community health reinvestment.—Each calendar year, a corporation under 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations) or 63 (relating to professional health services plan corporations) that is a party to the Agreement on Community Health Reinvestment entered into February 2, 2005, by the Insurance Department and the Capital Blue Cross, Highmark, Inc., Hospital Service Association of Northeastern Pennsylvania and Independence Blue Cross, and published in the Pennsylvania Bulletin at 35 Pa.B. 4155 (July 23, 2005), shall pay to the account the amount calculated for such calendar year in section 5 of the agreement, published at 35 Pa.B. 4156.

(c) Appropriation.—The money in the account, including all interest earned, is appropriated to the Insurance Department to be used in accordance with the agreement on community health reinvestment described in subsection (b).

Section 1717-K. Health Care Provider Retention Account.

The sum of \$708,000,000 is transferred from the Health Care Provider Retention Account established under section 1112(a) of the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, to the General Fund.

Section 1718-K. Budget Stabilization Reserve Fund.

Notwithstanding section 1703-A(b), the following shall apply:

(1) The sum of \$755,000,000 is transferred from the Budget Stabilization Reserve Fund to the General Fund.

(2) No amount of surplus in the General Fund for fiscal year 2009-2010 may be deposited into the Budget Stabilization Reserve Fund.

Section 1718.1-K. Gaming Economic Development and Tourism Fund.

Notwithstanding 4 Pa.C.S. Pt. II (relating to gaming) and the act of July 9, 2008 (P.L.908, No.63), known as the H2O PA Act, the sum of \$5,080,000 is appropriated from the Gaming Economic Development and Tourism Fund to the Department of General Services to meet additional payment obligations for the project itemized in section 3(2)(i)(D) of the act of July 25, 2007 (P.L.342, No.53), known as the Pennsylvania Gaming Economic Development and Tourism Fund Capital Budget Itemization Act of 2007.

Section 1719-K. Restricted Receipt Accounts.

(a) General provisions.—The secretary may create restricted receipt accounts for the purpose of administering Federal grants only for the purposes designated in this section.

(b) Department of Community and Economic Development.—The following restricted receipt accounts may be established for the Department of Community and Economic Development:

(1) ARC Housing Revolving Loan Program.

(2) (Reserved).

(c) Department of Conservation and Natural Resources.—The following restricted receipt accounts may be established for the Department of Conservation and Natural Resources:

(1) Federal Aid to Volunteer Fire Companies.

(2) Federal Land and Water Conservation Fund Act.

(3) National Forest Reserve Allotment.

(4) Federal Land and Water Conservation Fund Act - Conservation and Natural Resources.

(d) Department of Education.—The following restricted receipt accounts may be established for the Department of Education:

(1) Education of the Disabled - Part C.

(2) LSTA - Library Grants.

(3) The Pennsylvania State University Federal Aid.

(4) Emergency Immigration Education Assistance.

(5) Education of the Disabled - Part D.

(6) Homeless Adult Assistance Program.

(7) Severely Handicapped.

(8) Medical Assistance Reimbursements to Local Education Agencies.

(e) Department of Environmental Protection.—The following restricted receipt accounts may be established for the Department of Environmental Protection:

(1) Federal Water Resources Planning Act.

(2) Flood Control Payments.

(3) Soil and Water Conservation Act - Inventory of Programs.

(f) Department of Health.—The following restricted receipt accounts may be established for the Department of Health:

(1) Share Loan Program.

(2) (Reserved).

(g) Department of Transportation.—The following restricted receipt accounts may be established for the Department of Transportation:

(1) Capital Assistance Elderly and Handicapped Programs.

(2) Railroad Rehabilitation and Improvement Assistance.

(3) Ridesharing/Van Pool Program - Acquisition.

(h) Pennsylvania Emergency Management Agency.—The following restricted receipt accounts may be established for the Pennsylvania Emergency Management Agency:

(1) Receipts from Federal Government - Disaster Relief - Disaster Relief Assistance to State and Political Subdivisions.

(2) (Reserved).

(i) Pennsylvania Historical and Museum Commission.—The following restricted receipt accounts may be established for the Pennsylvania Historical and Museum Commission:

(1) Federal Grant - National Historic Preservation Act.

(2) (Reserved).

(j) Executive Offices.—The following restricted receipt accounts may be established for the Executive Offices:

(1) Retired Employees Medicare Part D.

(2) Justice Assistance.

(3) Juvenile Accountability Incentive.

Section 1720-K. State Gaming Fund.

(a) Deduction of certain appropriations.—Notwithstanding the provisions of section 504(c)(1) of the act of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act, funds appropriated to the Pennsylvania Gaming Control Board from the State Gaming Fund shall be deducted from the amount transferred to the Property Tax Relief Reserve Fund under section 504(b) of the Taxpayer Relief Act and loaned to the Pennsylvania Gaming Control Board for payment of the board's administrative and operating expenses for the fiscal year commencing July 1, 2009. Funds loaned to the board under this section and sections 1720-G and 1720-I shall be repaid from the accounts established under 4 Pa.C.S. § 1401 (relating to slot machine licensee deposits) in accordance with subsection (b).

(b) Assessment for repayment.—Notwithstanding the provisions of 4 Pa.C.S. § 1901.1 (relating to repayments to State Gaming Fund), the Pennsylvania Gaming Control Board shall assess slot machine licensees for repayment of funds transferred and loaned to the board under subsection (a) from the State Gaming Fund in accordance with 4 Pa.C.S. § 1402 (relating to gross terminal revenue deductions) for repayment to the Property Tax Relief Reserve Fund at such time as at least 11 slot machine licenses have been issued and 11 licensed gaming entities have commenced the operation of slot machines. The board shall adopt a repayment schedule that assesses to each slot machine licensee costs for the repayment of amounts appropriated under this section in an amount that is proportional to each slot machine licensee's gross terminal revenue.

(c) Property tax relief.—

(1) Notwithstanding the provisions of section 504 of the Taxpayer Relief Act, until the loan to the Pennsylvania Gaming Control Board under subsection (a) is repaid, the Secretary of the Budget is authorized to provide for property tax relief under section 503(d) of the Taxpayer Relief Act, regardless of whether the amount deposited in the Property Tax Relief Reserve Fund is less than required by section 504 of the Taxpayer Relief Act.

(2) Notwithstanding the provisions of 4 Pa.C.S. § 1901.1, beginning January 1, 2011, if the Secretary of the Budget determines that the moneys in the Property Tax Relief Reserve Fund are needed for property tax relief, the secretary shall notify the Pennsylvania Gaming Control Board and upon notification, the board shall immediately assess each slot machine licensee for the repayment of the loan in an amount that is proportional to each slot machine licensee's gross terminal revenue.

(d) Other appropriations solely from assessment.—

(1) All funds for the operation of the Pennsylvania State Police, Department of Revenue and Attorney General are appropriated solely from an assessment on gross terminal revenue from accounts under 4 Pa.C.S. § 1401 in an amount equal to that appropriated by the General Assembly for fiscal year 2009-2010. The Pennsylvania State Police, Attorney General or Department of Revenue shall not assess any charge, fee, cost of operations or other payment from a licensed gaming entity in excess of amounts appropriated for fiscal year 2009-2010, unless specifically authorized by law.

(2) This subsection shall not apply to any voluntary payment made by a new slot machine licensee in accordance with similar payments voluntarily made by existing licensees.

(e) Table games.—In the event that table games are authorized to be conducted in this Commonwealth, the sum of \$2,650,000 is hereby appropriated from the State Gaming Fund to the Pennsylvania Gaming Control Board for the salaries, wages and all necessary expenses for the proper operation and administration of the Pennsylvania Gaming Control Board for the expansion of gaming associated with table games. This appropriation shall be a supplemental appropriation and shall be in addition to the appropriation contained in the act of August 19, 2009 (P.L. , No.9A), known as the Gaming Control Appropriation Act of 2009.

Section 1721-K. Straw Purchase Prevention Education Fund.

Notwithstanding the provisions of 18 Pa.C.S. § 6187 (relating to transfer for initial funding), in fiscal year 2009-2010, no funds shall be transferred from the General Fund to the Straw Purchase Prevention Education Fund.

Section 1722-K. (Reserved).

Section 1723-K. Pennsylvania Race Horse Development Fund.

For fiscal years 2009-2010 through 2012-2013, the distributions to licensed racing entities under 4 Pa.C.S. § 1406(a)(1) (relating to distributions from Pennsylvania Race Horse Development Fund) shall not apply. Distributions to licensed racing entities from the Pennsylvania Race Horse Development Fund shall be allocated as follows:

(1) The following shall apply:

(i) Each week, 17% of the money in the

Pennsylvania Race Horse Development Fund shall be transferred to the General Fund.

(ii) Each week, 83% of the money in the Pennsylvania Race Horse Development Fund shall be distributed to each active and operating Category 1 licensee conducting live racing in accordance with the following formula:

(A) Divide:

(I) the total daily assessments paid, by each active and operating Category 1 licensee conducting live racing, into the Pennsylvania Race Horse Development Fund for that week; by

(II) the total daily assessments paid, by all active and operating Category 1 licensees conducting live racing, into the Pennsylvania Race Horse Development Fund for that week.

(B) Multiply the quotient under clause

(A) by the amount to be distributed under this subparagraph.

(iii) The distribution under subparagraph (ii) shall be allocated as follows:

(A) The greater of 4% of the amount to be distributed under subparagraph (ii) or \$220,000 shall be used to fund health and pension benefits for the members of the horsemen's organizations representing the owners and trainers at the racetrack at which the licensed racing entity operates for the benefit of the organization's members, their families, employees and others in accordance with the rules and eligibility requirements of the organization, as approved by the State Horse Racing Commission or the State Harness Racing Commission. This amount shall be deposited within five business days of the end of each week into a separate account to be established by each respective horsemen's organization at a banking institution of its choice. Of this amount, a minimum of \$250,000 shall be paid annually by the horsemen's organization to the thoroughbred jockeys or standardbred drivers organization at the racetrack at which the licensed racing entity operates for health insurance, life insurance or other benefits to active and disabled thoroughbred jockeys or standardbred drivers in accordance with the rules and eligibility requirements of that organization.

(B) Of the money remaining to be distributed under subparagraph (ii) after application of clause (A), the following disbursements shall be made:

(I) Eighty-three and one-third percent of the money to be distributed under this clause shall be deposited on a weekly basis into a separate, interest-bearing purse account to be established by and for the benefit of the horsemen. The earned interest on the account shall be credited to the purse account. Licensees shall combine these funds with revenues from existing purse agreements to fund purses for live races consistent with those agreements with the advice and consent of the horsemen.

(II) For thoroughbred tracks, 16 and 2/3% of the money to be distributed

under this clause shall be deposited on a weekly basis into the Pennsylvania Breeding Fund established in section 223 of the act of December 17, 1981 (P.L.435, No.135), known as the Race Horse Industry Reform Act. For standardbred tracks, 8 and 1/3% of the money to be distributed under this clause shall be deposited on a weekly basis into the Pennsylvania Sire Stakes Fund as defined in section 224 of the Race Horse Industry Reform Act; and 8 and 1/3% of the money to be distributed under this clause shall be deposited on a weekly basis into a restricted account in the State Racing Fund to be known as the Pennsylvania Standardbred Breeders Development Fund. The State Harness Racing Commission shall, in consultation with the Secretary of Agriculture, promulgate regulations adopting a standardbred breeders program that will include the administration of the Pennsylvania Stallion Award, the Pennsylvania Bred Award and the Pennsylvania Sired and Bred Award.

(2) (Reserved).

Section 1724-K. Catastrophic Loss Benefits Continuation Fund.

For fiscal years 2009-2010 and 2010-2011 and notwithstanding section 712(m) of the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act and 75 Pa.C.S. § 6506(b) (relating to surcharge), beginning July 1, 2009, all surcharges levied and collected under 75 Pa.C.S. § 6506(a) by any division of the unified judicial system shall be deposited into the General Fund.

Section 1725-K. Mcare Fund.

Notwithstanding the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, \$100,000,000 shall be transferred from the Medical Care Availability and Reduction of Error Fund to the General Fund.

Section 6. Notwithstanding any other provision of law, the Scranton State School for the Deaf and the Board of Trustees of the Scranton State School for the Deaf are abolished.

Section 7. Repeals are as follows:

(1) The General Assembly declares that the repeals under paragraph (2) are necessary to effectuate the addition of section 1722-J(8), (9), and (10) of the act.

(2) The following acts or parts of acts are repealed insofar as they are inconsistent with this act:

(i) Sections 3 and 4 of the act of May 8, 1913 (P.L.163, No.112), entitled "An act providing for an examination of the Pennsylvania Oral School for the Deaf, at Scranton, Lackawanna County, Pennsylvania; providing for the transfer, under certain conditions, of the said Oral School for the Deaf to the Commonwealth; regulating said school in the event of such transfer; and making an appropriation to carry out the purposes of this act."

(ii) Sections 2 and 202 of the act of June 7, 1923 (P.L. 498, No. 274), known as The Administrative Code.

(iii) Sections 202, 401 and 1311 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(iv) Section 5.1 of the act of July 8, 1957 (P.L.579, No.321), entitled, "An act establishing minimum compensation and increments for members of the faculty and administration of the Thaddeus Stevens

State School of Technology, the Scotland School for Veterans' Children, and the Scranton State School for the Deaf, providing leave of absence with pay for faculty members and the superintendent of schools and imposing duties on the Board of Trustees of such schools and the Secretary of Education."

(v) Section 1.2 of the act of December 12, 1973 (P.L.397, No.141), known as the Professional Educator Discipline Act.

(vi) 24 Pa.C.S. §§ 8102 and 8327.

(3) The General Assembly declares that the repeal under paragraph (4) is necessary to effectuate the addition of section 1712-K of the act.

(4) Section 1112 of the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, is repealed.

(5) All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

(6) The following appropriations in the act of August 5, 2009 (P.L. , No.1A), known as the General Appropriation Act of 2009, vetoed in part, are repealed:

(i) The State appropriation for smoke free Pennsylvania enforcement in section 215 of the act is repealed.

(ii) The State appropriation for a separate State-funded vocational rehabilitation program to provide vocational rehabilitation services leading to competitive employment for OVR-eligible persons with disabilities unable to receive services through the Federal Vocational Rehabilitation Program in section 217 of the act is repealed.

(iii) The Federal appropriation for "Home Visitation to Prevent Child Maltreatment" in section 219 of the act is repealed.

(iv) The Federal appropriation for "Emergency Food Assistance" in section 1712 of the act is repealed.

(v) The Federal and State appropriations for payments for early intervention services, for "Individuals with Disabilities Education," for "Food and Nutrition - Local," for "Esea - Title I - Local" and for "ARRA - Education for Homeless Children and Youth" in section 1714 of the act are repealed.

(vi) The Federal appropriations for "Survey Studies" and "State Energy Program (SEP)" in section 1715 of the act are repealed.

(vii) The Federal appropriations for "Programs for the Aging - Title III," and "Programs for the Aging - Title V" in section 1731 of the act are repealed.

Section 8. The provisions of this act are severable. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

Section 9. This act shall apply as follows:

(1) Except as provided under paragraphs (2), (3), (4) and (5), this act shall apply retroactively to July 1, 2009.

(2) The reenactment and amendment of sections 1731-A and 1732-A of the act shall apply retroactively to June 30, 2009.

(3) Paragraph (1) shall not apply to the addition of section 1722-J(8) and (9).

(4) The amendment of section 1723-E of the act shall apply retroactively to May 1, 2009.

(5) Paragraph (1) shall not apply to the addition of section 1607-F of the act. The addition of section 1607-F of the act shall apply to contracts entered into on or after the effective date of this paragraph.

Section 10. This act shall take effect immediately.

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

The SPEAKER. On that question, the Chair recognizes the majority leader, Representative Eachus.

Mr. EACHUS. Thank you, Mr. Speaker.

Mr. Speaker, this amendment provides for the Fiscal Code bill. This is an integral part of the overall budget package. The amendment contains a variety of fund transfers, which have been agreed to by the Senate— I am sorry, with the Senate. It also includes language that will enable Pennsylvania's municipalities to do critical infrastructure improvement projects for drinking water, sewage treatment systems, storm water, flood control, and unsafe dams.

This amendment gives new rights to municipalities that are located within 1 mile of a municipal waste landfill and resources for that facility. This amendment continues in our efforts to improve the environment through the extension of recycling fees through the Recycling Act all the way through 2020. It also allows Pennsylvania to enhance its efforts to clean up and remediate waste tire piles, which are continuing to be an environmental problem hampering communities. This amendment also provides for leasing of State forests through the extraction of natural gas from the Marcellus Shale field by requiring the Department of Conservation and Natural Resources to conduct a competent public auction with at least 30,000 acres in each of the next 2 years. Sixty million dollars would be transferred from the Oil and Gas Fund and General Fund for the fiscal year 2009-10.

This is an incredibly difficult economy, Mr. Speaker, and the issues within this Fiscal Code face it head-on. I would respectfully ask the members today to affirmatively vote for the Eachus amendment.

Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Allegheny County, Representative Turzai.

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

For those outside of the General Assembly, not to mention for some of us in the General Assembly, the Fiscal Code is often a technical bill that must be passed when the budget is being passed. The Fiscal Code, essentially, provides management language with respect to the specific expenditures or appropriations in the general budget bill. Amendment 4410, offered by the Democratic majority leader, is taking this Fiscal Code to unprecedented levels of power with respect to the distribution of State moneys. I oppose this particular bill and would like to iterate now some of the unprecedented takings of State dollars in this year.

I would like to start with two funds, the Health Care Provider Retention Account and the Mcare (Medical Care Availability and Reduction of Error) account, two funds that have been important to providing quality health care in the State of Pennsylvania. Both of those funds were created, in part, to make sure that physicians, who in this State have some of the highest medical malpractice liability insurance rates in the nation, stay here and practice medicine in spite of the fact that liability insurance is so high in this State.

Now, it primarily speaks to those individuals who are specialists – your obstetricians, your gynecologists, your radiologists, your orthopedics, various surgeons. This particular bill, 4410, the amendment to HB 1407, takes the \$750 million in the Health Care Provider Retention Account, Health Care

Provider Retention Account and the Mcare or the medical care account, which is another \$130 million, and completely takes all that money to deal with the \$3.25 billion deficit for '08-'09 and the additional \$3.25 billion deficit that we would be facing in '09-'10 instead of just reducing expenditures and tightening belts. That means that almost \$1 billion is being taken away from trying to retain physicians in this State.

Second, the Rainy Day Fund, the Rainy Day Fund is a good tool. I understand that both Republican Governors and Democratic Governors have supported putting money aside so that during tough times we can use this Rainy Day Fund so we do not increase taxes. We are in tough times. Yesterday, without our votes, taxes were increased to the tune of \$1 billion. The \$800 million in the Rainy Day Fund, under this Fiscal Code, will be completely drained, completely taken in 1 year's time. The House Republicans, in our proposal, felt that it was important, given that we do not see tough times improving, that the Rainy Day Fund would be used over 2 years at a minimum; it is all going to be drained in this 1 year.

With respect to the Tobacco Settlement account, Mr. Speaker, everybody thinks that the General Fund actually takes care of all the business of State government; it does not. We actually have a number of funds. The General Fund is a crucial part of it, and it stands at \$28 billion, given what was passed last year; \$28.2 billion last year. But we also have a motor vehicle fund, we have a Lottery Fund, and we have a Tobacco Settlement Fund. Attorney General Mike Fisher, along with other Attorneys General across the State, filed lawsuits with respect to the tobacco companies and agreements were reached whereby billions of dollars were actually given to the State of Pennsylvania, and we put those moneys aside for tobacco cessation, prevention, and to get off of tobacco, weaning you off of tobacco, and we also used it for health-care research. We have never, ever touched the tobacco settlement principal. We have made use of the interest, but we have never touched the tobacco settlement principal. This bill raids the tobacco settlement principal. Those are three specific areas, and there are others in this bill, where over billions of dollars are being taken in 1 year's time as opposed to making the tough decisions.

In addition, in addition, taxes yesterday were increased by \$1 billion. This is not responsible fiscal management. This is not an appropriate use of the Fiscal Code. My understanding also is that there was a provision that Senate Republicans had asked for to make the budget process more fair, more honest, more certain. They wanted a creation of a legislative fiscal office, which would be comparable to, in Washington, DC, the office called the Congressional Budget Office. The Congressional Budget Office often keeps both the executive branch and the legislative branch – because it is independent – in check on what they believe the revenues are. What happens is, you can guesstimate to a certain extent what you believe the revenues are going to be, but all economists or accountants or bookkeepers have an honest range, high and low, as to what they think those numbers are.

We have found under this administration – not under past Republican and Democratic administrations, but under this administration – that the numbers are so wildly off the mark that one could only say that they were politically driven in nature. A colleague of ours from the Lehigh Valley in the Senate and some of our members from the Lehigh Valley here have argued we need a legislative fiscal office that is independent that

certifies our revenue and expenditure numbers. That is missing, that is missing from this particular amendment. That is an appropriate type of an amendment in a Fiscal Code bill.

There are other concerns, and I know that other of our members will point out those concerns. I, however, think that this is an unprecedented usurpation of power in a Fiscal Code. And secondly, it is an irresponsible use of certain of the moneys that this body has identified where it should be spent in a responsible manner to correct issues in front of us. For that reason, I oppose this amendment and would urge my colleagues to do the same. Thank you.

The SPEAKER. The Chair thanks the gentleman.

PARLIAMENTARY INQUIRY

REQUEST TO DIVIDE AMENDMENT

The SPEAKER. The Chair recognizes the gentleman from Chester County, Representative Schroder.

Mr. SCHRODER. Mr. Speaker, I move to divide the amendment, amendment A04410 on page 52, I believe, and I would ask for some guidance on this, but I believe between lines 17 and 18. Specifically, to have a separate vote on section 1725-K.

The SPEAKER. Did the gentleman say between lines 17 and 18 on page 52?

Mr. SCHRODER. I guess I would ask as a parliamentary inquiry if the amendment is divisible at that location?

The SPEAKER. It is not divisible at that location.

Mr. SCHRODER. Could I ask for a moment, please?

The SPEAKER. Sure. The House will be at ease.

The House will come to order.

PARLIAMENTARY INQUIRY

REQUEST TO DIVIDE AMENDMENT

The SPEAKER. The gentleman, Mr. Schroder.

Mr. SCHRODER. Mr. Speaker, I appreciate your patience.

I would like to try to divide that amendment at page 44, line 23.

The SPEAKER. Between lines 22 and 23?

Mr. SCHRODER. Yes; I believe that is where.

The SPEAKER. It is not divisible there, either. When you divide the amendments, they have to be able to stand on their own. So if you look at the top of page 1, where it says, "Amend Bill, page 1,..." and then you run through the amendment, when you divide, you would have to have that same type of language, "Amend Bill, page..." so both amendments or both pieces of language could stand as their own as separate amendments to divide it.

Mr. SCHRODER. Thank you, Mr. Speaker, for that explanation, and I appreciate that.

If there are other speakers on this amendment, I would ask to be recognized for a second time.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Franklin County, Representative Kauffman, on the question.

Mr. KAUFFMAN. Would the maker of the amendment rise for a brief interrogation?

The SPEAKER. The gentleman, Mr. Eachus, indicates he will stand for interrogation. The gentleman, Mr. Kauffman, is in order and may proceed.

Mr. KAUFFMAN. Mr. Speaker, I noticed in the Fiscal Code that there, I believe it was language for \$3.3 million that would be provided to the Western School for the Deaf and hearing impaired, and I noticed additionally there is a little over \$27,000 per student identified in the Fiscal Code for the Scranton School students. And I wondered, Mr. Speaker, what are those funds being used for?

Mr. EACHUS. Mr. Speaker, the information of chief counsel tells me that those dollars follow the teachers—

Mr. KAUFFMAN. Mr. Speaker, could you ask for order? I am having trouble hearing the response of the gentleman.

The SPEAKER. The House will come to order. The gentleman has a right to be heard.

The gentleman, Mr. Kauffman, may proceed.

Mr. KAUFFMAN. Mr. Speaker, the gentleman, the maker of the amendment was responding to my question.

Mr. EACHUS. Sure. Thank you, and I apologize for you not hearing it.

These dollars help with the transition of the students from the Scranton School to other schools.

Mr. KAUFFMAN. Okay, so the money is for the students.

Is this essentially per student that they can take to another school for their tuition? Is that what we are looking at or how is this \$27,000 per student used?

Mr. EACHUS. No; the dollars go to the schools where the students will go, so it helps the transition planning for those students. As you know, these students have various levels of hearing impairment, so they require the delicacy of entry into the new location. These dollars will help with that entry.

Mr. KAUFFMAN. Thank you for that answer, Mr. Speaker.

As you know, there is another school in the Commonwealth that there were many students displaced as well. Is there similar funding in the Fiscal Code for those students as well?

Mr. EACHUS. No.

Mr. KAUFFMAN. Mr. Speaker, on the amendment, please?

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

Mr. KAUFFMAN. Thank you, Mr. Speaker.

It concerns me. I am glad to see that there was provision made for the young people at Scranton School for the Deaf. I am concerned, though. Although they are not students from my district, they have been educated in my district at the Scotland School for Veterans' Children. They are actually predominantly your students on the other side of the aisle, as I look down through the list, and it is very concerning that they are not being provided for as are the young people at the Scranton School for the Deaf.

There has been a lot of rhetoric saying that charter schools have been made available to them, there have been other proper educational opportunities made available to them. With an over 20,000-person waiting list in the charter schools of Philadelphia, that is simply not true. They have been exiled back to their home school which they came from instead of actually having good opportunities provided for them.

So since you have not been looking out for the students from your district, it is my job here to stand here today to say that I care about those young people who have been educated in my district. Although they are not my constituents, they are Pennsylvania's young people and they deserve a good education as well.

Thank you, Mr. Speaker.
The SPEAKER. The Chair thanks the gentleman.

FILMING PERMISSION

The SPEAKER. The Chair wishes to advise members that he is giving permission to Joel Williams of WFMZ-TV to videotape with audio for 10 minutes.

CONSIDERATION OF HB 1407 CONTINUED

The SPEAKER. The Chair recognizes the gentleman from Berks County, Representative Rohrer.

Mr. ROHRER. Thank you, Mr. Speaker.

Mr. Speaker, I would like to ask the maker of the amendment if he would stand for some questions, please?

The SPEAKER. The majority leader, Representative Eachus, indicates he will stand for interrogation. The gentleman, Mr. Rohrer, is in order and may proceed.

Mr. ROHRER. Thank you, Mr. Speaker.

I would like to ask a question of the maker relative to section 1718-K, page 47. It has to do with the Rainy Day Fund or the Budget Stabilization Reserve Fund. It is a short little section, only about eight lines long or whatever, but, Mr. Speaker, what I am asking from you at the moment, as I read this, the amendment says, "Notwithstanding section 1703-A(b), the following shall apply," and it says, "The sum of \$755,000,000 is transferred from the Budget Stabilization Reserve Fund to the General Fund." And then it says, "No amount of surplus in the General Fund for fiscal year 2009-2010 may be deposited into the Budget Stabilization Reserve Fund." Mr. Speaker, I am asking you for your rationale and the reason for that one line that says, "Notwithstanding section 1703-A(b)...." Mr. Speaker, what in effect are you doing by those couple of lines?

Mr. EACHUS. Thank you, Mr. Speaker.

Notwithstanding the details, let me be clear about this. Yes, this provision, this amendment, uses the Rainy Day Fund, but all of Pennsylvania knows that at this moment, with the economic crisis that we are in, we need maximum resources to guarantee that we do not increase taxes. We have heard the tax cries from the other side. They will not vote for any additional revenue of any type – not any type. So the complaint that the Rainy Day Fund, which is a reserve fund for when economic times go bad, that complaint rings hollow, at least in my ears.

Mr. ROHRER. I understand what you are saying, but could you put it in layman's terms? What is it that is in that section of the current law that you are attempting to do away with by that language?

Mr. EACHUS. Mr. Speaker, in that provision it requires that the money be deposited in the Rainy Day Fund from surplus in times that are good and it requires a vote in order to take it out.

Mr. ROHRER. Okay. And what is that vote, Mr. Speaker?

Mr. EACHUS. Two-thirds.

Mr. ROHRER. A two-thirds vote. Mr. Speaker, how long has that provision been in effect?

Mr. EACHUS. Well, my guesstimate would be, Mr. Speaker, after the last time the Republican Governor, Mark Schweiker, raided the fund and took it to zero.

Mr. ROHRER. Mr. Speaker, no Governor can raid the fund; the legislature has to agree to it. So how long has this been in

effect that the two-thirds vote of this General Assembly has been required before funds from this account can be transferred?

Mr. EACHUS. You see my point clearly, Mr. Speaker. When the Republican majority held the chamber in 2002, they took the money from the Rainy Day Fund the exact same way that we are using right now.

Mr. ROHRER. So, Mr. Speaker, you are suggesting that just because maybe somebody else has done it sometime that that makes it right. Is that what you are saying?

Mr. EACHUS. No; I am saying the cause is just given the fact that we are in the worst national economic crisis of our generation, Mr. Speaker.

And let me say this: These are difficult times for families. If you want to raise no additional revenue, which you have made very clear in your floor speeches, then fund transfers from surplus times, during good times when the national economy was good and Pennsylvania was spilling with dollars into the Rainy Day Fund, that this is the moment that is most just, most just to use the Rainy Day Fund.

Mr. ROHRER. One last question then, Mr. Speaker. Then if it is so just and if it is so clear, then why are you on that side not wanting to follow what the legislature has had in law and allow a two-thirds vote of this House in fact to take place rather than to take it by a simple majority vote if this amendment passes? Do you not think that this House is cognizant of the difficulty in this State? Are you afraid that this House would not measure up with a two-thirds vote?

Mr. EACHUS. Let me say this, that the Senate bill in the State Senate has the exact same provisions, and I assume our Senate colleagues, when they put this language into the bill, are in agreement with the majority position today.

Mr. ROHRER. Okay. I understand, Mr. Speaker, and I appreciate that, but we are dealing with your amendment and this is your language.

So with that, Mr. Speaker, I would like to make some comments, if I could.

The SPEAKER. The gentleman, Mr. Rohrer, is in order and may proceed.

Mr. ROHRER. Mr. Speaker, I have very, very serious questions about what is being done here today not just as was spoken by the Republican whip from Allegheny County, in which he referred to the inexcusability from a moral perspective and perhaps a fiscal perspective of completely draining what we call the Rainy Day Fund. I also concur with that and say it is absolutely and fiscally unwise to zero out this fund because we think there are needs.

There are needs, but, Mr. Speaker, the fund was created in 1985 for the purposes of having some reserve on hand for unanticipated emergencies. That was wise then. Then this General Assembly, back in 2002, revised the section of law, in 2002 revised this section of law and actually strengthened the provision on how moneys would be pulled out of this fund in that it added not just that it needed to be a two-thirds vote of the legislature. And whenever this legislature puts in a two-thirds provision, it is for the exact reason that it is not accessed at the whim of a few but that this entire body weighs in on whether or not it rises to the occasion to tap these funds which are put aside for unanticipated emergencies and to be used at this point in time, or whether in fact they ought to be kept in place for what in fact may be an emergency, which I suggest, Mr. Speaker, that what we have today was not an unanticipated emergency.

I suggest that when we stood here last year on this budget, then, and we passed a budget then that was not balanced and overestimated revenues, that in fact there was thinking back then that the Rainy Day Fund could be tapped, if needed, because in fact that was a discussion that was being held behind the scenes. And so I purport that, yes, while the economic conditions are greater than expected, the fact that we went into a deficit was not unexpected and it does not rise to the occasion of an unanticipated emergency as laid out here, and therefore, I do not believe that it qualifies for removing anything from the Rainy Day Fund under those provisions. And really, I do not care who it is that says they think it is, whether it is the Senate or someone in this body or whatever. The intent of the law is the intent of the law, and I believe it does not rise to that occasion.

What this amendment does, it says, forgetting the fact that previous legislatures have tried to guard this fund so it was not used as a cookie jar that could be reached into at any time things got difficult and pull the money out, that is why the two-thirds vote was put in there. In addition, in 2002 language was added that says, in addition to that, if money is going to be taken out of this fund, it had to be done through an approval of a separate appropriations bill by a two-thirds vote. So not only today are we circumventing the safeguards put in here so that just a simple majority cannot wipe out this fund, but we are also eliminating the requirement that it had to be a separate vote on an appropriations bill, which this is not. We are violating two things, Mr. Speaker, and I believe, without a doubt, without a doubt, this is a violation of what the statute says, of what the intent of the law was, and it does not make any difference whether someone stands up right now and says we have a need or not, it does not rise to this occasion. And by doing what is being done here, this entire General Assembly is not being given the opportunity for this entire General Assembly to weigh in with a two-thirds vote as laid out.

In addition to that, Mr. Speaker, I think it is interesting as well that – and I think this is a conflict; I am not quite sure how to identify it, but I know it is a conflict in law. The gentleman here just accepted out that one provision that requires a two-thirds vote and requires that this be done on a separate appropriations bill, but the language also says that "No amount of surplus in the General Fund for..." this coming "...year 2009-2010 may be deposited into the Budget Stabilization Reserve Fund." So in effect, we are robbing every dollar of this reserve money this year – all of it, all \$755 million, taking it to zero – but we are also saying that we cannot put any money back into this fund next year. Yet the law says that "The General Assembly may at any time provide additional amounts from any funds available to this Commonwealth as an appropriation to the Budget Stabilization Reserve Fund." That is in (2)(c). That says that we can, at any time, yet this is coming back and says that we cannot.

Now, I am not so sure how that is going to be interpreted in law, but I do not know how it can be in conflict with a section of the law that says we can put it in any time, and then by this, we say automatically that we cannot put anything in. I do not understand that, Mr. Speaker, but I know this, it does not make any sense. It does not make any sense here. It does not make sense to anybody who is watching.

So, Mr. Speaker, I could go on and list a whole list of other things of why I believe what is being done here in this Fiscal Code in making these one-time transfers to fill a hole, and

I appreciate what the gentleman says, we are in difficult times. That is what I have been saying and that is what we all know, but instead of reducing our spending and spending only what we have, we are cleaning out every crumb in the cupboard and eliminating funds that were established for very specific purposes and could jeopardize our position as a Commonwealth for when an emergency actually does occur. We will now have no place to go. I think that is unwise. I think it is a violation of the intent of previous legislatures, and I think it is inappropriate for today.

I ask my colleagues and I fully intend, for this and other reasons, to vote against this amendment because it is shortsighted and, I think, bypasses the intent of previous legislatures.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

GUEST INTRODUCED

The SPEAKER. The Chair would like to make an introduction. To the left of the Speaker, the Chair welcomes Ekaterine Kokaia. She is an NCSL (National Conference of State Legislatures) LEAP (Legislative Education and Practice) fellow from the Republic of Georgia. She is here interning with the majority leader, Representative Todd Eachus. Welcome to the hall of the House.

CONSIDERATION OF HB 1407 CONTINUED

The SPEAKER. The Chair recognizes the gentleman from Luzerne County, the majority leader, Representative Eachus. The gentleman waives off.

The Chair recognizes the gentleman from York County, Representative Saylor.

Mr. SAYLOR. Mr. Speaker, would the majority leader stand for a few questions?

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

Mr. SAYLOR. Mr. Speaker, in this amendment or in this bill as such, is there any language that forbids the Governor from spending dollars for the GCAs (graduation competency assessments), or Keystone Exams, as they are called now?

Mr. EACHUS. No, Mr. Speaker.

Mr. SAYLOR. So the Governor will be able to, if he wishes to, take education money or education stimulus dollars and utilize those to pay for the Keystone Exams?

Mr. EACHUS. There is no prohibition.

Mr. SAYLOR. No prohibition. Okay, Mr. Speaker.

Next, Mr. Speaker, I had a question concerning the tobacco settlement money that we have in the fund. It has a similar requirement in that it requires the House and the Senate to have a two-thirds vote to spend those dollars. How does the majority leader intend to see that the two-thirds vote is cast? Do you intend to ask the House for a two-thirds vote to approve the expenditures of those dollars?

Mr. EACHUS. Do you have the amendment before you, sir?

Mr. SAYLOR. We have it here.

Mr. EACHUS. Page 45, section 1715-K(1) and also (a)(1) and (b)(1). There is "Notwithstanding" language within that section.

Mr. SAYLOR. So your intention is to, instead of doing the two-thirds vote, you are looking to override that two-thirds vote with the majority vote of the General Assembly of the House?

Mr. EACHUS. I think the section speaks for itself, sir.

Mr. SAYLOR. Mr. Speaker, does the majority leader have in his possession— The other requirement has been that the Governor requests in writing that these funds from both the tobacco settlement money as well as the Rainy Day Fund be spent. Do you have such a request from the Governor?

Mr. EACHUS. That would be part of the Governor's budget request.

Mr. SAYLOR. He had signed letters in the budget request?

Mr. EACHUS. You will have to check with the administration, sir.

Mr. SAYLOR. Mr. Speaker, those letters are to be sent to the majority leader, his request in letters under the statute.

Mr. EACHUS. Yes; they came, I think, originally with his bills back in February. I know it is a long way from February today, but I am sure we can find them.

Mr. SAYLOR. Mr. Speaker, also, the requirement is that these both be in separate appropriations bills to transfer these funds. You have consolidated them into one Fiscal Code bill. What is the reasoning for that?

Mr. EACHUS. I think the gentleman's interpretation is wrong.

Mr. SAYLOR. If you would look, Mr. Speaker, at the Tobacco Settlement Act, section 307, it clearly states, "Whenever the Governor determines that money from the Health Account is necessary to meet the extraordinary or emergency health care needs of the citizens of this Commonwealth..." and it goes on to say, "The General Assembly may, through approval of a separate appropriation bill by a vote of two-thirds of the members elected to the Senate and...House of Representatives...."

Mr. EACHUS. This is subsequent legislation that overrides that.

Mr. SAYLOR. Mr. Speaker, may I make comments on the amendment at this time?

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

Mr. SAYLOR. Mr. Speaker, I heard the comments earlier that a Republican Governor took money from the Rainy Day Fund or stole the money, whatever term was utilized; I cannot remember. But I can say for a fact that we on the Republican side have never, ever touched the tobacco settlement money, and I think that is something that, again, this Commonwealth made a pledge when we had those dollars, we were one of the best States in this nation on the way we dealt with the tobacco settlement money and where we divided it up, where those dollars were to be spent, and now for us in the General Assembly to take those dollars and spend those as part of the General Fund, I think is, again, a breach of our promise to the members or the voters of this Commonwealth.

And I believe the procedures that are taking place here today are not what I would like to see. I do understand that the majority leader feels that because of what happened under Governor Schweiker, he is able to do the same. I think at least we should have done – and I disagree with him that the General Assembly has the right not to have these in separate appropriations bills.

Mr. Speaker, I also believe that since the precedent has been set on the Rainy Day Fund of a majority vote to override the two-thirds requirement, I may not have a legitimate argument

on that, but I do believe that where the law requires separate appropriations bills, I do believe that is the way it should be.

And I also think this is a dangerous risk when we are going to spend the dollars one time. We are talking about spending roughly \$1.7 billion that are one-time appropriations that will not be there for next year's budget. When you are talking about \$1.7 billion and we just came out of a \$3.2 billion deficit in the current fiscal year, next year you have got to fill a hole of \$1.7 billion in revenues that are not going to be there anymore. And the question for all of us in this General Assembly is, where is this General Assembly going to fill that hole of \$1.7 billion? The taxes that we have increased will not fill that hole.

When we come back here next year and when we hear the Governor's budget address on February 4 or whatever it may be next year, we are going to have to wonder how to tell our constituents that we again have another budget deficit because we poorly managed the dollars that we were given by them.

So it is my hope, Mr. Speaker, that at some point in time we take a closer look at our revenue before we head too much further into next year's budget, because I do not think I, as a member of this General Assembly, want to be embarrassed to go back to my constituents and say we passed another budget that was not balanced.

I ask for a negative vote on the Eachus amendment. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman and recognizes the gentleman from Bucks County, Representative Clymer.

Mr. CLYMER. Thank you, Mr. Speaker.

Mr. Speaker, I would like to dovetail into the remarks of our minority whip regarding the removal of \$708 million from the Health Care Provider Retention Account and the \$108 million from the Mcare Fund. These funds were established to ease the financial burden on Pennsylvania physicians regarding the high cost of their medical liability insurance.

Medical technology and science are moving at a mind-boggling pace. Those States that retain their highly trained physicians that can implement this new technology will reap the greatest medical and economic benefits. This advancing medical technology means thousands of new jobs, not only new jobs but good-paying jobs with good benefits. Probably the greatest beneficiaries of these new technologies are the cities of Philadelphia and Pittsburgh. However, we need our medical specialists to stay in the State. They need to be here to take advantage of this growing medical science and technology. This will also bring about improved quality health care and more taxes for the cities where these wonderful hospitals are.

Eliminating the moneys out of these two funds is fiscally irresponsible. This is sending the wrong message to our physicians and especially to our new medical graduates who look at the high cost of medical liability insurance and say, I am going to put my office elsewhere rather than in the Commonwealth of Pennsylvania.

So for this reason and for other reasons, Mr. Speaker, I oppose this amendment. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Tioga County, Representative Baker.

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

Will the gentleman, the majority leader, kindly agree to a brief period of interrogation?

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

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

Mr. Speaker, as you know, I rarely interrogate anyone, but there is a part of the Fiscal Code that impacts my legislative district pretty significantly as it applies to the oil and gas wells, and many of us that have a very rich Marcellus Shale region would like to have a few clarifications.

With respect to the leasing of the 30,000 acres of State forest land, is that per year for a 2-year period for a total of 60,000 acres?

Mr. EACHUS. Correct.

Mr. BAKER. Thank you.

And do you know if there is any local distribution of those funds or does it all go to the General Fund?

Mr. EACHUS. It goes to the Oil and Gas Lease Fund; all of it.

Mr. BAKER. So it goes into the General Fund. No? Just to the Oil and Gas? It is a separate account.

Mr. EACHUS. \$60 million will go to the Oil and Gas Lease Fund.

Mr. BAKER. Okay. Thank you.

Mr. EACHUS. I am sorry. Pardon me; pardon me. A clarification: \$60 million goes to the General Fund and anything over that goes to the Oil and Gas Lease.

Mr. BAKER. I see; \$60 million, and then the excess goes to the other fund. Okay. So there is no distribution to townships, counties, school districts, or anything of that nature?

Mr. EACHUS. Not at this point.

Mr. BAKER. Okay. Thank you.

And do you happen to know if the language contained in this Fiscal Code is agreed to by the Senate or the Governor or both?

Mr. EACHUS. I can speak for the administration on this. They support it. We have no clear signal from the Senate at the moment, but I can tell you this, the Democratic Caucus today supports it.

Mr. BAKER. So it may be accurate to say that this issue is still potentially fluid in the Senate?

Mr. EACHUS. We have continued to have dialogue with the Senate on all issues.

Mr. BAKER. Okay. Thank you. Thank you, Mr. Speaker.

Mr. Speaker, I appreciate your time in clarifying those questions.

On the amendment.

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

Mr. BAKER. Thank you, Mr. Speaker.

I just want to wrap up by saying I do oppose this amendment because of the lack of clarity with respect to the Marcellus Shale revenues that are going to be utilized. But more importantly, I am very, very troubled in this Fiscal Code about the \$100 million that our doctors and tertiary care orthopedics, tertiary specialists— And basically, most of the health-care providers or doctors or hospitals are very, very strongly opposed to this bill as it relates to the \$100 million taken out of the Mcare Fund, and it is my understanding that there is almost \$150 million in that fund, and this rips out about \$100 million of that, reducing it dramatically.

In fact, I have a letter from the Pennsylvania Medical Society that strongly opposes the usage of this money, \$100 million of physician and hospital premium dollars from the Mcare Fund, to balance the State budget. In fact, they say, quote, "Diverting

liability insurance assessments paid by hospitals and physicians to the General Fund is not just bad public policy and a breach of" public "faith with the state's health care providers; it is illegal." They go on to say that "It imposes a non-uniform tax on health care providers in violation of the uniformity clause of the Pennsylvania Constitution." They believe firmly that it is unconstitutional.

And I can count the numbers, and I am not going to make a motion to say that this Fiscal Code is unconstitutional because I do not think the entire Fiscal Code is unconstitutional, but it leaves a lot of questions and doubt with respect to this particular clause within the Fiscal Code and sets a very, very bad public policy precedent in terms of trying to balance the budget on the backs of health-care providers and their patients. We believe that this could potentially be legally wrong, bad public policy, and a breach of faith with Pennsylvania patients and physicians, and accordingly, I am going to have to oppose this amendment.

Thank you very much, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman and recognizes the gentleman from Northumberland County, Representative Phillips.

Mr. PHILLIPS. Thank you, Mr. Speaker.

Would the majority leader stand for a brief interrogation?

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

Mr. PHILLIPS. Just a very short question, Mr. Speaker. It is under medical assistance, and the first line states no physician referral for chiropractic service. Am I clear that that means that anybody eligible for medical assistance does not have to go to a doctor and get a referral or to a physician in order to be eligible to receive that chiropractic treatment?

Mr. EACHUS. The gentleman asked a very short question, and my response is, you are correct; short answer.

Mr. PHILLIPS. Thank you very much. I just wanted to put it on the record.

The SPEAKER. The Chair recognizes the gentlelady from Northampton County, Representative Beyer.

Mrs. BEYER. Thank you, Mr. Speaker.

Will the majority leader stand for just a very brief interrogation?

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

Mrs. BEYER. Does your amendment address the issue of revenue certification and establish a nonpartisan entity to do so?

Mr. EACHUS. Could the gentlelady please restate her question, please?

Mrs. BEYER. Does this amendment address the issue of revenue certification and establish a nonpartisan entity to do so?

POINT OF ORDER

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

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

Mr. EACHUS. I believe that the question that the gentlelady is asking is not contained in this amendment today, and I think the questions should be directed in the content within the Eachus amendment.

The SPEAKER. The gentleman is correct. The issue before us is the Eachus amendment.

Mrs. BEYER. That is exactly right, Mr. Speaker. I am asking if, in the Eachus amendment, does this particular amendment address the issue of revenue certification and establish a nonpartisan entity to do so? Does it have it or not?

Mr. EACHUS. As the gentelady knows, she and I spoke personally about this issue right here in the well, and House rules prohibit asking questions that you already know the answers to.

Mrs. BEYER. Well, I—

The SPEAKER. Does the gentelady wish to debate the issue?

Mrs. BEYER. Mr. Speaker—

The SPEAKER. On interrogation or on the issue?

Mrs. BEYER. —I am simply establishing something for the record, and I did not ask the majority leader this specific question when he and I were personally talking about SB 1. I was inquiring about SB 1 and a previous agreement on a different Fiscal Code that was sent from the Senate. I am now asking about a new Fiscal Code, the House Fiscal Code, and an omnibus amendment that the majority leader has presented.

The SPEAKER. Will the gentelady yield.

Are you on interrogation of the majority leader or making a statement?

Mrs. BEYER. Yes, I am on interrogation. I am on interrogation.

Mr. TURZAI. Mr. Speaker? Mr. Speaker?

The SPEAKER. For what purpose does the gentleman, Mr. Turzai, rise?

Mr. TURZAI. Sir, with respect to the gentelady from the Lehigh Valley, I would just say that with respect to what is appropriate interrogation, it is not — and there is a lot of deference to the leaders — but it is not his, I think, responsibility. It is the Speaker's responsibility to determine if her interrogation is within the scope of what is appropriate within our House rules, and we would just state that if there is a concern with any of the questions, that they be directed to the Speaker for a ruling on that issue. And the gentelady has definitely attempted to ask very specific questions, and as each question arises, if the leader or some other member from the other side has an objection to it, we would just ask them to please direct it to you for a ruling. Thank you.

The SPEAKER. The gentelady, Representative Beyer, are you on interrogation or are you debating the amendment?

Mrs. BEYER. Mr. Speaker, I am on interrogation, because I still have not received an answer to my question, and I would be happy to repeat the question.

The SPEAKER. Will the lady yield.

I think the majority leader answered the question. If you want to further interrogate, you are in order, or I will recognize you on the amendment.

Mrs. BEYER. Mr. Speaker, there was no answer to the question. He was challenging—

The SPEAKER. The gentelady will yield.

The majority leader answered the question. We are not going to debate this question. The majority leader answered the question. If you want to further interrogate, you are in order.

Mrs. BEYER. I am sorry, Mr. Speaker. I guess the noise level— I did not hear the answer.

Could the majority leader tell me whether or not this amendment addresses the issue of revenue certification and establishes a nonpartisan entity to do so?

Mr. EACHUS. Mr. Speaker, I refuse further interrogation.

The SPEAKER. Does the gentelady wish to debate the issue?

Mrs. BEYER. On the amendment, Mr. Speaker.

The SPEAKER. The gentelady is in order.

Mrs. BEYER. I think this might be slightly unprecedented, and I think I am going to wear this as a badge of honor that the majority leader refuses interrogation, but anyway, I am not quite sure why. This is so important to the people of Pennsylvania that we are now debating a Fiscal Code of a bill that pretty much no one has debated and an amendment that we are seeing for the first time.

But anyway, Mr. Speaker; wow, I am a little stunned.

Two things that I have a problem with in this amendment: One, it does not address the issue of revenue certification; it does not establish a nonpartisan entity to do so; it does not provide a base-line budget. It is deficient in more ways than can probably be articulated by me but certainly will be articulated, I am certain, by my colleagues in the chamber.

I have filed an amendment to correct this deficiency, and I look forward to debating that amendment.

Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia County, Representative Thomas.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, may I interrogate the majority leader?

Mr. TURZAI. Mr. Speaker?

The SPEAKER. For what purpose does the gentleman, Mr. Turzai, rise?

Mr. TURZAI. I apologize to the gentleman from Philadelphia.

I just want to say with respect to the gentelady from the Lehigh Valley, does she have another opportunity to stand again? I think that really she had a legitimate interrogation, I guess is the word; I want to make sure I have it correct. And I think there was some misunderstanding on the parts of the leader and the gentelady, and I would hope that we would have— Does she have a second opportunity to—

The SPEAKER. All members have the opportunity to speak twice on the amendment.

Mr. TURZAI. Okay. I apologize for interrupting Mr. Thomas. I just wanted to make sure that I have that, and I think she did not fairly get an opportunity to have her interrogation, and we will come back to that. Thank you.

The SPEAKER. The gentleman, Mr. Thomas, is recognized.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, may I interrogate the majority leader?

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

Mr. THOMAS. Thank you, Mr. Speaker.

First, I want to thank the majority leader, thank my delegation leader, and thank legal staff for taking note of my concern, and I am addressing it, primarily, so that it can get on the record.

Mr. Speaker, there is a section of the amendment which deals with the Department of Revenue being able to mandate electronic filing of business taxes. Is that correct?

Mr. EACHUS. Sorry; I apologize, Mr. Speaker. There was a lot of noise.

Mr. THOMAS. Is it correct that there is a section of the amendment which deals with the Department of Revenue requiring businesses to file their taxes electronically?

Mr. EACHUS. Yes, sir. In this language, we are trying to incentivize electronic filing.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, is it also true that failure to file and/or seek a waiver for undue hardship can result in the application of criminal penalties?

Mr. EACHUS. Yes, sir, that is true in extreme cases.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, is there any opportunity for the imposition of civil penalties versus criminal penalties for failure to file?

Mr. EACHUS. Yes, sir; there is.

Mr. THOMAS. There is an opportunity for civil penalties?

Mr. EACHUS. Yes, sir; there is.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, I have concluded my interrogation, and I want to thank the majority leader. I would like to speak on the amendment.

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

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, there are seasoned stewards of this body that own small businesses and therefore are required to pay taxes, and I am confident that even the seasoned members of this body and seasoned members of the larger community who are up in their years but still maintaining a small business, that they are going to do the right thing. But, Mr. Speaker, it is estimated that less than one-third of the Pennsylvania business community is without access to the Internet. One of the reasons for the broadband technology effort is to help folks get to that last mile and be able to interact with the Internet, but recognizing that some of our seasoned members, business owners, do not have access to the Internet, cannot get to the library, do not have a dedicated and compassionate son like Representative Shapiro or a family member who can help them out in filing their taxes electronically, I am extremely concerned about the imposition of criminal penalties for failure to file, and there does not appear to be a lot of wiggle room. That can be very troubling to seasoned members of the Pennsylvania community who are still operating a small business, and you know who I am talking about. Some of us have grandmothers, grandfathers in their seventies and eighties who still get up every day and go to that tailor shop or go to that small business and keep themselves busy with their business activities. But the majority leader and others have agreed to look at, maybe regulatorily or maybe an appeal later on, to make sure that we provide sufficient opportunity for seasoned members of the business community to file their taxes without having to face the imposition of criminal penalties.

Criminal penalties can be devastating to people who do not understand that our only interest is to try to incentivize the payment of taxes. I am extremely concerned about that. The States are flawed, and Pennsylvania has to always be concerned about the application of undue burdens on our seasoned members of the Pennsylvania community, because let us face it, we have the second highest population of seasoned members in the United States only next to Florida, and in Philadelphia, some have said, we have the highest population of people 65 and over than anywhere else in the United States.

So to that end, I am concerned about that application in the amendment, and I am concerned about making sure that all members of the larger community have access to the tools that they need in the event that the department requires mandatory electronic filing of business taxes. And so I wanted to put that on the record.

I welcome the opportunity to work with the majority leader, hopefully work with leaders from the other side to make sure that either regulatorily or by way of an amendment later on that we provide some flexibility to this stellar population of the larger community.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman and recognizes the gentleman from Delaware County, Representative Adolph.

Mr. ADOLPH. Thank you, Mr. Speaker.

Mr. Speaker, I would like to keep my comments brief, but I think I would be remiss if I did not say how disappointed I am that in a close to \$28 billion budget, that we are unable to find funds to keep the educational improvement tax credit program at level funding.

This program was established over a decade ago by legislators on both sides of the aisle. Representative Bill Keller, Representative Sam Rohrer, Representative John Perzel, and myself worked very hard to get the EITC program established here in Pennsylvania, and I am proud to say that over 40,000 students and families are able to send their children to school on this education tax credit.

The SPEAKER. Will the gentleman yield.

The EITC program is not in this amendment.

Mr. ADOLPH. Could you hold on for just a second, Mr. Speaker?

(Conference held.)

The SPEAKER. The gentleman, Mr. Adolph, is in order.

Mr. ADOLPH. Mr. Speaker, you are correct and I apologize. The information that was given to me earlier was incorrect.

STATEMENT BY MR. ADOLPH

Mr. ADOLPH. Personal privilege?

The SPEAKER. Unanimous consent, without objection.

Mr. ADOLPH. Thank you.

This is Monday morning quarterbacking, Mr. Speaker, but with the Scotland School closing, you have about 200 students that will be looking to go to another school. It certainly would have been nice to have that extra EITC money for those boys and girls that will be looking for a transfer. I find it a little ironic that we are closing a school and also decreasing the EITC.

Thank you for that personal privilege. Thank you very much.

The SPEAKER. The Chair thanks the gentleman.

CONSIDERATION OF HB 1407 CONTINUED

The SPEAKER. The Chair recognizes the gentlelady from Luzerne County, Representative Mundy.

Ms. MUNDY. Thank you, Mr. Speaker.

I think it needs to be said for the record that the House Republican budget, HB 1943, relied on the very transfers from

the Health Care Provider Retention Account and from the Rainy Day Fund and many other one-time revenue sources that House Republicans are criticizing the Eachus amendment for today.

It also needs to be said that the alternative to these transfers and to the other revenue sources we have supported is to make deeper and more painful cuts this year, and most assuredly, even more painful cuts next year. Now, maybe that is politically favorable to those who are making these floor speeches today, but I would argue that further cuts are not in the best interest of the people of Pennsylvania.

I urge passage of the Eachus amendment. Let us get it done.

The SPEAKER. The Chair thanks the lady and recognizes the gentleman from Delaware County, Representative Barrar.

Mr. BARRAR. Thank you, Mr. Speaker.

Could I ask the maker of the amendment to stand for brief interrogation?

The SPEAKER. Will the gentleman yield.

We will go over and come back to you, Mr. Barrar.

The Chair recognizes the gentleman from Westmoreland County, Representative Krieger.

Mr. KRIEGER. Thank you, Mr. Speaker.

I, too, wanted to ask the majority leader a brief question.

The SPEAKER. We will come back to you, Representative Krieger.

The Chair recognizes the gentleman from Delaware County, Representative Civera.

Mr. CIVERA. Thank you, Mr. Speaker.

Mr. Speaker, I rise to correct some of the statements that were just said on the House floor to set the record straight. When we wrote HB 1943 and we went into the accounts – the Rainy Day account, the Health Care Provider Retention Fund – our intentions were to go into those accounts on a yearly basis. We took some money from this year and some money for the following year; we did not take the money in 1 year. You have got another budget in this session that we have to deal with next year. We left that money intentionally to balance that budget in case we ran into a situation or the economy did not pull itself up. That has been said on this floor over and over and over. Let us not make adjustments to what is not there.

HB 1943 never got out of the committee. When I introduced it, I believed that it would never get out of the committee because we are the minority party. They did not want to listen to what we had to say. Had they listened to what we had to say, we would not be discussing all this, what was said on this floor today.

So let me make it perfectly clear: It was never our intention to take all the money from those accounts in 1 year. It was our intention to go back in the 2-year period, and that is why you had no tax increases.

Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Delaware County, Representative Barrar.

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

Mr. BARRAR. Thank you, Mr. Speaker.

Mr. Speaker, yesterday I had an amendment passed, amendment A04317. With the passage of your amendment, what effect would that have on my amendment that passed yesterday?

Mr. EACHUS. It would eliminate your amendment, sir.

Mr. BARRAR. So I would have to suspend the rules and reoffer my amendment – redraft my amendment and suspend the rules to get it put in?

Mr. EACHUS. Yes, sir, and you will have that opportunity.

Mr. BARRAR. Okay. Thank you, Mr. Speaker.

One last question. I am just wondering, as this debate goes on as we debate this Fiscal Code, Mr. Speaker, could we pass an identical budget next year with the adoption of your Fiscal Code, this identical budget next year without raising taxes?

Mr. EACHUS. It is a hypothetical question, Mr. Speaker. I cannot answer it.

Mr. BARRAR. Okay. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Westmoreland County, Representative Krieger.

Mr. KRIEGER. Thank you, Mr. Speaker.

Would the majority leader stand for brief interrogation?

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

Mr. KRIEGER. Thank you.

Sir, could you tell us if you are engaged in any discussions with the Senate in connection with an independent legislative budget office?

Mr. EACHUS. Mr. Speaker, we are on the Eachus amendment. Any discussion outside the Eachus amendment I am not going to take any inquiry on.

Mr. KRIEGER. Mr. Speaker, on the amendment.

The SPEAKER. The gentleman, Mr. Krieger, is in order and may proceed.

Mr. KRIEGER. I have not been here long, but I have been here long enough to understand that there are some flaws in how this budget process proceeds.

Now, yesterday Chairman Rohrer I think spoke rather eloquently with regard to the revenue projections and where we might be next year, and I know some of you do not want to hear that, but unfortunately, we are going to be dealing with that next summer.

I am going to thank Chairman Rohrer for his comments. I think that is the reason why I raised the issue of the legislative budget office. It is critical that we have an independent view of what real revenues will be. I think this is critical, and I think we need to look at that very closely.

But again, for that reason, this amendment is deficient, and I will vote "no." Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman and recognizes the gentleman from Greene County, Representative DeWeese.

Mr. DeWEESE. Thank you, Mr. Speaker.

I sometimes think that my GOP colleagues, at least most of them, are afflicted by a misguided mania for a bogus perfection.

Anyway, my mantra is Marcellus Shale. He does not play for the Lakers. The Marcellus Shale tax is not in this Fiscal Code and that causes me great lamentation. It is my mantra and it deals with taxation and the speech will be short; I am sure you hope mercifully short. But every time I go to a microphone as a member of the Assembly I am going to try to focus like a laser on the fact that the Mountain State of West Virginia, cheek by jowl against Greene County on the Mason-Dixon Line, got over \$550 million in Marcellus Shale revenues last year.

Now, for every West Virginian, there are 12 Pennsylvanians. We are a much more populous State and our needs, whether they be for attendant care or libraries or kindergartens or our penitentiaries or our schoolteachers, are measurably more expensive.

I think my Republican colleagues have missed – and this bill reflects that deficit – you have missed a sterling opportunity to avoid the mistakes of our forefathers. At that time mostly forefathers but foremothers might be helpful. The days of Teddy Roosevelt when this building was inaugurated, they did not accede to a severance tax on coal, and Taft and McKinley and down through the years in the progressive days of the Roosevelt administration, this General Assembly refused a tax on severance of coal.

So fast-forward to tonight – well, it might be tonight – this bill, this Fiscal Code bill that Mr. Metcalfe is so animated about, is lacking one crucial ingredient. It is a good bill and I am going to support it, but I think it has a gaping chasm. It has potentially \$1/2 billion or \$1 billion of a chasm in it.

So I am trying to stick to the bill, Mr. Speaker, and talk about what it does not have, and I will truncate – that is one of your favorite words up there in Butler County – I am going to try to truncate the dialogue, but from now on it is not going to be just the Green Caucus, led by the indomitable Vitali, the inimitable Levdansky, young Santarsiero, all of these folks; it is going to be some of us from coal country who realize the depredations of not having a severance tax.

I am going to vote for this Fiscal Code bill, but it would be an immeasurably more alluring proposal if it had a severance tax in it.

Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Allegheny County, Representative Levdansky.

Mr. LEVDANSKY. Thank you, Mr. Speaker.

Mr. Speaker, I just want to call attention to one particular section of this Fiscal Code bill relative to the management of our State forests. It is especially important because our State forests are our most pristine wild areas in the Commonwealth. They are our most valuable, and our State forest system is the envy of other States across the nation. Pennsylvania really has been a leader in the conservation movement going back over a century, thanks to good leaders like Governor Pinchot, a Republican Governor from back in the 1900s, and continuing through to this day. We have all supported a strong State forest system.

The language contained in this amendment strikes a balance, a necessary balance that allows for the economic development of the Marcellus Shale on State forests, but it provides for the environmental protection of our State forests. You know, there are limited acres totally available to be leased for Marcellus Shale on our State forest system, and what is really important is we recognize the environmental value, because we created this State forest system starting over 100 years ago to provide for a variety of recreational opportunities for Pennsylvanians. Again, we created it to provide for the recreational opportunities for Pennsylvanians, and notwithstanding the fact that last night in the general appropriations bill we transferred \$143 million out of the Oil and Gas Fund, \$143 million we transferred out despite the fact that the DCNR (Department of Conservation and Natural Resources) has about \$110 million worth of projects they could have used it on. So we have done that.

And this Fiscal Code amendment would allow for the leasing of enough acreage, up to 30,000 acres in this fiscal year and the next, at a price of a minimum of \$3,000 an acre and a minimum of 18 percent royalty, to generate \$60 million in the coming fiscal year to meet the needs of the budget. I believe that strikes the balance between the economic development of Marcellus Shale on Pennsylvania State forest property and the environmental protection and the recreational opportunities for which the State forest and the Oil and Gas Fund was created. So it does, in my judgment, strike that balance and that wise use of our forests to keep it in place for recreation and to save the environment.

Mr. Speaker, let me say one other thing as well. It is really important because you have got to recognize that there is not that much State forest left. When you look at how much of it is in the Marcellus, the fact that 670,000 acres have already been leased and you take out of it the environmentally sensitive areas, that leaves, at most, at most, 200,000 acres to be leased. So this legislation I think is wise in that regard, but there are only 200,000 acres that remain to be leased. These are the most sensitive, environmentally sensitive and valuable lands that we have in the Commonwealth.

And as stewards of the environment, in my judgment, in my judgment, you have got to recognize this is valuable property, and this environment that God created – and God is not making any more of these kinds of pristine lands. So to the extent that we despoil them and we allow for the development of them, that is an impact to the environment that we will never be able to erase. And as a legislator that comes from a region of the State where I have seen the scars on the environment from industrial development going back over the century, it is really important that we reserve these lands and we manage them as wise stewards of the environment.

For those reasons, Mr. Speaker, again, it strikes a wise balance that I hope that the Senate will look at and agree with, I urge concurrence on this amendment. Thank you.

The SPEAKER. The Chair thanks the gentleman and recognizes the gentleman from Cumberland County, Representative Gabig.

Mr. GABIG. Thank you, Mr. Speaker.

Of course I was not going to speak today, but after hearing the majority whip say how in favor he is of one single tax, as if he is not in favor of every single tax, I just had to stand up and correct the record. He is for a personal income tax increase, a sales tax increase, taxes on cell phones—

The SPEAKER. The gentleman will yield.

On the question.

Mr. GABIG. He is for—

The SPEAKER. The gentleman will yield.

Mr. GABIG. —taxes on—

The SPEAKER. The gentleman will yield.

On the question before the House, the Eachus amendment.

Mr. GABIG. The Eachus amendment that the Democratic whip was talking about, Mr. Speaker – maybe you were busy up there – he was talking about how in favor he was of one single tax in order to fund the Eachus amendment, I guess is how you would put it. And so I just wanted to make sure that everyone in Pennsylvania who is watching, he is not limited to just that one single tax, but—

The SPEAKER. The gentleman will yield.

We heard what the gentleman, Representative DeWeese, said. The question before the House is the Eachus amendment. The gentleman will confine his remarks to the Eachus amendment.

Mr. GABIG. Thank you, Mr. Speaker.

I am not sure how he was on the arts tax and the other tax that the speaker was for, but we would have to hear from—

The SPEAKER. The gentleman will yield.

That is completely out of order, Mr. Gabig, completely out of order. Keep your remarks to the Eachus amendment.

Mr. GABIG. The Eachus amendment, which is, I understand, to be the Fiscal Code of the Commonwealth of Pennsylvania, which spends money, authorizes the expenditure of taxpayer money, we heard that unless you agree to it, you have to raise taxes; another leader on that side says that. We happen to disagree with that, Mr. Speaker, on this side, the Republican side.

And we also had a great Republican Governor's name dragged through the mud by one of their speakers trying to compare what they are doing in stealing this money plus raising taxes on the citizens and families and businesses of Pennsylvania to do both. Governor Schweiker did not do that. He did not do that. He controlled spending. This Fiscal Code does not control spending. That is the problem; it spends too much. As I understand it – I am not going to interrogate anybody because you cannot get a straight answer over there; they take the Fifth Amendment – but as I understand it— Why is it okay to rip Republicans, but if you say any truth about Democrats, they start crying? There was a great Democratic President who said, "If you can't take the heat, get out of the kitchen." We are debating issues here in Pennsylvania. It is a rough-and-tumble debate. That is right. Thank you, Mr. Speaker.

We control spending. There are massive increases in spending in this Fiscal Code that nobody seems to want to talk about in the Eachus amendment. There is almost a third, 27-, 30-percent increases in major spending in the city of Philadelphia's schools; major, major increases where libraries are getting ripped; great schools like the Scotland School getting completely shut down. Things are getting defunded, ripped down, when other areas, Governor Rendell's city is getting these major increases. How is that fair? Is that fair in the Eachus amendment that we are talking about and debating vigorously here today?

It continues to fund ACORN (Association of Community Organizations for Reform Now) in the Eachus amendment. Is that fair for Pennsylvania taxpayers when Rendell's own State Department said they should not be getting money and has given them a letter to cease and desist and they continue to violate that? The Barrar amendment stripped out; that is simply not fair.

And the big thing, the big thing that we heard about, that \$25 billion that has been certified has been by this Governor, unilaterally, not an independent, bipartisan group like the Federal government has, the CBO, the Congressional Budget Office, that can come in and give you a fair call. It is the Governor's Office that makes this call, and he uses it as he is trying to negotiate his big increases for where he wants to spend all the money in Philadelphia, on the Eachus amendment. And I think that is why one of our members was treated so poorly by not getting a straight answer, because there was an attempt by the Senate – and they have a Fiscal Code over there, as

I understand – to correct that, but the Eachus amendment fails to address that.

So when we say we have got to get it done, there is a major part of the Senate Fiscal Code which this differs from, distinguishes from. They do not have that legislative fiscal office that would give us a fair number to go by. We have spent 3 months fighting about how much money we are going to get next year. If we had that office, that would not have happened. We would not be sitting here almost on Columbus Day; we would have been done. That would have been one of the things we need to change. The next thing we need to change is who sits in the Governor's Office and who is in control of this House.

Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Lancaster County, Representative Denlinger.

Mr. DENLINGER. Thank you, Mr. Speaker.

I rise to make very brief comments this morning in opposition to the Eachus amendment, and I do so because of my concerns, very deep concerns about where we are headed as a State economically.

We are making a series of one-time transfers of funds in this amendment, and I am going to detail those very briefly: the entire balance of the Rainy Day Fund, gone; \$150 million from the Tobacco Endowment Account, gone; transfers of \$708 million, the balance of the Health Care Provider Retention Account, gone; the transfer of \$100 million from the State's Mcare Fund, gone.

Mr. Speaker, we all wish for a quick and speedy recovery of our economic circumstances, but, Mr. Speaker, we are in uncharted territory at this point as we see, unfortunately, unemployment continuing to grow, growing at a slower rate but continuing to grow. We see retail sales continuing to slump. The rain continues to come down, and we have taken all of the reserves that we have in this State and there will be nothing left for the future.

The gentleman, my colleague from Delaware, Representative Barrar, had begun to ask the majority leader if in fact this budget could be passed next year. Well, I would put forward to this Assembly that with our taking of these reserves, there is no way that we could pass this budget again without a significant tax increase in a future year.

And so for these reasons, reasons that I hope each member here will carefully consider, we should not enact the Eachus amendment. It leaves us in a very difficult position for the future, and our budget process next year is going to be even harder, even more difficult than the process that we have just come through.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Northampton County, Representative Samuelson.

Mr. SAMUELSON. Thank you, Mr. Speaker.

I just rise to respond to my good friend, the gentleman from Carlisle, who was talking quite passionately just a few moments ago, and one of the things he said caught my attention. He said, in this Fiscal Code, libraries are getting ripped – libraries are getting ripped.

Now, in this Fiscal Code, there is language to make sure that the library funding is distributed equally to all libraries across the State, but I take issue with his statement that libraries are getting ripped in this bill, because I have to compare the Republican alternative that so many speakers have brought up.

And you know I spoke on this floor last night and I pointed out that the libraries are losing 21 percent in funding. The House Democrats wanted a 10-percent cut, the Senate wanted 51 percent; we negotiated to 21. What was the Republican alternative from the House Republicans? If you look it up, that HB 1943 that so many speakers have alluded to, it was a 34-percent cut. So I think the fact that we were able to limit the cut to 21 percent in a very difficult budget year was very good compared to what the Senate Republicans started with, a 51-percent cut, and what the House Republicans to this day would like to do and cut 34 percent.

So my friend from Carlisle is a Republican. Let me just close with the words of Abe Lincoln: You can fool all of the people some of the time and some of the people all of the time, but you cannot fool all of the people all of the time.

POINT OF ORDER

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

Mr. MAHER. Thank you, Mr. Speaker, and pardon my voice.

I would just like to make a quick point of order, that the immediately preceding speaker did not say a single word with respect to this amendment. And I appreciate that you are doing your best at keeping us on track, but I would encourage that equal attention be displayed regardless of who the speaker is. Thank you.

The SPEAKER. The Chair thanks the gentleman.

The Speaker has granted leeway, including to the gentleman from Delaware County, Representative Civera, who talked nothing but about that bill and that amendment, so I gave Mr. Samuelson the latitude.

The Chair recognizes the gentleman from Chester County, Representative Schroder, for the second time.

Mr. SCHRODER. Thank you, Mr. Speaker.

Like one of the speakers before me, I want to focus with laser-like intensity on a certain aspect of the Eachus amendment, and that is what is about to happen to the Mcare Fund.

Mr. Speaker, there are several terms that come to mind when thinking about what this amendment proposes to do. The first one of those is the term "larceny," defined as "theft of property without forced entry, or use of force." That sounds about like what we are attempting to do with Mcare here. Another definition of "larceny": "The act of stealing, in which neither illegal entry nor the threat or use of force is present." That could also describe it, Mr. Speaker, because, I mean, after all, no one is threatening the use of force.

However, when we really look at it, I think there is a better legal term to describe this, and that is "embezzlement." What is the definition of "embezzlement"? "The fraudulent appropriation of funds or property entrusted to your care but actually owned by someone else." Another good definition of "embezzlement": "Embezzled. Taken for your own use in violation of a trust."

Mr. Speaker, if what the Eachus amendment proposes to do with the \$100 million or so in Mcare is not embezzlement, then I do not know what else is, because we are absolutely violating the trust of the entire medical community by taking their money – not taxpayer money, Mr. Speaker, not money that was paid in

by general broad-based taxes, but money that was part of premiums assessed by Mcare to the physician community to pay specifically for Mcare malpractice claims. That is what we are doing here today.

Mr. Speaker, since the mid-1970s, Pennsylvania has mandated and required physicians to pay into the Mcare Fund to fund the upper tier of their \$1 million malpractice insurance requirement, once again a requirement imposed by the Commonwealth of Pennsylvania. Now, as I said before, that money was not collected from the cigarette taxes or other broad-based taxes; it was directly paid by physicians to pay claims under Mcare. The State held this money as a trust with the medical community, and now that trust is being broken. This is a huge betrayal and a huge breach of faith with the medical community.

Now, not to mention the fact, Mr. Speaker, that even should Mcare be eliminated, there is an estimated and a very huge \$1.66 billion unfunded liability of future judgments and settlements that have yet to come through, Mr. Speaker.

So, Mr. Speaker, we can deal and correct this issue now today and face the reality of the situation, or we can deal with it when the Medical Society and the Hospital Association are successful in their lawsuit in asserting their property rights in this fund. Mr. Speaker, when they are successful – and I predict they will be successful in their suit – we will be in a much worse situation than we are now. We will have to reopen the budget or the Tax Code or the Fiscal Code or who knows what in order to deal with an unanticipated hole in the budget.

CONSTITUTIONAL POINT OF ORDER

Mr. SCHRODER. Mr. Speaker, for these and many other reasons, I move to challenge the constitutionality of this amendment, specifically with regards to this unlawful taking of the Mcare Fund, and I would like to be recognized on the motion.

The SPEAKER. The gentleman, Representative Schroder, made a motion of constitutionality. Is that correct?

The gentleman from Chester County, Representative Schroder, raises the point of order that amendment No. A04410 is unconstitutional. The Speaker, under rule 4, is required to submit the question of constitutionality to the floor of the House for a vote and for decision.

On the question,

Will the House sustain the constitutionality of the amendment?

The SPEAKER. Can the gentleman cite the section of the Constitution?

Mr. SCHRODER. Mr. Speaker, I believe there are a couple of areas. One is the uniformity clause of the Pennsylvania Constitution. The others are basic principles of due process under both the Pennsylvania and the U.S. Constitutions.

The SPEAKER. On the point of order, the Chair recognizes the gentleman from Philadelphia County, Representative Cohen.

Mr. COHEN. Thank you.

Mr. Speaker, we have heard different reasons why this is supposedly unconstitutional, but what the Mcare Fund is is a fund created by taxes imposed by the State government. The people do not have any right to how the tax dollars are spent,

just as our constituents do not have any right in general to how the tax dollars are spent. Government has the inherent power to decide at all times how tax dollars are spent.

If we announce that we are raising the income tax to achieve one purpose and subsequent events change and we spend it for another purpose, people do not have a right to sue us and say, you said you would spend it for the first purpose and then you spent it for another purpose. The right people have is to throw legislators out of office if they do not spend the money in a reasonable manner.

We obviously have a major fiscal crisis. This is a reasonable manner. There is no question of constitutionality here that is upheld by litigation in the past and ruled by either the State or the Federal courts. I would urge a "yes" vote for constitutionality.

The SPEAKER. On the point of order, the Chair recognizes the gentleman from Luzerne County, the majority leader, Representative Eachus.

Mr. EACHUS. Mr. Speaker, I rise to oppose the Schroder amendment on constitutionality. The sections he cited and the reasons behind it I just do not believe fit the definition that is necessary for constitutionality, and I would ask the members to vote "no" on the motion.

The SPEAKER. On the point of order, the Chair recognizes the gentleman from Allegheny County, the minority whip, Representative Turzai.

Mr. TURZAI. Mr. Speaker, I would ask that our members and the members across the aisle support this motion that it is unconstitutional.

You will give us the right approach to voting, but the gentleman's arguments are that, look, this money, under the language, under the statute, was to be used for a specific purpose, and that purpose, when that legislation was enacted, is now being abrogated in that there is a taking. I would say that something akin to this would be when we make promises through legislation that people are entitled to a pension, you cannot go and change the rules after the fact and say they no longer get that pension. You can change it going forward but you cannot change it given the rights that have been established going back. There have been, I think, Federal cases that also deal with the rights of people who are to receive Social Security payments, so that is what it is analogous to.

Previously enacted legislation specifically said these tax dollars coming from physicians themselves, coming from the cigarette tax, coming from the Auto CAT Fund (Catastrophic Loss Benefits Continuation Fund), were to be used to defray the cost of high medical liability insurance, particularly for specialists, so that we would make sure that we maintained doctors, essentially in hospitals, because that is who staffs hospital care throughout our State, so that they would stay in Pennsylvania, and the fact of the matter is that that promise or that contract is being broken. And like if you were taking away a pension from somebody who had been promised a pension, that is an illegal taking and that is why it is unconstitutional.

The SPEAKER. On the question, the Chair recognizes the gentleman from Chester County, Representative Schroder.

Mr. SCHRODER. Thank you, Mr. Speaker.

Mr. Speaker, I strongly disagree with some of the characterizations of what the Mcare Fund is that were made by members of the other side of the aisle. Mr. Speaker, the Mcare Fund is not in the nature of a tax; it is an assessment. It is an assessment directly on the physicians for the specific purpose of

paying their State-mandated Mcare expenses for their State-mandated liability coverage limits.

Mr. Speaker, this money, as I said before, was not generated by broad-based taxes. None of the taxes of the General Fund created the Mcare Fund of this. Now, we are not talking about the Health Care Provider Retention Account – a separate issue. We are talking the Mcare Fund only here and the \$100 million or so that is at issue.

Mr. Speaker, speaking directly to the issue of constitutionality, I mentioned two specific areas, one with regard to the uniformity clause. Taking money in the Mcare Fund to balance the State budget imposes a nonuniform tax on health-care providers in violation of the uniformity clause of the Pennsylvania Constitution.

The current Mcare balance has resulted from excess premiums paid by physicians, hospitals, and other participating Mcare providers for their Mcare coverage. Taking these premium dollars to balance the State budget effectively imposes a selective tax on them. Instead of their premium dollars being used to provide them with the insurance coverage, their money will be used to pay the general obligations of the Commonwealth. I believe this violates the Pennsylvania Constitution which requires taxes to be uniform.

Mr. Speaker, there is also a due process concern here, and that is because the surpluses from physician and hospital premium dollars, taking it is a due process violation in the nature of a taking of money or property. They paid into the fund for insurance coverage. Instead, the State proposes to take their money for an entirely different purpose that does not benefit physicians or hospitals. The payments that were made with the statutory assurance, the statutory assurance that the money would be used for Mcare purposes, established a vested right as to the use of the money that the Commonwealth cannot legally abrogate. It is no different than abolishing of cause of action that someone has retroactively. Mr. Speaker, there are other arguments such as impairment of contract that could possibly be made, and I am sure some others as well.

Mr. Speaker, as I said, we can either do the responsible thing and deal with this here today and stop this in its tracks or we will be back later this year, early next year, whenever the case might be, once the courts have ruled in favor of the lawsuit that we all know will come on this matter. Thank you.

The SPEAKER. The Chair thanks the gentleman.

For the information of the members, on the constitutional point of order, members may speak one time on the question.

The Chair recognizes the gentleman from Berks County, Representative Rohrer.

Mr. ROHRER. Thank you, Mr. Speaker.

I rise in support of the gentleman's motion to declare that this provision is unconstitutional.

Mr. Speaker, I think the gentleman from Chester County cited some very, very clear points of why it is more than problematic, that it goes to the heart of the way our whole law is put together. And I think, and I am not going to restate what he said because he said it far better, but my point for standing here right now is to say this: Mr. Speaker, far too often in my 17 years of being here, I know that members have at times stood and raised the issue of constitutionality as a methodology or as a strategy to try and deter some plan of action that is under way legislatively. Very few times can I remember that this body actually viewed the challenge of constitutionality constitutionally. Far too often this is used as nothing but a

parliamentary gimmick, and that is absolutely wrong. The question of constitutionality goes to the heart of everything that we are doing in here, and whether a question is raised by someone on the Democrat side relative to a Republican bill or vice versa, it ought have nothing to do with the politics of that bill. It has everything to do with what we are here to deal with.

Now, Mr. Speaker, I heard a comment from the other side, and it may not have been totally intended this way but it came out this way, that the taxpayers have no right to determine how tax dollars are used. And I know it was not said exactly quite that way, but it was said. And yes, perhaps that is a little bit true. That is why we are here. But, Mr. Speaker, we do have a duty to spend the tax dollars wisely and properly and lawfully and constitutionally. And do they have an expectation, rightly established, that we follow through on that duty? The answer is absolutely yes.

So, Mr. Speaker, I am just simply making a statement here before this body that before we embark on a vote on this issue, that we back up for a second collectively and just look at the merits of what is here and vote this on what it says, not on what side of the aisle we may be sitting on. And, Mr. Speaker, I have not heard one justifiable or substantive reason why the claims made by the gentleman from Chester County are in any way improperly applied or asserted. This, in my understanding, is in fact unconstitutional, and I would encourage our members to support it in that regard.

POINT OF ORDER

The SPEAKER. On the question, the Chair recognizes the gentleman from Lancaster County, Representative Cutler.

Mr. CUTLER. Thank you, Mr. Speaker.

If I may, a brief point of order prior to starting.

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

Mr. CUTLER. I was wondering if there is a fiscal note available for this amendment. I did not notice one on the system and did not know if there was one in print.

The SPEAKER. We are checking the system now.

Mr. CUTLER. Thank you, Mr. Speaker.

The SPEAKER. The gentleman, Mr. Cutler, the preliminary information is there have been rulings by past Speakers that when the revenue is being increased, there is not a requirement for a fiscal note being attached to the bill or the amendment.

Mr. CUTLER. Thank you, Mr. Speaker.

In lieu of that, may I briefly interrogate the majority leader in regards to some of the funding sources?

The SPEAKER. The question before the House is constitutionality.

Mr. CUTLER. Correct. Yes, Mr. Speaker.

The SPEAKER. The uniformity clause, the gentleman cited the uniformity clause of the Constitution. That is the question before the House.

On point of order of constitutionality, if the gentleman has a question on constitutionality, that would be in order.

Mr. CUTLER. Mr. Speaker, if I may, I actually would have a point of constitutionality regarding where the funding is coming from, because I think that is a very important point in regards to the arguments that we are attempting to make here.

The SPEAKER. The question, there are two points of order or two sections of the Constitution being cited, one on uniformity and the other on due process. So the questions would

have to relate to the Constitution and those due process and uniformity questions.

Mr. CUTLER. Mr. Speaker, I believe they do, so would they be in order?

The SPEAKER. If they relate to those things, they would be in order.

Mr. CUTLER. Thank you, Mr. Speaker.

If I may briefly interrogate the majority leader?

The SPEAKER. The gentleman, Representative Eachus, indicates he will stand for the question. The gentleman may proceed.

Mr. CUTLER. Thank you, Mr. Speaker.

Very briefly in regards to the due process argument – and I would also argue the impairment of contracts, since that is what is possibly being removed here – Mr. Speaker, it is my understanding that the funding, one of the funding sources is the actual Medicare fund that would be reduced by \$100 million. Is that correct, Mr. Speaker?

Mr. EACHUS. From the Mcare Fund.

Mr. CUTLER. Correct. Thank you, Mr. Speaker.

If I may, on the point of constitutionality?

The SPEAKER. On constitutionality, the gentleman is in order and may proceed.

Mr. CUTLER. Thank you, Mr. Speaker, and thank you for your answer to my question in regards to the Medicare fund.

Mr. Speaker, I would actually in addition argue that this is also unconstitutional under Article I, section 17, of our Constitution in regards to impairing a contract.

Mr. Speaker, we as a legislature have levied fees on physicians, health-care providers, and hospitals, in exchange for coverage and liability coverage going forward. Mr. Speaker, I would argue that these individuals have a vested property right in this, and, Mr. Speaker, if they do and the court finds that they do, we will find ourselves in a quandary. We will have passed an unconstitutional law, it will have been struck down, and then, Mr. Speaker, we will not have a funding source in order to base this amendment and the rest of the budget on.

Mr. Speaker, as a point of parallel interest, I would like to bring up the court case that recently was filed in regards to the Health Care Provider Retention Account. This one also dealt with a vested property interest, Mr. Speaker, and dealt with a case filed by the hospitals and physicians in Commonwealth Court and the fact that as a State we might be impairing the contract by not transferring that fund since they had a vested property right in it, Mr. Speaker. If that is the case, we are repeating the same mistake here.

The reason I bring that case up, Mr. Speaker, is this: The court recently ruled to dismiss the motion regarding the immediate dismissal of the suit at the Commonwealth Court level. The court ruled unanimously and rejected the motion to dismiss, Mr. Speaker. That says that the court believes that there is enough evidence for the trial to go forward.

Mr. Speaker, if we are making those same mistakes here with this amendment and we are making that argument now regarding constitutionality, at best it is foolish to base our funding on money that will be tied up in litigation for perhaps months or even years to come. At worst it is unconstitutional and it will be tied up in litigation again, making sure that we do not have access to it.

In either case, Mr. Speaker, this is an unstable funding source. I do believe it is unconstitutional, and I believe we should support the gentleman's motion that it is unconstitutional

and we should find more appropriate cuts and more appropriate measures to meet these funding requirements. Thank you.

The SPEAKER. For the information of the members, the fiscal note is now posted to the bill.

The Chair recognizes the gentleman from Philadelphia County, Representative Thomas.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, I rise to declare amendment 4410 constitutional. It is almost ludicrous to believe that this amendment is unconstitutional based on impairment of the contract clause, based on due process, and some of the other issues that have been raised.

Mr. Speaker, this fund was created by the legislature. The legislature identified the terms and circumstances under which moneys would go into this fund and out of which moneys would come out of this fund. There is no abrogation of interest. There is no denial of due process, Mr. Speaker.

We have been debating this bill, debating this issue, for several days now. Notice was given that we would be debating this issue. Caucuses were called where this issue has been debated. The public has been informed on our interests and the imperative interests in putting together a financial arrangement that would allow for the Commonwealth of Pennsylvania to deal with the people's business over this next fiscal year.

So, Mr. Speaker, notice was given, opportunity to dialogue, opportunity to differ, opportunity to reach a consensus – we went through all of that. So there is no due process violation. There is no impairment. I am not sure that there is a contractual relationship between what this General Assembly did and these practitioners out there. We did not enter into a contractual relationship with them. What we said was that we have a problem and this is how we are going to deal with the problem; they agreed to that.

What we are saying now, we are not abandoning the fund; we are only using money that is in the fund to move forward with the business of the Commonwealth of Pennsylvania. I have not seen an amendment or a legislative prescription to repeal the fund. I have not seen a legislative prescription or an amendment to cancel out or to just unilaterally disregard the existence or future of the fund. None of that is present, Mr. Speaker.

And, Mr. Speaker, no matter what corner, if you look at the four corners of this amendment and if you apply the totality of the circumstances as to how we got here and what it is we are attempting to do now that we are here, Mr. Speaker, there is no basis for challenging the constitutionality of this amendment unless there is a desire to continue engaging in "politricks" rather than public policy.

And to that end, Mr. Speaker, I say reject out of hand this false notion that this amendment is unconstitutional.

The SPEAKER. On the question, the Chair recognizes the gentelady from Philadelphia, Representative Manderino.

Ms. MANDERINO. Thank you, Mr. Speaker.

I rise to support the constitutionality of the Eachus amendment.

It has been said that this violates the uniformity clause. That is not accurate. The uniformity clause applies to taxation. This is not a taxation issue. This is not a matter that comes under the Tax Code. This is not a matter that would stand any legal challenge on a taxation uniformity clause issue.

Point number two: There seems to be a general misconception that all of the money in the Mcare Fund was money paid in by physicians and other health-care practitioners. This also is not true. Since 2003 over \$240 million has been paid into the Mcare Fund from the surcharge in the motor license tax or the motor license assessment on speeding tickets that goes into the Auto CAT Fund, and we have transferred over \$240 million from the auto assessment fund into the Mcare Fund. This a mixture of assessments; it is not just physician assessments in the fund, and for that reason, too, I think that it is very easy to know that this is, A, constitutional; and B, practical.

I ask for your affirmative support of the constitutionality of this amendment.

The SPEAKER. The Chair thanks the lady.

LEAVES OF ABSENCE

The SPEAKER. Returning to leaves of absence, the Chair recognizes the minority whip, Representative Turzai, who requests a leave for the gentleman, Representative DALLY from Northampton County, for the day; the gentleman, Representative MICOZZIE from Delaware County, for the day. Without objection, the leaves will be granted.

CONSIDERATION OF HB 1407 CONTINUED

The SPEAKER. On the point of order, those who believe the amendment to be constitutional will vote "yes"; those who believe the amendment is unconstitutional will vote "nay."

On the question recurring,

Will the House sustain the constitutionality of the amendment?

The following roll call was recorded:

YEAS-99

Barbin	Drucker	Kotik	Samuelson
Belfanti	Eachus	Kula	Santarsiero
Bishop	Evans, D.	Levdansky	Santoni
Boyle	Fabrizio	Longietti	Seip
Bradford	Frankel	Mahoney	Shapiro
Brennan	Freeman	Manderino	Sipthoth
Briggs	Galloway	Mann	Smith, K.
Brown	George	Markosek	Solobay
Burns	Gerber	Matzie	Staback
Buxton	Gergely	McGeehan	Sturla
Caltagirone	Gibbons	Melio	Taylor, R.
Carroll	Goodman	Mundy	Thomas
Casorio	Grucela	Murphy	Vitali
Cohen	Haluska	Myers	Wagner
Conklin	Hanna	O'Brien, M.	Walko
Costa, D.	Harhai	Oliver	Wansacz
Costa, P.	Harkins	Parker	Waters
Cruz	Hornaman	Pashinski	Wheatley
Curry	Houghton	Payton	White
Daley	Johnson	Petrarca	Williams
Deasy	Josephs	Preston	Youngblood
DeLuca	Keller, W.	Readshaw	Yudichak
DePasquale	Kessler	Roebuck	
Dermody	Kirkland	Sabatina	McCall,
DeWeese	Kortz	Sainato	Speaker
Donatucci			

NAYS—98

Adolph	Fleck	Marshall	Quinn
Baker	Gabig	Marsico	Rapp
Barrar	Gabler	McI. Smith	Reed
Bear	Geist	Mensch	Reese
Benninghoff	Gillespie	Metcalfe	Reichley
Beyer	Gingrich	Metzgar	Roae
Boback	Godshall	Millard	Rock
Boyd	Grell	Miller	Rohrer
Brooks	Grove	Milne	Ross
Causar	Harhart	Mirabito	Saylor
Christiana	Harper	Moul	Scavello
Civera	Harris	Murt	Schroder
Clymer	Helm	O'Brien, D.	Smith, M.
Cox	Hennessey	O'Neill	Sonney
Creighton	Hess	Oberlander	Stern
Cutler	Hickernell	Pallone	Stevenson
Day	Hutchinson	Payne	Swanger
Delozier	Kauffman	Peifer	Tallman
Denlinger	Keller, M.K.	Perzel	Taylor, J.
DiGirolamo	Killion	Petri	True
Ellis	Knowles	Phillips	Turzai
Evans, J.	Krieger	Pickett	Vereb
Everett	Lentz	Pyle	Vulakovich
Fairchild	Maher	Quigley	Watson
Farry	Major		

NOT VOTING—0

EXCUSED—6

Dally	Micozzie	Perry	Smith, S.
Miccarelli	Mustio		

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

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

The SPEAKER. On the Eachus amendment, the Chair recognizes the gentleman from Berks County, Representative Kessler.

Mr. KESSLER. Thank you, Mr. Speaker.

I would like to share some statistics with the House.

In Pennsylvania, we have 83,000 miles of streams. Of those 83,000 miles of streams, only 2 percent are EV streams. What is an EV stream? It is an exceptional value stream. It is the highest ranking a stream can get. The brown trout spawn there naturally. Every insect, every bug imaginable can be found in those streams. The majority of those EV streams, which makes up only 2 percent, again, of those 83,000 miles of streams, the majority of those are found in our State forests.

In the late 1990s, for a 5-year period, the United States lost 6 million acres of forest/farmland – 6 million acres. That equates to the size of the State of Maryland. In Pennsylvania in those 5 years, we lost 135,000 acres of farmland and forest. We need to stop this, and by voting for HB 1407, it minimizes the impact on our State forests.

The SPEAKER. The Chair recognizes the gentleman from Berks County, Representative Rohrer, for the second time.

Mr. ROHRER. Thank you, Mr. Speaker.

Mr. Speaker, I have a couple of corrections I would like to make that were asserted by the majority leader during my earlier

interrogation of him on the section of this bill that deals with the fleecing of the Rainy Day Fund, and that is this, Mr. Speaker: The assertion was made, when I said that what was being done under this amendment was a violation of statute and of the intent of previous legislatures to carefully guard the funds that were in this Rainy Day Fund for limited and very focused reasons, the majority leader quickly quipped back that, well, the Republicans did it under the Schweiker years, somehow assuming that that made it correct. And I asked the question, even if they did, does that make it correct? I never got an answer for that.

But, Mr. Speaker, I did a little more research on that, and in fact in 2002 when some changes in moneys were actually pulled from the Rainy Day Fund, they were done in such a way that it did not violate the two-thirds vote required by this House. On June 29 of 2002, SB 1366, that bill repealed the then existing Rainy Day Fund. Then on July 15, 2002, the new law, which is what we are talking about today, was put in place with actually enhanced language maintaining the two-thirds requirement and adding the provision that it had to be a separate appropriations bill before money could be pulled out of that Rainy Day Fund. There was a 2-week window there, Mr. Speaker, and in that 2-week window, there was a bill to transfer— Actually, the money automatically went to the General Fund when this bill, when this fund, was repealed, which is a matter of law.

Therefore, Mr. Speaker, no prior Republican administration, no prior Democrat administration, has robbed the money from the Rainy Day Fund and circumvented the legislature, and I would say disenfranchised the legislature, of the required vote to determine when and if such occasion was necessary. It did not occur. So what we are talking about here today, Mr. Speaker, is this in fact would be the first attempt to take money from the Rainy Day Fund and circumvent a vote of this legislature. That is number one.

Number two, a statement was made that, well, the Republicans were going to take money from the Rainy Day Fund, too, on this side of the aisle, and in fact that was a part of some proposal. However, I do not believe that this side put forth legislation that would have deprived a two-thirds vote to take it out of the Rainy Day Fund, and that is the point of the discussion here, not whether it is used but the appropriateness following the safeguards put in place in order to make it happen, and I think we do need to be concerned about that.

PARLIAMENTARY INQUIRIES

Mr. ROHRER. Now, Mr. Speaker, that brings me to another point here, that I believe, in the haste to disenfranchise this legislature of its two-thirds vote to determine the appropriateness of pulling money from the Rainy Day Fund and in the haste to instead of reducing spending commensurate with the revenues that we are getting and the haste of just grabbing money from the future, taking our reserves, to spend it right now and be done with it without having any buffer going into these next few years, that in the haste of doing that, this language as written in this amendment is conflicting within itself, and on that point, Mr. Speaker, I would ask of you a parliamentary inquiry.

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

Mr. ROHRER. Mr. Speaker, if we look at, I call your attention to this section of the legislation, section 1719-K, page 47—

The SPEAKER. What page?

Mr. ROHRER. Page 47.

The SPEAKER. State the line.

Mr. ROHRER. I do not have a line number, but it is the first line. It is the line that begins with "Notwithstanding section 1703-A(b)...."

The SPEAKER. We have it.

Mr. ROHRER. It has to do with that section. If I look at that section, Mr. Speaker, that section of the law that is exempted out, notwithstanding this section, is the line or the paragraph that is entitled "Appropriation." It is the paragraph that requires the two-thirds vote and the separate appropriations bill. I have no problem with that. I mean, I do have a problem with the fact that this is being done—

The SPEAKER. Will the gentleman state his parliamentary inquiry.

Mr. ROHRER. Okay. The parliamentary inquiry is this: Under (a), 1703-A under the current law, (a)(1) under "Purpose," it says this: "Money from the Budget Stabilization Reserve Fund be appropriated only when emergencies involving the health, safety or welfare of the residents of this Commonwealth or downturns in the economy resulting in significant unanticipated revenue shortfalls cannot be dealt with through the normal budget process."

My parliamentary inquiry is this: This amendment as written leaves what I just read in place. It is controlling language. And I make the contention, Mr. Speaker, that what we have in place now does not meet the description of an emergency regarding health, safety, or welfare of the residents of this Commonwealth, and it is not unanticipated.

Now, Mr. Speaker, I understand that because in this section of the law there are no definitions, per se, that define the terminology of "emergencies" and "unanticipated," it is left somewhat subjective, which is what I would contend is the reason, partial reason, why—

The SPEAKER. Will the gentleman—

Mr. ROHRER. —a two-thirds vote of this House is required.

The SPEAKER. Will the gentleman state his point of parliamentary inquiry.

Mr. ROHRER. My point is this: This is here in the law. It was not exempted out. It is not passed. It has not been gone around. My contention is that "emergencies," under this provision, and "unanticipated" are not established at all by this provision in this amendment. This piece in law still prevails and is in conflict with what is in this current amendment.

I understand that it is not constitutional because we are not talking the Constitution—

The SPEAKER. Will the gentleman please state his point of parliamentary inquiry.

Mr. ROHRER. Okay; I will do that now very clearly.

My question to you is, what is the Speaker's recommendation for how to deal with this conflict between what remains in the current law and the amendment which does not deal with this issue?

The SPEAKER. That will be decided by this House of Representatives by a "yes" or "no" vote on the amendment.

Mr. ROHRER. Mr. Speaker, how can that actually be done? I mean, how can we have something here—

The SPEAKER. The Speaker is not going to debate the gentleman, Mr. Rohrer. That is the ruling of the Chair. It will be decided by this House of Representatives.

Mr. ROHRER. Can I have clarification on that? Just one question? I am not arguing with you; I just want a clarification.

So is the Speaker saying that there is a conflict or is the Speaker saying that there is no conflict as I laid it out?

The SPEAKER. I did not say that. I said that the issue will be decided by a "yes" or "no" vote on the Eachus amendment by this House of Representatives.

Mr. ROHRER. Another parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. ROHRER. If that is the case and the amendment is passed and this remains a conflict and therefore challengeable under some other mechanism, is the mere fact that this House passes that— I mean, where does one go, Mr. Speaker, to raise the question of conflict within law as written? What is the methodology for how to address that?

The SPEAKER. To the gentleman, we pass laws but it is the court that adjudicates those laws.

Does the gentleman have a further point of parliamentary inquiry?

Mr. ROHRER. No. If that question was answered to the extent that the Speaker is going to answer that, then no, I do not have any further inquiry.

The SPEAKER. The Chair thanks the gentleman.

Mr. ROHRER. Okay. Then just one final comment then from my perspective, if I may.

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

Mr. ROHRER. Mr. Speaker, I asked the question as I did because I could not find a clear provision for how to address a conflict. The maker of the amendment felt that it was necessary to avoid a conflict to remove the onerous part of the requirement that two-thirds of this body determine whether or not we have witnessed an emergency on one hand, and number two, whether or not this body fully agreed that it was fully unanticipated. But he did not remove this provision in the law. So if it were not necessary, Mr. Speaker, to remove it— If it was necessary to remove it, as they have under section (b), then it is also just as necessary to remove it under this paragraph, and I do not believe that that has been done, Mr. Speaker, and I think that it places this body in the position of making a vote that is inconsistent within itself.

If we are going to rob the money from the Rainy Day Fund, then at least the language upon which we are voting ought to be consistent with itself. Is there a way to make it consistent with itself, Mr. Speaker, before we vote on it?

The SPEAKER. Is the gentleman stating another point of parliamentary inquiry? Will the gentleman state his point of parliamentary inquiry.

Mr. ROHRER. I apologize, Mr. Speaker; yes.

The parliamentary inquiry is, is there a methodology by which this at least could be corrected so that it is not in conflict with itself before a vote is cast?

The SPEAKER. That is again a question that this House will decide, and if it is incorrect, it will be ultimately adjudicated by a court if it is incorrect. It is not for the Speaker to decide that issue; it is up to this House of Representatives to decide the issue.

Mr. ROHRER. All right, Mr. Speaker. I will take you at what you are saying.

I implore the body of the House as a whole, look at what I just said: This is in conflict with itself. Whether it was improperly drafted or someone did not think it was an issue, I do not know. But it is an issue with the way it is drafted, and I say that that is another reason why, Mr. Speaker, I believe that what has been put together here in this hodgepodge manner in this Fiscal Code, all of these different elements, was poorly thought out, done for the immediate, not done for the long term, and I think depriving this House of a two-thirds vote as required under the law is absolutely unwise and will put us in a position as a Commonwealth that when in fact we do meet an emergency, we will have absolutely nowhere to go. I think that is wrong on many fronts.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman and recognizes the gentleman from Luzerne County, the majority leader, Representative Eachus.

The Chair recognizes the gentelady from Northampton County, Representative Beyer, for the second time. Is the lady not on the floor?

On the question, those in favor of the amendment will vote "aye"; those— The Chair will strike it.

The lady is withdrawing.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—105

Barbin	Eachus	Levdansky	Samuelson
Belfanti	Evans, D.	Longiotti	Santarsiero
Bishop	Fabrizio	Mahoney	Santoni
Boyle	Frankel	Manderino	Seip
Bradford	Freeman	Mann	Shapiro
Brennan	Galloway	Markosek	Siptroth
Briggs	George	Matzie	Smith, K.
Brown	Gerber	McGeehan	Smith, M.
Burns	Gergely	McI. Smith	Solobay
Buxton	Gibbons	Melio	Staback
Caltagirone	Goodman	Mirabito	Sturla
Carroll	Grucela	Mundy	Taylor, R.
Casorio	Haluska	Murphy	Thomas
Cohen	Hanna	Myers	Vitali
Conklin	Harhai	O'Brien, D.	Wagner
Costa, D.	Harkins	O'Brien, M.	Walko
Costa, P.	Hornaman	Oliver	Wansacz
Cruz	Houghton	Pallone	Waters
Curry	Johnson	Parker	Wheatley
Daley	Josephs	Pashinski	White
Deasy	Keller, W.	Payton	Williams
DeLuca	Kessler	Petrarca	Youngblood
DePasquale	Kirkland	Preston	Yudichak
Dermody	Kortz	Readshaw	
DeWeese	Kotik	Roebuck	McCall,
Donatucci	Kula	Sabatina	Speaker
Drucker	Lentz	Sainato	

NAYS—92

Adolph	Fairchild	Krieger	Quinn
Baker	Farry	Maher	Rapp
Barrar	Fleck	Major	Reed

Bear	Gabig	Marshall	Reese
Benninghoff	Gabler	Marsico	Reichley
Beyer	Geist	Mensch	Roae
Boback	Gillespie	Metcalfe	Rock
Boyd	Gingrich	Metzgar	Rohrer
Brooks	Godshall	Millard	Ross
Causer	Grell	Miller	Saylor
Christiana	Grove	Milne	Scavello
Civera	Harhart	Moul	Schroder
Clymer	Harper	Murt	Sonney
Cox	Harris	O'Neill	Stern
Creighton	Helm	Oberlander	Stevenson
Cutler	Hennessey	Payne	Swanger
Day	Hess	Peifer	Tallman
Delozier	Hickernell	Perzel	Taylor, J.
Denlinger	Hutchinson	Petri	True
DiGirolamo	Kauffman	Phillips	Turzai
Ellis	Keller, M.K.	Pickett	Vereb
Evans, J.	Killion	Pyle	Vulakovich
Everett	Knowles	Quigley	Watson

NOT VOTING—0

EXCUSED—6

Dally	Micozzie	Perry	Smith, S.
Miccarelli	Mustio		

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

On the question recurring,

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

The SPEAKER. We have a number of late-filed amendments that will require a suspension of the rules.

Amendments filed by the gentleman, Mr. Schroder, 4416; the gentleman, Mr. Grell, 4421; the gentleman, Mr. Maher, 4423; the gentleman, Mr. Maher, 4424; the gentleman, Mr. Maher, 4425; the gentleman, Mr. Reichley, 4428; the gentleman, Mr. Reichley, 4429, are all out of order.

The Chair recognizes the gentleman from Chester County, Representative Schroder. Does the gentleman wish to suspend the rules to offer amendment A04440? The gentleman is withdrawing the amendment? The Chair thanks the gentleman.

Is the gentleman, Representative Grell, waiving off? The Chair thanks the gentleman.

The gentleman from Allegheny, Representative Maher.

Mr. MAHER. Thank you, Mr. Speaker.

The bill as amended—

The SPEAKER. The gentleman will yield.

Will the gentleman indicate, is he suspending the rules to offer what amendment?

Mr. MAHER. I am seeking suspension for 4442.

The SPEAKER. The Chair thanks the gentleman.

MOTION TO SUSPEND RULES

The SPEAKER. The gentleman from Allegheny County, Representative Maher, makes a motion to suspend the rules for the immediate consideration of amendment A04442.

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

The SPEAKER. On that question, the Chair recognizes the gentleman from Allegheny County, Representative Maher.

Mr. MAHER. Thank you, Mr. Speaker.

Just 3 days ago, this House, exhibiting a great deal of bipartisanship and concern for our agricultural community throughout Pennsylvania, unanimously embraced provisions to promote the equine industry. The bill as just amended results in us having two bills destined for the Senate that read entirely differently on this subject.

MOTION WITHDRAWN

Mr. MAHER. Amendment A4442 would provide that both bills read exactly the same on this subject. I do not think there was confusion in the room when we addressed this, but I also recognize that I do not think this bill is going anywhere, so I am going to withdraw my request for suspension.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

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

The SPEAKER. The gentleman, Mr. Maher, on all three of the amendments, 4442, 4443, and 4444? The Chair thanks the gentleman.

The gentleman, Mr. Reichley? Does the gentleman from Lehigh, Representative Reichley, wish to suspend the rules?

Mr. REICHLEY. On amendment 04447, Mr. Speaker?

The SPEAKER. So is the gentleman, Mr. Reichley, withdrawing amendments 4445 and 4446?

Mr. REICHLEY. Yes.

The SPEAKER. The Chair thanks the gentleman. 4434?

Mr. REICHLEY. 4447.

The SPEAKER. The Chair understands the gentleman.

I am sorry; 4434, is he also withdrawing that amendment?

Mr. REICHLEY. Oh, yes. Right.

The SPEAKER. The Chair thanks the gentleman.

MOTION TO SUSPEND RULES

The SPEAKER. The Chair recognizes the gentleman from Lehigh County, Representative Reichley, who moves that the House rules be suspended for the immediate consideration of amendment A04447.

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

The SPEAKER. On that question, the Chair recognizes the gentleman from Lehigh County, Representative Reichley.

Mr. REICHLEY. Thank you, Mr. Speaker.

Mr. Speaker, just yesterday a matter came before the attention of the members of the Lehigh Valley delegation that the Department of Public Welfare may be contemplating closure of the Allentown State Hospital. This is a hospital that serves the needs of those requiring inpatient mental health treatment, in

some cases, for a five-county area, I believe including Northampton, Monroe, Carbon, Lehigh, and the Bucks County areas, and is an asset of great usage, not only for those who are seeking mental health treatment but also for the criminal courts in those counties to assist with those individuals who are within the criminal justice system who may need mental health treatment pending any further disposition of their cases.

This amendment would seek to place a moratorium on any closures of State-funded facilities such as the Allentown State Hospital that would be conducted after June 30 of 2009 without a full hearing. There is a provision in place in current law to require hearings, but we in the Lehigh Valley would like to indicate that our concern over the potential closure of this facility is so great that we would ask it to be included in the Fiscal Code bill for this year.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

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

The following roll call was recorded:

YEAS—94

Adolph	Fleck	Marshall	Reed
Baker	Freeman	Marsico	Reese
Barrar	Gabig	Mensch	Reichley
Bear	Gabler	Metcalfe	Roae
Benninghoff	Geist	Metzgar	Rock
Beyer	Gillespie	Millard	Rohrer
Boback	Gingrich	Miller	Ross
Boyd	Godshall	Milne	Samuelson
Brooks	Grove	Moul	Saylor
Causer	Harhart	Murt	Scavello
Christiana	Harper	O'Brien, D.	Schroder
Civera	Harris	O'Neill	Seip
Clymer	Helm	Oberlander	Sonney
Cox	Hennessey	Payne	Stern
Creighton	Hess	Peifer	Stevenson
Day	Hickernell	Perzel	Swanger
Delozier	Hutchinson	Petri	Tallman
Denlinger	Kauffman	Phillips	Taylor, J.
DiGirolamo	Keller, M.K.	Pickett	True
Ellis	Killion	Pyle	Turzai
Evans, J.	Knowles	Quigley	Vereb
Everett	Krieger	Quinn	Vulakovich
Fairchild	Maher	Rapp	Watson
Farry	Major		

NAYS—103

Barbin	Drucker	Kula	Sabatina
Belfanti	Eachus	Lentz	Sainato
Bishop	Evans, D.	Levdansky	Santarsiero
Boyle	Fabrizio	Longietti	Santoni
Bradford	Frankel	Mahoney	Shapiro
Brennan	Galloway	Manderino	Siptroth
Briggs	George	Mann	Smith, K.
Brown	Gerber	Markosek	Smith, M.
Burns	Gergely	Matzie	Solobay
Buxton	Gibbons	McGeehan	Staback
Caltagirone	Goodman	McI. Smith	Sturla
Carroll	Grell	Melio	Taylor, R.
Casorio	Grucela	Mirabito	Thomas
Cohen	Haluska	Mundy	Vitali
Conklin	Hanna	Murphy	Wagner
Costa, D.	Harhai	Myers	Walko
Costa, P.	Harkins	O'Brien, M.	Wansacz
Cruz	Hornaman	Oliver	Waters

Curry	Houghton	Pallone	Wheatley
Cutler	Johnson	Parker	White
Daley	Josephs	Pashinski	Williams
Deasy	Keller, W.	Payton	Youngblood
DeLuca	Kessler	Petrarca	Yudichak
DePasquale	Kirkland	Preston	
Dermody	Kortz	Readshaw	McCall,
DeWeese	Kotik	Roebuck	Speaker
Donatucci			

NOT VOTING—0

EXCUSED—6

Dally	Micozzie	Perry	Smith, S.
Miccarelli	Mustio		

Less than a majority of the members required by the rules having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

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.)

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 607, PN 657

An Act amending the act of June 30, 1987 (P.L.163, No.16), known as the Rural Pennsylvania Revitalization Act, in Center for Rural Pennsylvania, further providing for board of directors and for grants.

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

**DECISION OF CHAIR RESCINDED
ON HB 1407**

The SPEAKER. For what purpose does the gentleman from Delaware County, Representative Barrar, rise?

Mr. BARRAR. Mr. Speaker, I had several amendments filed to this that I needed to suspend the rules for, to the last bill.

The SPEAKER. The gentleman will yield.

Without objection, the Chair rescinds his statement that the bill has been agreed to on second.

On the question recurring,

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

The SPEAKER. The Chair recognizes the gentleman from Delaware County. Is the gentleman offering all three amendments? What amendment is he offering first?

Mr. BARRAR. The only amendment that I intend to offer that I need to move to suspend the rules would be A04436.

MOTION TO SUSPEND RULES

The SPEAKER. The gentleman from Delaware County makes a motion to suspend the rules for the immediate consideration of amendment A04436.

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

The SPEAKER. On the motion to suspend the rules, the Chair recognizes the gentleman from Delaware County, Representative Barrar.

Mr. BARRAR. Thank you, Mr. Speaker.

Mr. Speaker, this amendment is the amendment we did yesterday dealing with ACORN. It would deny public funds to any nonprofit organization that fails to comply with State and Federal requirements.

Yesterday's amendment that we offered passed by 157 votes, more than enough votes to suspend the rules. I would ask those members to stay with me, do the right thing, and vote to suspend the rules. This will be the only chance we get. The only place we have to put this amendment is in this Fiscal Code bill, and I would ask for a "yes" vote on it.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

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

The following roll call was recorded:

YEAS—121

Adolph	Fleck	Longiatti	Reed
Baker	Gabig	Maher	Reese
Barbin	Gabler	Mahoney	Reichley
Barrar	Galloway	Major	Roae
Bear	Geist	Marshall	Rock
Benninghoff	Gibbons	Marsico	Rohrer
Beyer	Gillespie	Matzie	Ross
Boback	Gingrich	Mensch	Sabatina
Boyd	Godshall	Metcalfe	Sainato
Bradford	Grell	Metzgar	Santarsiero
Brooks	Grove	Millard	Saylor
Casorio	Hanna	Miller	Scavello
Causer	Harhart	Milne	Schroder
Christiana	Harkins	Mirabito	Shapiro
Civera	Harper	Moul	Smith, M.
Clymer	Harris	Murt	Solobay
Conklin	Helm	O'Brien, D.	Sonney
Costa, D.	Hennessey	O'Neill	Staback
Cox	Hess	Oberlander	Stern
Creighton	Hickernell	Payne	Stevenson
Day	Houghton	Peifer	Swanger
Deasy	Hutchinson	Perzel	Tallman
Delozier	Kauffman	Petrarca	Taylor, J.
DeLuca	Keller, M.K.	Petri	Taylor, R.
Denlinger	Kessler	Phillips	True
DiGirolamo	Killion	Pickett	Turzai
Ellis	Knowles	Pyle	Vereb
Evans, J.	Kortz	Quigley	Vulakovich
Everett	Krieger	Quinn	Watson
Fairchild	Kula	Rapp	White
Fary			

NAYS—75

Belfanti	Eachus	Levdansky	Samuelson
Bishop	Evans, D.	Manderino	Santoni
Boyle	Fabrizio	Mann	Seip
Brennan	Frankel	Markosek	Siptroth
Briggs	Freeman	McGeehan	Smith, K.
Brown	George	McI. Smith	Sturla
Buxton	Gerber	Melio	Thomas
Caltagirone	Gergely	Mundy	Vitali
Carroll	Goodman	Murphy	Wagner
Cohen	Grucela	Myers	Walko
Costa, P.	Haluska	O'Brien, M.	Wansacz
Cruz	Harhai	Oliver	Waters
Curry	Hornaman	Pallone	Wheatley
Cutler	Johnson	Parker	Williams
Daley	Josephs	Pashinski	Youngblood
DePasquale	Keller, W.	Payton	Yudichak
Dermody	Kirkland	Preston	
DeWeese	Kotik	Readshaw	McCall,
Donatucci	Lentz	Roebuck	Speaker
Drucker			

NOT VOTING—1

Burns

EXCUSED—6

Dally	Micozzie	Perry	Smith, S.
Miccarelli	Mustio		

Less than a majority of the members required by the rules having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,

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

The SPEAKER. It is the ruling of the Chair that the gentleman from Erie County, Representative Hornaman, that amendment A04420 is out of order.

The Chair would recognize the gentleman, without objection, under unanimous consent.

Mr. HORNAMAN. Thank you, Mr. Speaker.

Mr. Speaker, I will not be entering this amendment, but in this Fiscal Code, we are providing for the leasing of State lands for gas drilling in the Marcellus Shale, and because of that, we have got to recognize the impact that the gas drilling is having on local communities. This impact includes water contamination, road damage, increased police activity, and chemical spills. Because of this impact, the host municipalities and adjoining municipalities eventually must be included in any distribution formula from the proceeds from gas drilling. Local governments are going to need this help to maintain their infrastructure, sewage systems, and emergency services.

All that being said, on this 100th day of the budget, I am going to withdraw this amendment to expedite this process, but knowing that this issue will have to be addressed in the very near future. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

Will the gentlemen, Mr. Barrar and Representative Turzai, come to the desk?

(Conference held at Speaker's podium.)

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

Bill as amended was agreed to.

(Bill as amended will be reprinted.)

* * *

The House proceeded to second consideration of **SB 922, PN 1462**, entitled:

An Act amending the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, further providing for establishment of county boards and expenses and for lifetime limit; further defining "general acute care hospital"; providing for a definition; and further providing for authorization, for administration, for no hold harmless, for tax exemption and for cessation.

On the question,

Will the House agree to the bill on second consideration?

The SPEAKER. On that question, the Chair recognizes the gentleman from Luzerne County.

Mr. EACHUS. Thank you, Mr. Speaker.

I would like to offer an amendment, A04377.

On the question recurring,

Will the House agree to the bill on second consideration?

Mr. **EACHUS** offered the following amendment No. **A04377**:

Amend Bill, page 1, line 3, by inserting after "Commonwealth," in general powers and duties of the Department of Public Welfare, providing for determining whether applicants are veterans; and, in public assistance,

Amend Bill, page 1, lines 14 and 15, by striking out all of said lines and inserting

Section 1. The act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, is amended by adding a section to read:

Section 215. Determining Whether Applicants are Veterans.—(a) The department shall make a good faith effort to determine whether an applicant for cash, medical or energy assistance is a veteran. While in the process of making its determination, the department shall dispense benefits to the applicant, if otherwise eligible.

(b) As a condition of eligibility to receive cash, medical or energy assistance, unless there is good cause not to do so, an applicant who is a veteran shall be required to contact a veteran service officer accredited and recognized by the United States Department of Veterans Affairs, the Department of Military and Veterans Affairs or the county director of veterans affairs in which the applicant resides in order to determine the applicant's eligibility for veteran's benefits or to file a veteran claims packet. The department shall develop a standard form to be used by a veteran service officer to verify the applicant's eligibility for veteran's benefits.

(c) An applicant who is a veteran shall provide proof of compliance with this section and the department shall, to the greatest extent possible, require the applicant to provide information on the final determination of eligibility for veteran's benefits and the type of benefits the veteran is entitled to receive.

(d) As used in this section, the following words and phrases shall have the following meanings:

"Assistance" means money, services and payment for medical coverage or energy assistance for needy persons who are residents of this Commonwealth, are in need of assistance and meet all conditions

of eligibility.

"Veteran claims packet" means an application requesting a determination or entitlement or evidencing a belief in entitlement to a benefit as provided for in 38 CFR (relating to pensions, bonuses, and veterans' relief) or 51 Pa.C.S. (relating to military affairs).

Section 2. Section 415 of the act is amended to read:

Amend Bill, page 2, line 14, by striking out "2" and inserting
3

Amend Bill, page 3, line 16, by striking out "3" and inserting
4

Amend Bill, page 5, line 4, by striking out "4" and inserting
5

Amend Bill, page 7, line 22, by striking out "5" and inserting
6

On the question,

Will the House agree to the amendment?

AMENDMENT PASSED OVER TEMPORARILY

The SPEAKER. If the gentleman would yield, we would like to go over your amendment temporarily.

On the question recurring,

Will the House agree to the bill on second consideration?

The SPEAKER. There are other amendments here. The gentleman, Mr. Fairchild, A04380— These are all late-filed amendments that I am going to read out: the gentleman, Mr. Fairchild, 4380; the gentleman, Mr. Turzai, 4400; the gentleman, Mr. Kauffman, 4401; the gentelady, Mrs. Gingrich, 4402; the gentelady, Ms. Pickett, 4403; the gentleman, Mr. Everett, 4404; the gentelady, Ms. Delozier, 4405; and the gentleman, Mr. Reed, 4408. They are all late filed, but we are under the impression they are being withdrawn.

It is the information of the Chair that the gentleman, Mr. Kauffman, the gentelady, Mrs. Gingrich, the gentelady, Ms. Pickett, and the gentleman, Mr. Everett, are all withdrawing their amendments?

The Chair recognizes the gentelady from Cumberland County, Representative Delozier. Is the gentelady withdrawing the amendment? The Chair thanks the lady.

The Chair recognizes the gentleman from Indiana County, Representative Reed. The gentleman waives off. The Chair thanks the gentleman.

MOTION TO SUSPEND RULES

The SPEAKER. The Chair recognizes the gentleman from Allegheny County, Representative Turzai.

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

I rise to seek a motion to suspend for amendment 4400.

The SPEAKER. The Chair thanks the gentleman.

The gentleman from Allegheny County, Representative Turzai, makes a motion that the House suspend its rules for the immediate consideration of amendment A04400.

On the question,

Will the House agree to the motion?

The SPEAKER. On that question, the Chair recognizes the gentleman from Allegheny County, Representative Turzai.

Mr. TURZAI. Sir, the amendment that I seek a two-thirds suspension on is an amendment that essentially reforms the special allowance program under the Department of Public Welfare. Auditor General Jack Wagner in August of 2009 had released a special performance audit of the special allowances administered by the Department of Public Welfare, and the results of the audit showed a program that was mismanaged and significantly susceptible to fraud and abuse.

That particular program does not have a singular line item in the budget itself. My staff has indicated to me that in fact the money for usage of special allowances comes from six different line items. The audit itself says that statewide the Department of Public Welfare disbursed over \$320 million in special allowance payments during the audit period.

I realize this is a motion to suspend. I do just want to cite a couple of the anecdotal pieces of evidence.

The SPEAKER. Will the gentleman yield.

Mr. TURZAI. Yes, sir.

The SPEAKER. Just for the information of the members, on rules suspensions, rule 77 allows for a description of the amendment, but there is one operative word in that description, and it is "brief."

The gentleman is in order and may proceed.

Mr. TURZAI. Thank you, sir.

The audit indicated that 45 percent of what was audited was found to be susceptible to fraud and abuse and insufficient documentation.

The SPEAKER. Will the gentleman yield.

PARLIAMENTARY INQUIRY

The SPEAKER. For what purpose does the gentleman from Westmoreland County, Representative Pallone, rise?

Mr. PALLONE. Thank you, Mr. Speaker.

A parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. PALLONE. I know that leaders are oftentimes granted a lot of latitude; however, while we are talking about suspension of the rules, the actual amendment itself is not on the system, and I have looked several places for it and it is not there. I would like to at least be able to read the amendment so I can determine whether I want to vote for the suspension or not.

Or in the form of a—

The SPEAKER. The gentleman, Representative Turzai, is giving a brief description of the amendment. We hope to have the information on the screen very shortly.

Mr. PALLONE. Mr. Speaker, will we have it with adequate time to at least read it before we post the vote on the suspension?

The SPEAKER. The amendment is not timely filed. That is the reason why it is not on the screen. I would say that we move forward with the suspension of the rules. If the rules get suspended, we will wait for the amendment to be posted.

Mr. PALLONE. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The gentleman, Mr. Turzai, is in order and may proceed.

Mr. TURZAI. I really only have a few examples of the anecdotal evidence provided by Auditor General Jack Wagner's report.

But with respect to special allowance payments that were made for child care – and keep in mind, there are three other child-care programs in the Department of Public Welfare and in the Department of Education – this special allowance is to a large extent just discretionary money that is used by caseworkers under certain statutes and regulations.

But one of the providers that was being paid to watch her children turned out to be the father of five of those kids. He had changed his last name and Social Security number on the child-care forms, improperly collecting about \$7400. And oftentimes what would be used, these special allowances would be added to the weekly cash benefit and placed on the electronic benefit transfer card with no oversight as to how those dollars were being expended.

The Auditor General asked for five main changes. He said there was lax oversight and lack of proper management, lack of accountability for payments, double payments made, recurring payments, and refusal to cooperate with the audit, and provided detailed examples of fraud and abuse. We based our reforms in this special allowance reform bill on the Auditor General's report, and we have asked for transparency in budgeting, prohibiting payments directly to recipients, payments made directly by the department. We require the caseworkers to retain all documentations for payments—

The SPEAKER. Mr. Turzai?

Mr. TURZAI. Yes; three more things.

It does not use special allowances for child care. It puts that in the other department program, Child Care Works. It limits the types of assistance and limits recurring payments, and it provides additional reporting requirements.

Again, this is all based on Auditor General Jack Wagner's report. I would ask the members to please move to suspend.

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

(Members proceeded to vote.)

LEAVE OF ABSENCE

The SPEAKER. Turning to leaves of absence, the Chair recognizes the majority leader, who requests a leave of absence for the gentleman from Greene County, Representative DeWEESE. Without objection, the leave will be granted.

CONSIDERATION OF SB 922 CONTINUED

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

The following roll call was recorded:

YEAS-91

Adolph	Farry	Major	Rapp
Baker	Fleck	Marshall	Reed
Barrar	Gabig	Marsico	Reese
Bear	Gabler	Mensch	Reichley
Benninghoff	Geist	Metcalf	Roae
Beyer	Gillespie	Metzgar	Rock
Boback	Gingrich	Millard	Rohrer
Boyd	Godshall	Miller	Ross
Brooks	Grove	Milne	Saylor

Causer	Harhart	Moul	Scavello
Christiana	Harper	Murt	Schroder
Civera	Harris	O'Brien, D.	Sonney
Clymer	Helm	O'Neill	Stern
Cox	Hennessey	Oberlander	Stevenson
Creighton	Hess	Payne	Swanger
Day	Hickernell	Peifer	Tallman
Delozier	Hutchinson	Perzel	Taylor, J.
Denlinger	Kauffman	Petri	True
DiGirolamo	Keller, M.K.	Phillips	Turzai
Ellis	Killion	Pickett	Vereb
Evans, J.	Knowles	Pyle	Vulakovich
Everett	Krieger	Quigley	Watson
Fairchild	Maher	Quinn	

NAYS-105

Barbin	Eachus	Lentz	Samuelson
Belfanti	Evans, D.	Levdansky	Santarsiero
Bishop	Fabrizio	Longietti	Santoni
Boyle	Frankel	Mahoney	Seip
Bradford	Freeman	Manderino	Shapiro
Brennan	Galloway	Mann	Siproth
Briggs	George	Markosek	Smith, K.
Brown	Gerber	Matzie	Smith, M.
Burns	Gergely	McGeehan	Solobay
Buxton	Gibbons	McI. Smith	Staback
Caltagirone	Goodman	Melio	Sturla
Carroll	Grell	Mirabito	Taylor, R.
Casorio	Grucela	Mundy	Thomas
Cohen	Haluska	Murphy	Vitali
Conklin	Hanna	Myers	Wagner
Costa, D.	Harhai	O'Brien, M.	Walko
Costa, P.	Harkins	Oliver	Wansacz
Cruz	Hornaman	Pallone	Waters
Curry	Houghton	Parker	Wheatley
Cutler	Johnson	Pashinski	White
Daley	Josephs	Payton	Williams
Deasy	Keller, W.	Petrarca	Youngblood
DeLuca	Kessler	Preston	Yudichak
DePasquale	Kirkland	Readshaw	
Dermody	Kortz	Roebuck	McCall,
Donatucci	Kotik	Sabatina	Speaker
Drucker	Kula	Sainato	

NOT VOTING-0

EXCUSED-7

Dally	Miccarelli	Mustio	Smith, S.
DeWeese	Micozzie	Perry	

Less than a majority of the members required by the rules having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

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

The SPEAKER. Is the gentleman, Mr. Fairchild, offering amendment A04380?

Mr. FAIRCHILD. Thank you, Mr. Speaker.

I am going to withdraw that amendment, and in an understanding with the majority leader, I am going to be offering amendment 4377.

The SPEAKER. The Chair thanks the gentleman.

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

Mr. FAIRCHILD offered the following amendment No. A04377:

Amend Bill, page 1, line 3, by inserting after "Commonwealth," in general powers and duties of the Department of Public Welfare, providing for determining whether applicants are veterans; and, in public assistance,

Amend Bill, page 1, lines 14 and 15, by striking out all of said lines and inserting

Section 1. The act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, is amended by adding a section to read:

Section 215. Determining Whether Applicants are Veterans.—(a) The department shall make a good faith effort to determine whether an applicant for cash, medical or energy assistance is a veteran. While in the process of making its determination, the department shall dispense benefits to the applicant, if otherwise eligible.

(b) As a condition of eligibility to receive cash, medical or energy assistance, unless there is good cause not to do so, an applicant who is a veteran shall be required to contact a veteran service officer accredited and recognized by the United States Department of Veterans Affairs, the Department of Military and Veterans Affairs or the county director of veterans affairs in which the applicant resides in order to determine the applicant's eligibility for veteran's benefits or to file a veteran claims packet. The department shall develop a standard form to be used by a veteran service officer to verify the applicant's eligibility for veteran's benefits.

(c) An applicant who is a veteran shall provide proof of compliance with this section and the department shall, to the greatest extent possible, require the applicant to provide information on the final determination of eligibility for veteran's benefits and the type of benefits the veteran is entitled to receive.

(d) As used in this section, the following words and phrases shall have the following meanings:

"Assistance" means money, services and payment for medical coverage or energy assistance for needy persons who are residents of this Commonwealth, are in need of assistance and meet all conditions of eligibility.

"Veteran claims packet" means an application requesting a determination or entitlement or evidencing a belief in entitlement to a benefit as provided for in 38 CFR (relating to pensions, bonuses, and veterans' relief) or 51 Pa.C.S. (relating to military affairs).

Section 2. Section 415 of the act is amended to read:

Amend Bill, page 2, line 14, by striking out "2" and inserting 3

Amend Bill, page 3, line 16, by striking out "3" and inserting 4

Amend Bill, page 5, line 4, by striking out "4" and inserting 5

Amend Bill, page 7, line 22, by striking out "5" and inserting 6

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

The SPEAKER. On that question, the Chair recognizes the gentleman from Union County, Representative Fairchild.

Mr. FAIRCHILD. Thank you, Mr. Speaker, and I will be brief.

First, I would like to thank the majority leader. I understand his desire and our desire to move this process forward as soon as we can to help the residents and our citizens of Pennsylvania.

This is a pretty simple amendment. In fact, we just passed a House bill in the last couple of days, HB 254, that contained the identical language, and what we want to do is move the veterans care off of the welfare system into the Veterans' Administration system.

This amendment is supported by veterans groups, by the Department of Public Welfare, and as far as I know, there is no opposition. Thank you very much, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

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

The following roll call was recorded:

YEAS—196

Adolph	Everett	Levdansky	Reese
Baker	Fabrizio	Longiatti	Reichley
Barbin	Fairchild	Maher	Roae
Barrar	Farry	Mahoney	Rock
Bear	Fleck	Major	Rockbuck
Belfanti	Frankel	Manderino	Rohrer
Benninghoff	Freeman	Mann	Ross
Beyer	Gabig	Markosek	Sabatina
Bishop	Gabler	Marshall	Sainato
Boback	Galloway	Marsico	Samuelson
Boyd	Geist	Matzie	Santarsiero
Boyle	George	McGeehan	Santoni
Bradford	Gerber	McI. Smith	Saylor
Brennan	Gergely	Melio	Scavello
Briggs	Gibbons	Mensch	Schroder
Brooks	Gillespie	Metcalfe	Seip
Brown	Gingrich	Metzgar	Shapiro
Burns	Godshall	Millard	Siproth
Buxton	Goodman	Miller	Smith, K.
Caltagirone	Grell	Milne	Smith, M.
Carroll	Grove	Mirabito	Solobay
Casorio	Grucela	Moul	Sonney
Causar	Haluska	Mundy	Staback
Christiana	Hanna	Murphy	Stern
Civera	Harhai	Murt	Stevenson
Clymer	Harhart	Myers	Sturla
Cohen	Harkins	O'Brien, D.	Swanger
Conklin	Harper	O'Brien, M.	Tallman
Costa, D.	Harris	O'Neill	Taylor, J.
Costa, P.	Helm	Oberlander	Taylor, R.
Cox	Hennessey	Oliver	Thomas
Creighton	Hess	Pallone	True
Cruz	Hickernell	Parker	Turzai
Curry	Hornaman	Pashinski	Vereb
Cutler	Houghton	Payne	Vitali
Daley	Hutchinson	Payton	Vulakovich
Day	Johnson	Peifer	Wagner
Deasy	Josephs	Perzel	Walko
Delozier	Kauffman	Petrarca	Wansacz
DeLuca	Keller, M.K.	Petri	Waters
Denlinger	Keller, W.	Phillips	Watson
DePasquale	Kessler	Pickett	Wheatley
Dermody	Killion	Preston	White
DiGirolamo	Kirkland	Pyle	Williams
Donatucci	Knowles	Quigley	Youngblood
Drucker	Kortz	Quinn	Yudichak
Eachus	Kotik	Rapp	
Ellis	Krieger	Readshaw	McCall,
Evans, D.	Kula	Reed	Speaker
Evans, J.	Lentz		

NAYS—0

NOT VOTING—0

EXCUSED—7

Dally	Miccarelli	Mustio	Smith, S.
DeWeese	Micozzie	Perry	

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

On the question,

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

The SPEAKER. There are no further amendments.

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.)

**BILL ON CONCURRENCE
IN SENATE AMENDMENTS**

The House proceeded to consideration of concurrence in Senate amendments to **HB 792, PN 2676**, entitled:

An Act authorizing the Department of General Services, with the approval of the Governor and the Department of Corrections, to grant and convey to Schuylkill County certain lands situate in Ryan Township, Schuylkill County.

On the question,

Will the House concur in Senate amendments?

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

The following roll call was recorded:

YEAS—196

Adolph	Everett	Levdansky	Reese
Baker	Fabrizio	Longiotti	Reichley
Barbin	Fairchild	Maher	Roae
Barrar	Farry	Mahoney	Rock
Bear	Fleck	Major	Roebuck
Belfanti	Frankel	Manderino	Rohrer
Benninghoff	Freeman	Mann	Ross
Beyer	Gabig	Markosek	Sabatina
Bishop	Gabler	Marshall	Sainato
Boback	Galloway	Marsico	Samuelsen
Boyd	Geist	Matzie	Santarsiero
Boyle	George	McGeehan	Santoni
Bradford	Gerber	McI. Smith	Saylor
Brennan	Gergely	Melio	Scavello
Briggs	Gibbons	Mensch	Schroder
Brooks	Gillespie	Metcalfe	Seip
Brown	Gingrich	Metzgar	Shapiro
Burns	Godshall	Millard	Siptroth
Buxton	Goodman	Miller	Smith, K.
Caltagirone	Grell	Milne	Smith, M.
Carroll	Grove	Mirabito	Solobay
Casorio	Grucela	Moul	Sonney
Causar	Haluska	Mundy	Staback
Christiana	Hanna	Murphy	Stern
Civera	Harhai	Murt	Stevenson
Clymer	Harhart	Myers	Sturla
Cohen	Harkins	O'Brien, D.	Swanger
Conklin	Harper	O'Brien, M.	Tallman
Costa, D.	Harris	O'Neill	Taylor, J.
Costa, P.	Helm	Oberlander	Taylor, R.
Cox	Hennessey	Oliver	Thomas

Creighton	Hess	Pallone	True
Cruz	Hickernell	Parker	Turzai
Curry	Hornaman	Pashinski	Vereb
Cutler	Houghton	Payne	Vitali
Daley	Hutchinson	Payton	Vulakovich
Day	Johnson	Peifer	Wagner
Deasy	Josephs	Perzel	Walko
Delozier	Kauffman	Petrarca	Wansacz
DeLuca	Keller, M.K.	Petri	Waters
Denlinger	Keller, W.	Phillips	Watson
DePasquale	Kessler	Pickett	Wheatley
Dermody	Killion	Preston	White
DiGirolo	Kirkland	Pyle	Williams
Donatucci	Knowles	Quigley	Youngblood
Drucker	Kortz	Quinn	Yudichak
Eachus	Kotik	Rapp	
Ellis	Krieger	Readshaw	McCall,
Evans, D.	Kula	Reed	Speaker
Evans, J.	Lentz		

NAYS—0

NOT VOTING—0

EXCUSED—7

Dally	Miccarelli	Mustio	Smith, S.
DeWeese	Micozzie	Perry	

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

Ordered, That the clerk inform the Senate accordingly.

BILL SIGNED BY SPEAKER

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

HB 792, PN 2676

An Act authorizing the Department of General Services, with the approval of the Governor and the Department of Corrections, to grant and convey to Schuylkill County certain lands situate in Ryan Township, Schuylkill County.

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

BILL ON THIRD CONSIDERATION

The House proceeded to third consideration of **SB 369, PN 1478**, entitled:

An Act amending the act of June 24, 1976 (P.L.424, No.101), referred to as the Emergency and Law Enforcement Personnel Death Benefits Act, further providing for death benefit eligibility; and repealing certain provisions of the Municipal Police Pension Law and the Municipal Pension Plan Funding Standard and Recovery Act.

On the question,

Will the House agree to the bill on third consideration?

Bill was agreed to.

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

The question is, shall the bill pass finally?

(Bill analysis was read.)

The SPEAKER. The Chair recognizes the gentleman from Philadelphia County, Representative Boyle, on the question.

Mr. BOYLE. Thank you, Mr. Speaker.

Mr. Speaker, I rise to support SB 369, which is the identical language to my HB 1938 that I introduced in July.

Right now our emergency personnel, when they die in the line of duty, whether it be police or firefighters or other emergency personnel, their survivor's benefit is only a fraction of their current salary. What my bill would do and what SB 369 would do is ensure that that survivor's benefit would be equal to their salary at the point at which they passed away. This is critical for those families who have suffered a tremendous loss in losing a family member while they were protecting the Commonwealth.

So I urge my colleagues to support this piece of legislation. I also want to thank and commend my colleague, the lady from Montgomery, Ms. Harper, for her longstanding advocacy on this issue. It has been a bipartisan effort, and together we can give those families of our fallen police, firefighters, and emergency personnel the kind of support and peace of mind that they need.

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

The SPEAKER. The Chair recognizes the gentelady from Cumberland County, Representative DeLozier.

Ms. DELOZIER. Thank you, Mr. Speaker.

I am just rising solely to ask for a decision of the Chair.

As the wife of a police officer, I just want a ruling. I believe I have no conflict, but I just wanted to have it on the record and ask for that ruling that I can vote on this issue.

The SPEAKER. It is fine for the gentelady to vote for the legislation. You are part of a broad class, so there is no conflict of interest.

Ms. DELOZIER. Okay. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the lady.

The Chair recognizes the gentleman from Philadelphia County, Representative Thomas.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, I rise to support SB 369. It is long overdue.

As I think about it, Mr. Speaker, firefighters and police officers are one category of public servant who does not have the luxury of saying no or saying that they do not want to deal with a particular issue. They are always on the front line, always ready, willing, and able to do that which is in the public's best interests.

And in the case of tragedies, the issue of whether or not the families, survivors, should get decent benefits really is something that is nonnegotiable and should happen, but we are now stepping up to the plate and prepared to make this a reality. It is something that a lot of us have been calling for for some time now.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman and recognizes the gentelady from Montgomery County, Representative Harper.

Ms. HARPER. Thank you, Mr. Speaker.

I join my colleagues across the aisle in requesting a "yes" vote on SB 369.

It has been said you can get a lot done up here if you do not care who gets the credit. Well, this bill does not have my name on it or my colleagues from across the aisle. This idea that the Commonwealth should take care of the survivors of fallen police officers is an idea that this body supports very well. This bill will make it an obligation of the Commonwealth to live up to that promise when a firefighter or a police officer is killed in the line of duty.

Please support the bill. Thank you very much, Mr. Speaker.

The SPEAKER. The Chair thanks the gentelady and recognizes the gentleman from Bucks County, Representative Farry.

Mr. FARRY. Thank you, Mr. Speaker.

A quick question for the Chair. I just want to ensure that there will be no conflict with me voting on the bill in light of me remaining an active volunteer firefighter.

The SPEAKER. No conflict of interest, Mr. Farry. You are part of a broad class.

Mr. FARRY. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Allegheny County, Representative Gergely.

Mr. GERGELY. Thank you, Mr. Speaker.

I do, too, appreciate the comments by the gentelady from Montgomery County. This does not have my name on it, but I am very proud that we have advanced this issue to the front of a concurrence vote that will happen in the Senate once we pass this bill.

I want to thank Chairman DiGirolamo, Chairman Belfanti, their incredible staffs, because we moved, again, this bill very quickly out of the Labor Committee, addressed the concerns, got a bipartisan agreement. I am sure we are poised for a great vote to help our firefighters and our police officers today. Thank you.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

Shall the bill pass finally?

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

The following roll call was recorded:

YEAS—196

Adolph	Everett	Levdansky	Reese
Baker	Fabrizio	Longiatti	Reichley
Barbin	Fairchild	Maher	Roae
Barrar	Farry	Mahoney	Rock
Bear	Fleck	Major	Roebuck
Belfanti	Frankel	Manderino	Rohrer
Benninghoff	Freeman	Mann	Ross
Beyer	Gabig	Markosek	Sabatina
Bishop	Gabler	Marshall	Sainato
Boback	Galloway	Marsico	Samuelson
Boyd	Geist	Matzie	Santarsiero
Boyle	George	McGeehan	Santoni
Bradford	Gerber	McI. Smith	Saylor
Brennan	Gergely	Melio	Scavello
Briggs	Gibbons	Mensch	Schroder
Brooks	Gillespie	Metcalfe	Seip
Brown	Gingrich	Metzgar	Shapiro
Burns	Godshall	Millard	Siproth

Buxton	Goodman	Miller	Smith, K.
Caltagirone	Grell	Milne	Smith, M.
Carroll	Grove	Mirabito	Solobay
Casorio	Grucela	Moul	Sonney
Causar	Haluska	Mundy	Staback
Christiana	Hanna	Murphy	Stern
Civera	Harhai	Murt	Stevenson
Clymer	Harhart	Myers	Sturla
Cohen	Harkins	O'Brien, D.	Swanger
Conklin	Harper	O'Brien, M.	Tallman
Costa, D.	Harris	O'Neill	Taylor, J.
Costa, P.	Helm	Oberlander	Taylor, R.
Cox	Hennessey	Oliver	Thomas
Creighton	Hess	Pallone	True
Cruz	Hickernell	Parker	Turzai
Curry	Hornaman	Pashinski	Vereb
Cutler	Houghton	Payne	Vitali
Daley	Hutchinson	Payton	Vulakovich
Day	Johnson	Peifer	Wagner
Deasy	Josephs	Perzel	Walko
DeLozier	Kauffman	Petrarca	Wansacz
DeLuca	Keller, M.K.	Petri	Waters
Denlinger	Keller, W.	Phillips	Watson
DePasquale	Kessler	Pickett	Wheatley
Dermody	Killion	Preston	White
DiGirolo	Kirkland	Pyle	Williams
Donatucci	Knowles	Quigley	Youngblood
Drucker	Kortz	Quinn	Yudichak
Eachus	Kotik	Rapp	
Ellis	Krieger	Readshaw	McCall,
Evans, D.	Kula	Reed	Speaker
Evans, J.	Lentz		

NAYS—0

NOT VOTING—0

EXCUSED—7

Dally	Miccarelli	Mustio	Smith, S.
DeWeese	Micozzie	Perry	

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.

BILLS ON SECOND CONSIDERATION

The House proceeded to second consideration of **SB 1036, PN 1451**, entitled:

A Supplement to the act of July 28, 1966 (3rd Sp.Sess., P.L.87, No.3), known as the University of Pittsburgh—Commonwealth Act, making appropriations for carrying the same into effect; and providing for a basis for payments of such appropriations, for a method of accounting for the funds appropriated and for certain fiscal information disclosure.

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

The House proceeded to second consideration of **SB 1037, PN 1452**, entitled:

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

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

The House proceeded to second consideration of **SB 1038, PN 1453**, entitled:

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

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

The House proceeded to second consideration of **SB 1039, PN 1454**, entitled:

An Act making an appropriation to the Trustees of the University of Pennsylvania.

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

The House proceeded to second consideration of **SB 1040, PN 1455**, entitled:

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

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

The House proceeded to second consideration of **SB 1093, PN 1415**, entitled:

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

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

* * *

The House proceeded to second consideration of **SB 1094, PN 1416**, entitled:

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

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

* * *

The House proceeded to second consideration of **SB 1096, PN 1418**, entitled:

An Act making an appropriation to Salus University, Philadelphia.

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

* * *

The House proceeded to second consideration of **SB 1097, PN 1419**, entitled:

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

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

* * *

The House proceeded to second consideration of **SB 1098, PN 1420**, entitled:

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

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

* * *

The House proceeded to second consideration of **SB 1099, PN 1421**, entitled:

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

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

* * *

The House proceeded to second consideration of **SB 1101, PN 1423**, entitled:

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

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

* * *

The House proceeded to second consideration of **SB 1102, PN 1424**, entitled:

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

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

* * *

The House proceeded to second consideration of **SB 1103, PN 1425**, entitled:

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

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

* * *

The House proceeded to second consideration of **SB 1104, PN 1426**, entitled:

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

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

* * *

The House proceeded to second consideration of **SB 1105, PN 1427**, entitled:

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

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

* * *

The House proceeded to second consideration of **SB 1106, PN 1428**, entitled:

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

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

* * *

The House proceeded to second consideration of **SB 1107, PN 1429**, entitled:

An Act making an appropriation to the Philadelphia Health and Education Corporation for the Colleges of Medicine, Public Health, Nursing and Health Professions for continuation of pediatric services.

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

* * *

The House proceeded to second consideration of **SB 1108, PN 1430**, entitled:

An Act making an appropriation to the Beacon Lodge Camp.

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

BILLS REMOVED FROM TABLE

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

HB 125;
HB 127;
HB 523; and
HB 1049.

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

BILLS RECOMMITTED

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

HB 125;
HB 127;
HB 523; and
HB 1049.

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

RESOLUTION

Mr. EACHUS called up **HR 380, PN 2300**, entitled:

A Resolution directing the Legislative Budget and Finance Committee to study and to issue a report on the status of and any disparities found in dental care for Pennsylvanians with disabilities.

On the question,
Will the House adopt the resolution?

RESOLUTION TABLED

The SPEAKER. The Chair recognizes the majority leader, who moves that HR 380 be removed from the active calendar and placed on the tabled calendar.

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

RESOLUTION REMOVED FROM TABLE

The SPEAKER. The Chair recognizes the majority leader, who moves that HR 380 be removed from the tabled calendar and placed on the active calendar.

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

BILLS RECOMMITTED

The SPEAKER. The Chair recognizes the majority leader, who moves that the following bills be removed from the active calendar and recommitted to the Committee on Appropriations:

SB 922;
SB 1036;
SB 1037;
SB 1038;
SB 1039;
SB 1040;
SB 1093;
SB 1094;
SB 1096;
SB 1097;
SB 1098;
SB 1099;
SB 1101;
SB 1102;
SB 1103;
SB 1104;
SB 1105;
SB 1106;
SB 1107; and
SB 1108.

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

LABOR RELATIONS COMMITTEE MEETING

The SPEAKER. For what purpose does the gentleman from Northumberland County, Representative Belfanti, rise?

Mr. BELFANTI. For the purpose of making a meeting announcement, if it is the proper time.

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

Mr. BELFANTI. Thank you, Mr. Speaker.

Mr. Speaker, there will be a voting meeting of the House Labor Relations Committee tomorrow at the call of the Chair or at the first break. It will be, as I said, a voting meeting held in room 39 of the East Wing. We will be considering HB 1196 at, again, the call of the Chair or the first break. I do not expect this will be a very long meeting but would appreciate if the members of the Labor Committee would do their best to make the attendance. Thank you.

The SPEAKER. The Chair thanks the gentleman.

There will be a meeting of the Labor Relations Committee at the call of the Chair tomorrow in room 39, East Wing.

STATE GOVERNMENT COMMITTEE MEETING

The SPEAKER. The Chair recognizes the gentlelady from Philadelphia County, Representative Josephs, for the purpose of an announcement.

Ms. JOSEPHS. Thank you, Mr. Speaker.

In addition to the bills that were previously sunshined, the State Government Committee will also consider HB 276. The meeting will be, I will remind everybody on the committee, tomorrow, October 9, at the call of the Chair in 60 East Wing.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the lady.

There will be a State Government Committee meeting tomorrow at the call of the Chair in room 60, East Wing.

VOTE CORRECTION

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

Mr. BURNS. I would like to correct the record.

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

Mr. BURNS. I would like to correct the record on amendment 4436. I was recorded as a "no" vote. I would like to be recorded in the affirmative.

The SPEAKER. The Chair thanks the gentleman. His remarks will be spread upon the record.

REMARKS SUBMITTED FOR THE RECORD

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

Mr. SEIP. Mr. Speaker, I have remarks on HB 792 I would like to submit for the record.

The SPEAKER. The gentleman is in order.

Mr. SEIP. Thank you, Mr. Speaker.

The SPEAKER. You may present them to the clerk.

Mr. SEIP submitted the following remarks for the Legislative Journal:

As a Representative from Schuylkill County and a cosponsor of HB 792, I appreciate the opportunity to express my support for the legislation offered by my Schuylkill County colleague.

The land that would be sold to Schuylkill County is a well-suited location for a prerelease center. It is already owned by the State Department of Corrections and it is already on a prison campus.

The prerelease center that would be built on the land would help to solve a major problem for the county. As you may know, last month State inspectors observed overcrowding at the county prison for the fifth year in a row. This creates unsafe conditions for the staff at the Schuylkill County Prison as well as for the inmates entrusted in their care. Building the prerelease center would also allow the county to have eligible nonviolent county inmates such as DUI (driving under the influence) offenders go on work release when appropriate.

In addition, it is my understanding that instead of having to pay to send inmates to other counties, adding the center might enable Schuylkill County to bring in revenue by accepting inmates from other counties at times.

Last but not least, as I am sure you are aware, this legislation passed the House unanimously when initially offered by the maker of the bill.

For all these reasons, I strongly urge your support for HB 792. Thank you for your consideration.

The SPEAKER. Will the gentleman, Representative Eachus, approach the desk.

APPROPRIATIONS COMMITTEE MEETING

The SPEAKER. The Chair recognizes the gentleman from Luzerne County, the majority leader, Representative Eachus.

Mr. EACHUS. Thank you.

For the information of the members, there is an immediate meeting of the House Appropriations Committee in the majority caucus room, and we will back on the floor at 10 a.m. for floor action. There will be no Democratic caucus necessary. The bills have been caucused.

The SPEAKER. There will be an immediate meeting of the Appropriations Committee in the majority caucus room.

ANNOUNCEMENT BY MS. MAJOR

The SPEAKER. The Chair recognizes the gentlelady from Susquehanna County, Representative Major.

Ms. MAJOR. Thank you, Mr. Speaker.

At this time there is no need for a Republican caucus, but I would just ask our members to please be mindful of their e-mails or announcements in case we need to call a caucus for tomorrow.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the lady.

REMARKS SUBMITTED FOR THE RECORD

The SPEAKER. The Chair recognizes the gentleman from Lackawanna County, Representative Murphy. For what purpose does the gentleman rise?

Mr. MURPHY. Mr. Speaker, I rise to inform the Speaker that I would like to submit comments for the record on HB 1407, amendment 04410.

Thank you, Mr. Speaker.

The SPEAKER. The gentleman is in order to present his remarks to the clerk.

Mr. MURPHY. Thank you, Mr. Speaker.

Mr. MURPHY submitted the following remarks for the Legislative Journal:

I would like to state for the record concerning HB 1407, A04410 (Eachus) that the particular section of the amendment as it pertains to the abolishment of the Scranton State School for the Deaf – I vehemently disagree with that particular language. This is the Commonwealth's only State-run school for deaf and hard-of-hearing children.

I have advocated for the students, parents, and faculty members of SSSD in an effort to restore funding and maintain an educational institution that has been a shining example of Pennsylvania's commitment to education of the deaf for over 100 years. It is a sad day for Pennsylvania, students, family, and friends of SSSD, and a sad day for me personally as I have come to the realization that our battle to keep the school's doors open as it has existed for over a century has come to an end.

Although my decision is difficult and I make it with a heavy heart, my responsibility to the Commonwealth of Pennsylvania and its 12 million residents that this body is charged with serving, my obligation at this juncture of this crippling budget impasse necessitates an affirmative vote to move Pennsylvania forward.

As a proud and sitting member of the Advisory Council for the Deaf and Hard of Hearing, I assure you that my commitment is as strong today in advocating for the deaf and hard-of-hearing community in all aspects, and I extend the offer of assistance to all members, friends, and family of this distinct, honorable community. I promise to continue to work together with the friends I have made through these events of extraordinary circumstance to improve the quality of life of the deaf community.

There are those I would like to thank who have stood by me and have helped lead the charge in the battle to keep SSSD's doors open:

- The students, teachers, family members, and friends at and of SSSD – you have educated, encouraged, and inspired me more than you will ever know.
- My colleagues in the House and the Democratic leadership in the House for helping me to actively fight this battle legislatively and trying to advocate for something that was an obvious priority for me and the Democratic House Caucus as a whole.
- My colleagues at the Advisory Council for the Deaf and Hard of Hearing – they were tremendous in helping me navigate my way through this process and offered tremendous support.

I will continue to keep a watchful eye over the transitioned school, the Scranton School for Deaf & Hard-of-Hearing Children (SSDHHC), to ensure that the high quality of education and environment that they received and thrived in is held to the same high standards and never wavers. At the very least, this is what these children deserve.

The SPEAKER. Any further announcements?

RECESS

The SPEAKER. This House stands in recess to the call of the Chair.

AFTER RECESS

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

BILLS REREPORTED FROM COMMITTEE

HB 196, PN 195

By Rep. D. EVANS

An Act amending the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, further providing for prohibited acts and penalties.

APPROPRIATIONS.

HB 933, PN 1057

By Rep. D. EVANS

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

APPROPRIATIONS.

HB 1592, PN 1973

By Rep. D. EVANS

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for the offense of invasion of privacy.

APPROPRIATIONS.

HB 1641, PN 2046

By Rep. D. EVANS

An Act requiring a circulating nurse in certain operating rooms.

APPROPRIATIONS.

SB 1100, PN 1422

By Rep. D. EVANS

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

APPROPRIATIONS.

The SPEAKER. Those bills will go to the House calendar.

BILL REPORTED FROM COMMITTEE, CONSIDERED FIRST TIME, AND TABLED

SB 1095, PN 1417

By Rep. D. EVANS

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

APPROPRIATIONS.

BILL REMOVED FROM TABLE

The SPEAKER. The Chair recognizes the majority leader, who moves that SB 1095 be removed from the tabled calendar and placed on the active calendar.

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

BILLS AND RESOLUTIONS PASSED OVER

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

Any further business to come before the House?

RECESS

The SPEAKER. This House stands in recess to the call of the Chair.