

COMMONWEALTH OF PENNSYLVANIA

LEGISLATIVE JOURNAL

TUESDAY, SEPTEMBER 27, 2011

SESSION OF 2011

195TH OF THE GENERAL ASSEMBLY

No. 59

HOUSE OF REPRESENTATIVES

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

THE SPEAKER (SAMUEL H. SMITH) PRESIDING

HON. MICHAEL K. HANNA, member of the House of Representatives, offered the following prayer:

Thank you, Mr. Speaker.

Good morning. Please bow your heads in prayer:

Heavenly Father, we thank You for the gift of this new day.

A special thank You for the joy our Keystone Little Leaguers brought to us through the month of August.

We thank You for the sleep which has refreshed us and for the chance to begin life anew today. We welcome this new day as Your gift to us and ask Your guidance as we accept the challenges and burdens of this day – its joys, its sorrows, its responsibilities, and its rewards.

This day is full of promise and opportunity. May we waste none of it. This day is full of mystery of the unknown. Please help us to face it without fear or anxiety. This day is full of beauty and adventure. Help us to be fully alive to it all.

Bless this day with good health for our members and especially their families, those we love, and all Your children. When night comes, may we look back upon this day without regrets, and may no one be unhappy because of anything we may have done or anything we failed to do.

To us all, grant Your provisions for our needs today and the grace to see this day in the light of eternity. Amen.

PLEDGE OF ALLEGIANCE

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

JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, the approval of the Journal of Monday, September 26, 2011, will be postponed until printed.

HOUSE RESOLUTION INTRODUCED AND REFERRED

No. 407 By Representatives MUNDY, KULA, BISHOP, V. BROWN, BROWNLEE, CARROLL, DeLUCA,

DePASQUALE, FABRIZIO, HARKINS, KAVULICH, KORTZ, MAHONEY, MOUL, MURPHY, MURT, M. O'BRIEN, PASHINSKI, READSHAW, SANTARSIERO, SCHRODER, K. SMITH, STABACK, WAGNER and YOUNGBLOOD

A Resolution directing the Legislative Budget and Finance Committee to conduct a study of the Patient Safety Authority relating to its impact on the reduction of medical errors and promotion of patient safety.

Referred to Committee on HUMAN SERVICES, September 27, 2011.

HOUSE BILLS INTRODUCED AND REFERRED

No. 1874 By Representatives MUNDY, KULA, BISHOP, B. BOYLE, V. BROWN, BROWNLEE, CALTAGIRONE, CARROLL, COHEN, CURRY, DEASY, DeLUCA, DePASQUALE, DiGIROLAMO, DONATUCCI, FABRIZIO, FREEMAN, GEORGE, GIBBONS, GOODMAN, HARKINS, HORNAMAN, JOSEPHS, KAVULICH, MAHONEY, MARSHALL, McGEEHAN, MICOZZIE, MURPHY, MURT, MYERS, M. O'BRIEN, PASHINSKI, READSHAW, SANTARSIERO, STABACK, WAGNER, YOUNGBLOOD, CONKLIN and WHITE

An Act amending the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act, providing for hospital patient protection.

Referred to Committee on HEALTH, September 27, 2011.

No. 1876 By Representatives BISHOP, McGEEHAN, MURPHY, BAKER, V. BROWN, CARROLL, D. COSTA, DALEY, DEASY, DeLUCA, DONATUCCI, HARHAI, HARHART, HARKINS, HORNAMAN, JOSEPHS, KORTZ, MAHONEY, MANN, MICOZZIE, MILNE, MURT, M. O'BRIEN, QUINN, READSHAW, SAINATO, SWANGER, THOMAS, YOUNGBLOOD and REICHLEY

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, providing for failure to report sexual offenses against children.

Referred to Committee on JUDICIARY, September 27, 2011.

SENATE MESSAGE

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

The clerk of the Senate, being introduced, returned **HB 9, PN 2179**, with information that the Senate has passed the same with amendment in which the concurrence of the House of Representatives is requested.

SENATE MESSAGE

RECESS RESOLUTION
FOR CONCURRENCE

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

In the Senate,
September 26, 2011

RESOLVED, (the House of Representatives concurring), Pursuant to Article II, Section 14 of the Pennsylvania Constitution, that when the Senate recesses this week, it reconvene on Monday, October 17, 2011, unless sooner recalled by the President Pro Tempore of the Senate; and be it further

RESOLVED, Pursuant to Article II, Section 14 of the Pennsylvania Constitution, that when the House of Representatives recesses this week, it reconvene on Monday, October 3, 2011, unless sooner recalled by the Speaker of the House of Representatives; and be it further

RESOLVED, Pursuant to Article II, Section 14 of the Pennsylvania Constitution, that when the House of Representatives recesses the week of October 3rd, it reconvene on Monday, October 17, 2011, unless sooner recalled by the Speaker of the House of Representatives.

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

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

The SPEAKER. Members, please report to the floor. We are about to take the master roll call.

LEAVES OF ABSENCE

The SPEAKER. The Speaker turns to leaves of absence and recognizes the majority whip, who requests a leave of absence for the gentleman, Mr. Dennis O'BRIEN, from Philadelphia for the day. Without objection, the leave will be granted.

The Speaker recognizes the minority whip, who requests a leave of absence for the gentleman, William KELLER, from Philadelphia for the day; the gentleman, Mr. MAHONEY, from Fayette County for the day; the gentleman, Mr. SAMUELSON, from Northampton County for the day. Without objection, the leaves will be granted.

Correction of the leaves of absence. The gentleman, Mr. Mahoney, is on the floor. His name will be on the master roll.

MASTER ROLL CALL

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

The following roll call was recorded:

PRESENT—200

Adolph	Dunbar	Knowles	Rapp
Aument	Ellis	Kortz	Ravenstahl
Baker	Emrick	Kotik	Readshaw
Barbin	Evankovich	Krieger	Reed
Barrar	Evans, D.	Kula	Reese
Bear	Evans, J.	Lawrence	Reichley
Benninghoff	Everett	Longietti	Roae
Bishop	Fabrizio	Maher	Rock
Bloom	Farry	Mahoney	Roebuck
Boback	Fleck	Major	Ross
Boyd	Frankel	Maloney	Sabatina
Boyle, B.	Freeman	Mann	Saccone
Boyle, K.	Gabler	Markosek	Sainato
Bradford	Galloway	Marshall	Santarsiero
Brennan	Geist	Marsico	Santoni
Briggs	George	Masser	Saylor
Brooks	Gerber	Matzie	Scavello
Brown, R.	Gergely	McGeehan	Schroder
Brown, V.	Gibbons	Metcalfe	Shapiro
Brownlee	Gillen	Metzgar	Simmons
Burns	Gillespie	Miccarelli	Smith, K.
Buxton	Gingrich	Micozzie	Smith, M.
Caltagirone	Godshall	Millard	Sonney
Carroll	Goodman	Miller	Staback
Causer	Grell	Milne	Stephens
Christiana	Grove	Mirabito	Stern
Clymer	Hackett	Moul	Stevenson
Cohen	Hahn	Mullery	Sturla
Conklin	Haluska	Mundy	Swanger
Costa, D.	Hanna	Murphy	Tallman
Costa, P.	Harhai	Murt	Taylor
Cox	Harhart	Mustio	Thomas
Creighton	Harkins	Myers	Tobash
Cruz	Harper	Neuman	Toepel
Culver	Harris	O'Brien, M.	Toohil
Curry	Heffley	O'Neill	Truitt
Cutler	Helm	Oberlander	Turzai
Daley	Hennessey	Parker	Vereb
Davidson	Hess	Pashinski	Vitali
Davis	Hickernell	Payne	Vulakovich
Day	Hornaman	Payton	Wagner
Deasy	Hutchinson	Peifer	Waters
DeLissio	Johnson	Perry	Watson
Delozier	Josephs	Petrarca	Wheatley
DeLuca	Kampf	Petri	White
Denlinger	Kauffman	Pickett	Williams
DePasquale	Kavulich	Preston	Youngblood
Dermody	Keller, F.	Pyle	
DeWeese	Keller, M.K.	Quigley	Smith, S., Speaker
DiGirolo	Killion	Quinn	
Donatucci	Kirkland		

ADDITIONS—0

NOT VOTING—0

EXCUSED—3

Keller, W. O'Brien, D. Samuelson

LEAVES ADDED—8

Burns Hennessey Myers Tobash
Hackett Kortz Reichley Vereb

LEAVES CANCELED—3

Hennessey Samuelson Vereb

The SPEAKER. Two hundred members having voted on the master roll call, a quorum is present.

GUESTS INTRODUCED

The SPEAKER. The Speaker would like to introduce a few of the guests that are with us today.

Located to the left of the Speaker, we welcome Shirley Herr. She is a farm manager, and she is here as part of the Lebanon Valley Chamber Farm City Exchange. She is the guest of Representative Gingrich. Welcome to the hall of the House.

Also located to the left of the Speaker, as a guest of Representative Jeff Pyle, is Jim Kuemmerle. He is the administrator/executive director of the Armstrong-Indiana MH/MR/EI Program. Welcome to the hall of the House.

And in the rear of the House, as guests of the chairmen of the Human Services Committee, Representative DiGirolamo and Representative Cohen, we would like to welcome representatives of the Suicide Prevention Coalition. Among their group are Harriet Bicksler, Heidi Bryan, Rebecca May-Cole, Cpl. Govan A. Martin III, Ginny Mastrine, Lynn Patrone, and Cindy Richard. Will our guests please rise. Welcome to the hall of the House.

SUPPLEMENTAL CALENDAR A

RESOLUTION PURSUANT TO RULE 35

Mr. DiGIROLAMO called up **HR 411, PN 2415**, entitled:

A Resolution urging support of agencies dedicated to suicide prevention.

On the question,
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—200

Adolph	Dunbar	Knowles	Rapp
Aument	Ellis	Kortz	Ravenstahl
Baker	Emrick	Kotik	Readshaw
Barbin	Evankovich	Krieger	Reed
Barrar	Evans, D.	Kula	Reese
Bear	Evans, J.	Lawrence	Reichley
Benninghoff	Everett	Longietti	Roae
Bishop	Fabrizio	Maher	Rock
Bloom	Farry	Mahoney	Roebuck
Boback	Fleck	Major	Ross
Boyd	Frankel	Maloney	Sabatina

Boyle, B.	Freeman	Mann	Saccone
Boyle, K.	Gabler	Markosek	Sainato
Bradford	Galloway	Marshall	Santarsiero
Brennan	Geist	Marsico	Santoni
Briggs	George	Masser	Saylor
Brooks	Gerber	Matzie	Scavello
Brown, R.	Gergely	McGeehan	Schroder
Brown, V.	Gibbons	Metcalfe	Shapiro
Brownlee	Gillen	Metzgar	Simmons
Burns	Gillespie	Miccarelli	Smith, K.
Buxton	Gingrich	Micozzie	Smith, M.
Caltagirone	Godshall	Millard	Sonney
Carroll	Goodman	Miller	Staback
Causer	Grell	Milne	Stephens
Christiana	Grove	Mirabito	Stern
Clymer	Hackett	Moul	Stevenson
Cohen	Hahn	Mullery	Sturla
Conklin	Haluska	Mundy	Swanger
Costa, D.	Hanna	Murphy	Tallman
Costa, P.	Harhai	Murt	Taylor
Cox	Harhart	Mustio	Thomas
Creighton	Harkins	Myers	Tobash
Cruz	Harper	Neuman	Toepel
Culver	Harris	O'Brien, M.	Toohil
Curry	Heffley	O'Neill	Truitt
Cutler	Helm	Oberlander	Turzai
Daley	Hennessey	Parker	Vereb
Davidson	Hess	Pashinski	Vitali
Davis	Hickernell	Payne	Vulakovich
Day	Hornaman	Payton	Wagner
Deasy	Hutchinson	Peifer	Waters
DeLissio	Johnson	Perry	Watson
DeLozier	Josephs	Petrarca	Wheatley
DeLuca	Kampf	Petri	White
Denlinger	Kauffman	Pickett	Williams
DePasquale	Kavulich	Preston	Youngblood
Dermody	Keller, F.	Pyle	
DeWeese	Keller, M.K.	Quigley	Smith, S., Speaker
DiGirolamo	Killion	Quinn	
Donatucci	Kirkland		

NAYS—0

NOT VOTING—0

EXCUSED—3

Keller, W. O'Brien, D. Samuelson

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

STATEMENT BY MR. DiGIROLAMO

The SPEAKER. Does the gentleman, Mr. DiGirolamo, seek recognition under unanimous consent relative to the resolution we just passed?

The House will please come to order. The members will hold the conversations down. We kindly ask the members to take their seats and hold the conversations down. The Speaker thanks the members.

The gentleman, Mr. DiGirolamo, is recognized under unanimous consent.

Mr. DiGIROLAMO. Thank you, Mr. Speaker.

I want to thank the members for their affirmative vote on HR 411 that has been sponsored by myself and my Democratic chairman on the Human Services Committee, Representative

Mark Cohen. The resolution recognizes today as "Suicide Prevention Awareness Day" in the State of Pennsylvania.

I would also like to recognize the group that is in the back of the House also for their hard work on prevention. And just to let all the members know, over 1300 – 1,300 – Pennsylvanians die every year. They take their own life. This is absolutely preventable. Suicide is preventable, and I think it is incumbent upon us all here in the House and in the legislature to make sure that there is funding available for people with mental health issues and people with drug and alcohol issues, because we want to make sure that when people cry out for help, that there is help available.

So again, Mr. Speaker, I would just like to thank everyone for the affirmative vote on the House resolution and thank the coalition, the Suicide Prevention Coalition across the State of Pennsylvania, for their hard work on this issue. Thank you.

The SPEAKER. The Speaker thanks the gentleman.

KEYSTONE LITTLE LEAGUE MID-ATLANTIC CHAMPIONS PRESENTED

The SPEAKER. The Speaker would like to invite Representative Hanna to the rostrum for the purpose of presenting a citation to the Keystone Little League Mid-Atlantic Champions.

The Speaker would also note that the general rule of the House is that we do not allow members to portray posters and signs certainly in the context of debate, but we have given the minority leader a little discretion on that, given the nature of their demonstration today.

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

FILMING PERMISSION

The SPEAKER. Permission is granted to Brad Bower, AP (Associated Press) photographer, for the purpose of taking still photos.

The gentleman, Mr. Hanna, may proceed.

Mr. HANNA. Thank you, Mr. Speaker.

Thank you and thanks to the full House for the opportunity to show our great pride in our Keystone Little Leaguers.

It is my great pleasure to stand before my colleagues in the House today to recognize the outstanding achievements of an extraordinary group of young men from the heart of our great State. The Keystone Little League, representing Beech Creek, Castanea, Loganton, Lock Haven, and Mill Hall – that is five tiny communities in my district – won the hearts of their hometowns and the hearts of all Pennsylvanians with their historic run in the Little League World Series, capturing a State championship and the Mid-Atlantic Regional Championship, beating teams from New York, New Jersey, Maryland, and Washington, DC.

Not only did they finish third in the nation – yes, that is third in the nation, falling just one win short of playing in the Little League World Series championship game – they also played the game the way it is supposed to be played. Talent, enthusiasm, sportsmanship, and appreciation of their fans were present in all five of their Little League World Series games. After every game in Williamsport, the Keystone players would take a lap

around the field, hats off, thanking the fans – fans who, in the total of five games played, tallied more than 165,000 people. In fact, ladies and gentlemen, the crowd for the game against the La Grange, Kentucky, team – more than 41,000 strong, including myself – outnumbered the entire population of Clinton County and even set a single-game Little League World Series attendance record. Little old Clinton County set a Little League World Series attendance record. Now, that is Clinton County proud. Thank you.

I would like to acknowledge the parents, players, and volunteers with Keystone Little League for a postseason performance that caught the attention of Americans from coast to coast. While it was thrilling to see this team put Clinton County on a national stage, what made the experience even more gratifying was to see that when the region was in the spotlight, it shone with grace, sportsmanship, and spirit.

Our hearts are filled with pride in Clinton County and all across Pennsylvania. These extraordinary young men have truly demonstrated the best of what our region and Pennsylvania as a whole has to offer.

In the weeks of nail-biting baseball before record-setting crowds, Keystone Little League advanced further in the Little League World Series than any Pennsylvania team in more than 20 years. But perhaps more importantly, they provided a much-needed lift to our region and our State that will last a long time.

Please join me in applauding their achievements, and let me first introduce, joining me up front are Coach Justin Kline, Trebor Nicodemus, Mitchell Smith, Landon Breon, and Cole Reeder. In the back we have Ethan Watkins, Tyler McCloskey, Michael Keibler, Wyatt Koch, Alex Garbrick, and Brandon Miller. Not with us today are player Talon Falls and coaches Bill Garbrick and Chip Miller. Now I would like you all to give them a warm House reception.

If you have not noticed, we brought a couple of special fans that are in the back of the House congratulating our team. We want to thank our mascots for their attendance.

The SPEAKER. The Speaker thanks the gentleman and wants to add his congratulations. It is amazing how, when a small community advances in a sport like that, how it does draw everybody together. And it was exciting watching on TV, seeing all these people flood that little stadium, and it had to be very exciting for all of you at the local level as a community. So we give you our sincere congratulations and appreciation for how you carried on the good name of Pennsylvania and Clinton County.

To the other two guests back there hamming it up, for the members' information, they are going to be out in the rotunda area outside the Lieutenant Governor's Office if there are any of you that are looking to get photographs with either of the team mascots. So they will be available for a few minutes out there if members wanted a photograph.

STATEMENT BY MR. DIGIROLAMO

The SPEAKER. The gentleman from Bucks County, Mr. DiGirolamo, is recognized under unanimous consent to amend or extend his remarks earlier.

Mr. DIGIROLAMO. Thank you, Mr. Speaker.

In my earlier comments I forgot to let the members know that there is a large banner that is in the rotunda in the House

that the prevention groups have asked the members to sign. So if any of the members have time, when you are passing in the rotunda, there is a large banner down there that I would ask you to sign for Suicide Prevention Awareness Week here in Pennsylvania.

Thank you, Mr. Speaker.

UNCONTESTED HOUSE CALENDAR

RESOLUTIONS PURSUANT TO RULE 35

Mr. TURZAI called up **HR 364, PN 2272**, entitled:

A Resolution memorializing the 100th anniversary of the Austin Flood that occurred on September 30, 1911, in Austin, Potter County, Pennsylvania.

On the question,
Will the House adopt the resolution?

RESOLUTION RECOMMITTED

The SPEAKER. The Speaker recognizes the majority leader, who moves that HR 364, PN 2272, be recommitted to the Committee on Rules.

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

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Mr. D. COSTA called up **HR 365, PN 2273**, entitled:

A Resolution recognizing and honoring the 100th anniversary of Saint Raphael Parish of the Morningside community of Pittsburgh.

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Mr. MICCARELLI called up **HR 370, PN 2317**, entitled:

A Resolution recognizing September 2011 as "Chiari Malformation Awareness Month."

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Mr. WATERS called up **HR 372, PN 2319**, entitled:

A Resolution encouraging safe driving habits and the reduction of road rage incidents in Pennsylvania.

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Mr. MIRABITO called up **HR 373, PN 2320**, entitled:

A Resolution designating the week of August 1 through 8, 2011, as "Walk for Peace Week" in Pennsylvania.

* * *

Mr. HORNAMAN called up **HR 377, PN 2335**, entitled:

A Resolution memorializing the Congress of the United States to pass the Veterans' Heritage Firearms Act of 2011.

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Miss MANN called up **HR 378, PN 2340**, entitled:

A Resolution declaring September 2011 as "Fetal Alcohol Spectrum Disorders Awareness Month" in Pennsylvania.

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Mr. WHEATLEY called up **HR 384, PN 2359**, entitled:

A Resolution recognizing the month of September 2011 as "Infant Mortality Awareness Month" in Pennsylvania.

* * *

Ms. BROWNLEE called up **HR 388, PN 2363**, entitled:

A Resolution designating the month of September 2011 as "Emergency Preparedness Month" in Pennsylvania.

* * *

Mr. WATERS called up **HR 391, PN 2366**, entitled:

A Resolution recognizing the month of October 2011 as "Infant Mortality Awareness Month" in Pennsylvania.

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Mr. SANTARSIERO called up **HR 392, PN 2377**, entitled:

A Resolution recognizing the month of September 2011 as "College Savings Month" in Pennsylvania.

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Mrs. SWANGER called up **HR 396, PN 2387**, entitled:

A Resolution congratulating Weaver Bologna of Lebanon on its 125th anniversary.

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Mr. CAUSER called up **HR 400, PN 2391**, entitled:

A Resolution memorializing the 100th anniversary of the Austin Flood that occurred on September 30, 1911, in Austin, Potter County, Pennsylvania.

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Mr. MASSER called up **HR 402, PN 2393**, entitled:

A Resolution designating the month of October 2011 as "Stevens Johnson Syndrome Awareness Month" in Pennsylvania.

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Mr. BARRAR called up **HR 403, PN 2394**, entitled:

A Resolution designating the month of September 2011 as "Emergency Preparedness Month" in Pennsylvania.

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Mr. SHAPIRO called up **HR 404, PN 2395**, entitled:

A Resolution designating the month of September 2011 as "Prostate Cancer Awareness Month" in Pennsylvania.

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Mr. J. EVANS called up **HR 406, PN 2397**, entitled:

A Resolution recognizing September 24, 2011, as "National Hunting and Fishing Day" in Pennsylvania.

LEAVE OF ABSENCE

The SPEAKER. The Speaker returns to leaves of absence and recognizes the majority whip, who requests a leave of absence for the gentleman, Mr. VEREB, from Montgomery County for the day. Without objection, the leave will be granted.

**RESOLUTIONS PURSUANT TO RULE 35
CONTINUED**

On the question,
Will the House adopt the resolutions?

The following roll call was recorded:

YEAS—199

Adolph	Dunbar	Kirkland	Quinn
Aument	Ellis	Knowles	Rapp
Baker	Emrick	Kortz	Ravenstahl
Barbin	Evankovich	Kotik	Readshaw
Barrar	Evans, D.	Krieger	Reed
Bear	Evans, J.	Kula	Reese
Benninghoff	Everett	Lawrence	Reichley
Bishop	Fabrizio	Longietti	Roae
Bloom	Farry	Maher	Rock
Boback	Fleck	Mahoney	Roebuck
Boyd	Frankel	Major	Ross
Boyle, B.	Freeman	Maloney	Sabatina
Boyle, K.	Gabler	Mann	Saccone
Bradford	Galloway	Markosek	Sainato
Brennan	Geist	Marshall	Santarsiero
Briggs	George	Marsico	Santoni
Brooks	Gerber	Masser	Saylor
Brown, R.	Gergely	Matzie	Scavello
Brown, V.	Gibbons	McGeehan	Schroder
Brownlee	Gillen	Metcalfe	Shapiro
Burns	Gillespie	Metzgar	Simmons
Buxton	Gingrich	Miccarelli	Smith, K.
Caltagirone	Godshall	Micozzie	Smith, M.
Carroll	Goodman	Millard	Sonney
Causar	Grell	Miller	Staback
Christiana	Grove	Milne	Stephens
Clymer	Hackett	Mirabito	Stern
Cohen	Hahn	Moul	Stevenson
Conklin	Haluska	Mullery	Sturla
Costa, D.	Hanna	Mundy	Swanger
Costa, P.	Harhai	Murphy	Tallman
Cox	Harhart	Murt	Taylor
Creighton	Harkins	Mustio	Thomas
Cruz	Harper	Myers	Tobash
Culver	Harris	Neuman	Toepel
Curry	Heffley	O'Brien, M.	Toohil
Cutler	Helm	O'Neill	Truitt
Daley	Hennessey	Oberlander	Turzai
Davidson	Hess	Parker	Vitali
Davis	Hickernell	Pashinski	Vulakovich

Day	Hornaman	Payne	Wagner
Deasy	Hutchinson	Payton	Waters
DeLissio	Johnson	Peifer	Watson
Delozier	Josephs	Perry	Wheatley
DeLuca	Kampf	Petrarca	White
Denlinger	Kauffman	Petri	Williams
DePasquale	Kavulich	Pickett	Youngblood
Dermody	Keller, F.	Preston	
DeWeese	Keller, M.K.	Pyle	Smith, S.,
DiGirolamo	Killion	Quigley	Speaker
Donatucci			

NAYS—0

NOT VOTING—0

EXCUSED—4

Keller, W.	O'Brien, D.	Samuelson	Vereb
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The majority having voted in the affirmative, the question was determined in the affirmative and the resolutions were adopted.

GUESTS INTRODUCED

The SPEAKER. The Speaker would like to recognize some additional guests that are with us this morning. Located to the left of the Speaker, we would welcome the Bunting family – Kelly, Craig, Jacob, and Molly – and they are guests of Representative Payton. Will our guests please rise. Welcome to the hall of the House.

CALENDAR

RESOLUTION PURSUANT TO RULE 35

Mr. BENNINGHOFF called up **HR 289, PN 1866**, entitled:

A Resolution encouraging The Pennsylvania State University to appropriately recognize and celebrate the accomplishments of football coach Joseph Vincent "Joe" Paterno, affectionately known by fans as "Joe Pa," for his 62 years of service to The Pennsylvania State University students and athletes and to the Commonwealth of Pennsylvania; and recognizing September 3, 2011, as "Coach Paterno Day" in Pennsylvania.

On the question,
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—199

Adolph	Dunbar	Kirkland	Quinn
Aument	Ellis	Knowles	Rapp
Baker	Emrick	Kortz	Ravenstahl
Barbin	Evankovich	Kotik	Readshaw
Barrar	Evans, D.	Krieger	Reed
Bear	Evans, J.	Kula	Reese
Benninghoff	Everett	Lawrence	Reichley
Bishop	Fabrizio	Longietti	Roae
Bloom	Farry	Maher	Rock
Boback	Fleck	Mahoney	Roebuck
Boyd	Frankel	Major	Ross
Boyle, B.	Freeman	Maloney	Sabatina
Boyle, K.	Gabler	Mann	Saccone
Bradford	Galloway	Markosek	Sainato

Brennan	Geist	Marshall	Santarsiero
Briggs	George	Marsico	Santoni
Brooks	Gerber	Masser	Saylor
Brown, R.	Gergely	Matzie	Scavello
Brown, V.	Gibbons	McGeehan	Schroder
Brownlee	Gillen	Metcalfe	Shapiro
Burns	Gillespie	Metzgar	Simmons
Buxton	Gingrich	Miccarelli	Smith, K.
Caltagirone	Godshall	Micozzie	Smith, M.
Carroll	Goodman	Millard	Sonney
Causar	Grell	Miller	Staback
Christiana	Grove	Milne	Stephens
Clymer	Hackett	Mirabito	Stern
Cohen	Hahn	Moul	Stevenson
Conklin	Haluska	Mullery	Sturla
Costa, D.	Hanna	Mundy	Swanger
Costa, P.	Harhai	Murphy	Tallman
Cox	Harhart	Murt	Taylor
Creighton	Harkins	Mustio	Thomas
Cruz	Harper	Myers	Tobash
Culver	Harris	Neuman	Toepel
Curry	Heffley	O'Brien, M.	Toohil
Cutler	Helm	O'Neill	Truitt
Daley	Hennessey	Oberlander	Turzai
Davidson	Hess	Parker	Vitali
Davis	Hickernell	Pashinski	Vulakovich
Day	Hornaman	Payne	Wagner
Deasy	Hutchinson	Payton	Waters
DeLissio	Johnson	Peifer	Watson
Delozier	Josephs	Perry	Wheatley
DeLuca	Kampf	Petrarca	White
Denlinger	Kauffman	Petri	Williams
DePasquale	Kavulich	Pickett	Youngblood
Dermody	Keller, F.	Preston	
DeWeese	Keller, M.K.	Pyle	Smith, S., Speaker
DiGirolamo	Killion	Quigley	
Donatucci			

NAYS-0

NOT VOTING-0

EXCUSED-4

Keller, W. O'Brien, D. Samuelson Vereb

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

REPUBLICAN CAUCUS

The SPEAKER. The Speaker recognizes the lady, Ms. Major, from Susquehanna County for the purpose of making a caucus announcement.

Ms. MAJOR. Thank you, Mr. Speaker.

I would like to announce that Republicans will caucus at 12 o'clock noon. I would ask Republican members to please report to our caucus room at noon, and we would be prepared to come back on the floor at 2 p.m.

Thank you, Mr. Speaker.

DEMOCRATIC CAUCUS

The SPEAKER. The Speaker recognizes the minority leader, Mr. Dermody, for the purpose of making a caucus announcement.

Mr. DERMODY. That is correct, Mr. Speaker.
The SPEAKER. The gentleman is in order.
Mr. DERMODY. Thank you, Mr. Speaker.
The Democrats will also caucus at noon, at noon in our caucus room. Thank you, Mr. Speaker.

STATE GOVERNMENT COMMITTEE MEETING

The SPEAKER. The Speaker recognizes the gentleman from Butler County, Mr. Metcalfe, for the purpose of making an announcement?

Mr. METCALFE. Yes, Mr. Speaker.

The SPEAKER. The gentleman is in order.

Mr. METCALFE. Thank you, Mr. Speaker.

Mr. Speaker, we had notified the members of the State Government Committee that at the call of the Chair, upon our recess, that we would be having a meeting of the State Government Committee, and we will be having that meeting in G-50, Irvis Office Building, once we recess from here momentarily or in the near future. G-50, Irvis Office Building.

Thank you, Mr. Speaker.

The SPEAKER. The Speaker thanks the gentleman.

State Government will meet at the recess in room G-50, Irvis Office Building.

Any other announcements?

RECESS

The SPEAKER. This House stands in recess until 2 o'clock, unless sooner recalled by the Speaker.

AFTER RECESS

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

The SPEAKER. Members will please report to the floor.

LEAVES OF ABSENCE CANCELED

The SPEAKER. The Speaker returns to leaves of absence and recognizes the presence of the gentleman, Mr. Vereb, from Montgomery County on the floor and the gentleman, Mr. Samuelson, from Northampton County on the floor. Their names will be added to the master roll.

LEAVES OF ABSENCE

The SPEAKER. The Speaker recognizes the majority whip, who requests a leave of absence for the gentleman, Mr. HENNESSEY, from Chester County for the remainder of the day. Without objection, the leave will be granted.

The Speaker recognizes the minority whip, who requests a leave of absence for the gentleman, Mr. BURNS, from Cambria County and the gentleman, Mr. MYERS, from Philadelphia County for the remainder of the day. Without objection, the leaves will be granted.

The Speaker also recognizes the majority whip, who requests a leave of absence for the gentleman, Mr. TOBASH, from Schuylkill County for the remainder of the day. Without objection, the leave will be granted.

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

HB 1349, PN 1558

By Rep. METCALFE

An Act amending the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act, further providing for legislative intent, for definitions and for proposed regulations and procedures for review.

STATE GOVERNMENT.

The SPEAKER. The House will come to order.

CALENDAR CONTINUED

BILL ON SECOND CONSIDERATION

The House proceeded to second consideration of **SB 1151, PN 1447**, entitled:

An Act amending the act of July 10, 1987 (P.L.246, No.47), known as the Municipalities Financial Recovery Act, further providing for purpose and legislative intent and for Commonwealth agency payments or assistance; providing for review of coordinator, for the establishment of a management board for distressed third class cities and for powers of management boards; prohibiting distressed third class cities from filing Federal bankruptcy petitions; and making editorial changes..

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

Mr. GRELL offered the following amendment No. **A05242**:

Amend Bill, page 1, lines 11 through 17, by striking out all of said lines and inserting
further providing for purpose and legislative intent; providing for fiscal emergencies in third class cities and for receivership for third class cities; and making editorial changes.

Amend Bill, page 1, lines 20 through 25; pages 2 through 12, lines 1 through 30; page 13, lines 1 through 25, by striking out all of said lines on said pages and inserting

Section 1. Section 102 of the act of July 10, 1987 (P.L.246, No.47), known as the Municipalities Financial Recovery Act, is amended to read:

Section 102. Purpose and legislative intent.

(a) Policy.—It is hereby declared to be a public policy of the Commonwealth to foster fiscal integrity of municipalities so that they provide for the health, safety and welfare of their citizens; pay due principal and interest on their debt obligations when due; meet financial obligations to their employees, vendors and suppliers; and provide for proper financial accounting procedures, budgeting and taxing practices. The failure of a municipality to do so is hereby determined to affect adversely the health, safety and welfare not only of the citizens of the municipality but also of other citizens in this Commonwealth.

(b) Legislative intent.—The General Assembly finds and declares as follows:

(1) It is the intent of the General Assembly to:

(i) Enact procedures and provide powers and

guidelines to ensure fiscal integrity of municipalities while leaving principal responsibility for conducting the governmental affairs of a municipality, including choosing the priorities for and manner of expenditures based on available revenues, to the charge of its elected officials, consistent with the public policy set forth in this section.

(ii) Enact procedures for the adjustment of municipal debt by negotiated agreement with creditors.

(iii) Provide for the exercise of the Commonwealth's sovereign and plenary police power in emergency fiscal conditions to protect the health, safety and welfare of a municipality's citizens when local officials are unwilling or unable to accept a solvency plan developed for the benefit of the community.

(2) [The General Assembly further recognizes that changing] Changing and deteriorating economic conditions, developing technologies and attendant unemployment erode local tax bases and threaten essential municipal services. Under such circumstances, [the General Assembly believes that] such distressed governmental units may no longer be viable and that the citizens of those communities should be granted the opportunity to voluntarily consolidate or merge their municipalities with other municipalities in an effort to allow municipal boundaries to reflect the geographic and economic realities of a distressed area, to merge a common community of interest, to take advantage of economies of scale in providing services and to create an expanded revenue base to provide necessary public services to the citizens of financially distressed municipalities.

(3) Policies of certain municipalities are so ineffective and the financial conditions so severe that the provision of vital and necessary services is threatened.

(4) Sustained failure of a municipality to enact or implement a fiscal plan to adequately address or prevent insolvency after repeated opportunities to do so:

(i) constitutes a fiscal emergency; and

(ii) signifies:

(A) a breakdown in the function of municipal government;

(B) a dereliction of its elected officials' paramount public duty to safeguard the health, safety and welfare of its citizens; and

(C) a threat to the fiscal stability of neighboring communities.

(5) The Governor must act, in the face of a fiscal emergency under paragraph (4)(i) and dereliction of official duty under paragraph (4)(ii)(B), pursuant to the Commonwealth's paramount right and duty to maintain law and order and protect and preserve the health, safety and welfare of its citizens and ensure compliance with this act under Article IX of the Constitution of Pennsylvania.

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

CHAPTER 6

FISCAL EMERGENCIES IN CITIES OF THE THIRD CLASS

Section 601. Definitions.

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

"Authority." A municipal authority, parking authority or any other authority or corporate entity that is directly or indirectly controlled by a distressed city or to which a distressed city has power of appointment.

"City." A city of the third class.

"Debt obligations." Any obligation to pay money, including amounts owed for payments relating to lease rental debt, debt service, bonds, notes, guarantees for bonds or notes, trust indentures or other agreements.

"Distressed city." A city which has been determined to be financially distressed under section 203(f).

"Fiscal emergency." A determination made by the Governor under section 602(b).

"Insolvent." Unable to meet all financial obligations as they become due, including payment of debt obligations.

"Vital and necessary services." Basic and fundamental municipal services, including any of the following:

- (1) Police and fire services.
- (2) Ambulance and rescue services.
- (3) Water supply and distribution.
- (4) Wastewater services.
- (5) Refuse collection and disposal.
- (6) Snow removal.

(7) Fulfillment of financial obligations necessary for the continued provision of one or more basic and fundamental municipal services, including payroll and pension obligations, lease rental debt and all other debt obligations.

Section 602. Declaration of fiscal emergency.

(a) Fiscal emergency.—A fiscal emergency exists if the distressed city:

- (1) (i) is insolvent or is projected to be insolvent within 180 days or less; or
 - (ii) is unable to ensure the continued provision of vital and necessary services; and
- (2) (i) has failed to adopt or fully implement the coordinator's plan; or
 - (ii) has failed to adopt or fully implement an alternative plan that the secretary has approved under section 246.

(b) Governor.—Upon making a determination that a state of fiscal emergency exists, the Governor may declare a state of fiscal emergency within the distressed city. Immediately upon making the declaration, the Governor shall:

- (1) Provide written notice of the declaration to the governing body of the distressed city along with a concise statement of facts supporting the determination.
- (2) Direct the secretary to, within ten days of the Governor's declaration, develop an emergency action plan to ensure that vital and necessary services are maintained within the city during the state of fiscal emergency.

(c) Secretary.—In developing the emergency action plan, the secretary shall consider the financial plan prepared by the coordinator under Subchapter C of Chapter 2 and any other available plan or information the secretary deems appropriate and may employ financial or legal experts to assist in addressing the fiscal emergency. Notwithstanding any law to the contrary, the employment of such experts shall not be subject to contractual competitive bidding procedures.

Section 603. Notification by the secretary.

(a) Notice.—Upon completion of the emergency action plan, the secretary shall cause the plan to be posted on the department's Internet website and shall provide written notice of the emergency action plan by overnight delivery service, providing proof of receipt, to all members of the governing body and the chief executive officer of the distressed city.

(b) Publication.—The secretary shall publish once in a newspaper of general circulation notice that the emergency action plan has been completed. The notice shall specify the Internet address of the department's website where the plan is posted.

Section 604. Powers of the Governor.

(a) Powers.—During the state of fiscal emergency, the Governor may exercise the authority of the elected or appointed officials of the distressed city or authority as necessary to ensure the provision of vital and necessary services and may delegate the authority to the secretary or a designee of the secretary. The emergency powers of the Governor shall include the following:

- (1) The power to collect funds payable to the distressed

city and authority and use those funds to pay for vital and necessary services.

(2) The power to obtain emergency financial aid for the distressed city and authority under Chapter 3 to pay for vital and necessary services.

(3) The power to enter into contracts and agreements on behalf of the distressed city and authority to pay for vital and necessary services.

(4) The power to modify the emergency action plan as necessary to ensure the provision of vital and necessary services.

(5) Any other power of the elected or appointed officials of the distressed city or authority to ensure the provision of vital and necessary services.

(b) Orders.—The Governor may issue an order to an elected or appointed official of the distressed city or an authority to implement any provision of the emergency action plan or refrain from taking any action that would interfere with the powers granted to the Governor or the goals of the plan. An order issued under this subsection shall be enforceable under section 606.

(c) Authorization prohibited.—Neither this chapter nor the emergency action plan shall be interpreted to authorize the Governor to:

- (1) unilaterally levy taxes;
- (2) unilaterally abrogate, alter or otherwise interfere with a lien, charge, covenant or relative priority that is:
 - (i) held by a holder of a debt obligation of a distressed city; and
 - (ii) granted by the contract, law, rule or regulation governing the debt obligation.
- (3) Unilaterally impair or modify existing bonds, notes, municipal securities or other uncontested contractual or legal obligations of the distressed city or authority.
- (4) Authorize the use of the proceeds of the sale, lease, conveyance, assignment or other use or disposition of the assets of the distressed city or authorities in a manner contrary to section 707.
- (5) Pledge the full faith and credit of the Commonwealth.

Section 605. Elected and appointed officials.

During a fiscal emergency, the authorities and elected officials of the distressed city shall continue to carry out the duties of their respective offices, except that no decision or action shall conflict with an emergency action plan, order or exercise of power by the Governor under section 604.

Section 606. Mandamus.

The Governor may petition Commonwealth Court to issue a writ of mandamus upon any elected or appointed official of the distressed city or authority to secure compliance with an order issued under section 604(b). The court shall grant the relief requested within 14 days of the filing of the petition if it determines that the order was issued in compliance with this chapter.

Section 607. Consent agreement.

(a) Negotiations.—Within eight days of the declaration of a fiscal emergency, the governing body and chief executive officer of the distressed city shall convene a special public meeting to negotiate a consent agreement. The meeting shall be attended by the secretary or secretary's designee. Negotiations among creditors and any of the parties in this subsection shall be conducted in accordance with section 223(b).

(b) Contents.—

(1) The consent agreement shall incorporate a plan setting forth measures designed to provide long-term financial stability to the distressed city after the termination of the fiscal emergency.

(2) The consent agreement shall include all of the following:

- (i) Continued provision of vital and necessary services.

(ii) Payment of the financial obligations of the distressed city and authority. This subparagraph includes debt obligations, municipal securities, lease rental obligations, uncontested legal obligations and consensual modifications of existing obligations.

(iii) Timely deposit of required payments to the pension fund for the distressed city and each authority or the fund in which the distressed city and each authority participates.

(iv) Legislative and administrative actions to be taken by the elected or appointed officials of the distressed city during the term of the consent agreement.

(3) The consent agreement may include:

(i) The sale, lease, conveyance, assignment or other use or disposition of the assets of the distressed city or authority.

(ii) Approval, modification, rejection, renegotiation or termination of contracts or agreements of the distressed city or authorities.

(iii) Execution of new contracts or agreements.

(4) The consent agreement may not include any of the following:

(i) Projections of revenue from a tax or tax rate not currently authorized by law.

(ii) Provisions that unilaterally abrogate, alter or otherwise interfere with a lien, charge, covenant or relative priority, that is:

(A) held by a holder of a debt obligation of a distressed city; and

(B) granted by the contract, law, rule or regulation governing the debt obligation.

(iii) Provisions that unilaterally impair or modify existing bonds, notes or municipal securities.

(iv) Provisions that authorize the use of the proceeds of the sale, lease, conveyance, assignment or other use or disposition of the assets of the distressed city or authorities in a manner contrary to section 707.

(v) Any increase in the rate of an earned income tax imposed on nonresident workers.

(c) Ordinance.—Notwithstanding any law to the contrary, the following shall apply:

(1) Upon approval by a majority of the governing body of the distressed city, the consent agreement shall be presented to the secretary within 20 days of the declaration of fiscal emergency.

(2) The secretary shall approve or disapprove the consent agreement within three days.

(3) If the secretary determines that the consent agreement is sufficient to overcome the distressed city's financial distress and approves the agreement, the governing body shall enact the consent agreement in the form of an ordinance within seven days of approval by the secretary.

(4) The ordinance shall provide that, in the event of a breach or unilateral modification of the consent decree by the governing body or an elected or appointed official, the Governor may institute or reinstitute proceedings under Chapter 7.

(d) Consent to proceedings under Chapter 7.—In addition to breach or modification of the consent agreement under subsection (c), the following shall be deemed consent to proceedings under Chapter 7:

(1) Failure of the governing body of the distressed city to convene, or the failure of a quorum of the governing body to participate in, a special public meeting required by subsection (a).

(2) Failure of the governing body or chief executive officer to enact a valid ordinance under subsection (c).

(3) Failure of the distressed city to comply with the consent agreement or provision of an ordinance enacted under subsection (c).

(4) Enactment by the distressed city of an amendment to the ordinance enacted in subsection (c) in violation of subsection (e).

(e) Amendment.—The ordinance may be amended upon the approval of the secretary.

(f) Collective bargaining.—A collective bargaining agreement or arbitration settlement executed following enactment of an ordinance under this section is void to the extent that it violates, expands or diminishes the provisions of the consent agreement.

Section 608. Termination of fiscal emergency and suspension of powers.

(a) Financial emergency.—A fiscal emergency shall end upon certification by the secretary that the city is no longer financially distressed.

(b) Governor's powers.—The emergency powers of the Governor under this chapter shall be suspended upon the enactment and continued implementation of an ordinance under section 607 or entry of a judicial order appointing a receiver under section 702.

Section 609. Restrictions.

(a) Earned income tax on nonresidents.—A distressed city subject to this chapter or Chapter 7 may not petition a court of common pleas for an increase in the rate of an earned income tax imposed on nonresident workers under section 123(c) until the secretary terminates the distress status of the city under section 253.

(b) Municipal debt adjustment.—A distressed city subject to this chapter or Chapter 7 may not file a municipal debt adjustment action under Federal law except to the extent authorized under Chapter 7.

Section 610. Applicability.

(a) Statement.—

(1) This chapter shall apply only to distressed cities.

(2) Except as set forth in subsection (b), nothing in this chapter is intended to limit or otherwise abrogate the applicability of any other part of this act.

(b) Conflict.—If there is a conflict between a provision of this chapter and any other provision of this act, the provision of this chapter shall prevail.

CHAPTER 7

RECEIVERSHIP IN CITIES OF THE THIRD CLASS

Section 701. Definitions.

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

"Authority." A municipal authority, parking authority or any other authority or corporate entity that is directly or indirectly controlled by a distressed city or to which a distressed city has power of appointment.

"City." A city of the third class.

"Debt obligations." Any obligation to pay money, including amounts owed for payments relating to lease rental debt, debt service, bonds, notes, guarantees for bonds or notes, trust indentures or other agreements.

"Distressed city." A city which has been determined to be financially distressed under section 203(f).

"Fiscal emergency." A determination made by the Governor under section 602(b).

"Insolvent." Unable to meet all financial obligations as they become due, including payment of debt obligations.

"Vital and necessary services." Basic and fundamental municipal services, including any of the following:

(1) Police and fire services.

(2) Ambulance and rescue services.

(3) Water supply and distribution.

(4) Wastewater services.

(5) Refuse collection and disposal.

(6) Snow removal.

(7) Fulfillment of financial obligations necessary for the continued provision of one or more basic and fundamental municipal services, including payroll and pension obligations.

lease rental debt and all other debt obligations.

Section 702. Receivership.

(a) Receiver.—Following the issuance of a declaration of fiscal emergency under section 602(b), the Governor may direct the secretary to file a petition in Commonwealth Court to appoint the individual named in the petition as a receiver for the distressed city. The court shall have no authority to appoint anyone other than the individual named in the petition as the receiver.

(b) Service and notice.—

(1) The secretary shall serve the petition upon:

- (i) the governing body of the distressed city;
- (ii) the chief executive officer of the distressed city; and
- (iii) the governing body of each authority.

(2) The secretary must publish notice of the filing of the petition once in a newspaper of general circulation.

(c) Hearing.—Within 15 days of the failure of the distressed city to adopt a valid ordinance under section 607, the Commonwealth Court shall conduct a hearing on the petition.

(d) Determination.—No later than 60 days following the filing of a petition under this section, the court shall issue an order under subsection (e) if it finds by a preponderance of the evidence that all of the following apply:

(1) Thirty days have passed since the declaration of a fiscal emergency.

(2) There has been a failure by:

- (i) the governing body of the distressed city to adopt a consent agreement acceptable to the secretary under section 607;
- (ii) the governing body of the distressed city to fully implement a consent agreement acceptable to the secretary under section 607; or
- (iii) an elected or appointed official of the distressed city or authority to strictly comply with an order issued by the Governor under section 604.

(3) A fiscal emergency under section 602(a) continues to exist.

(e) Order.—An order issued under subsection (e) shall:

- (1) set forth the findings under subsection (d);
- (2) grant the petition and declares the distressed city to be in receivership;
- (3) appoint the individual named in the petition to be the receiver for a period not to exceed two years, subject to extension under section 710(b);
- (4) direct the receiver to develop a recovery plan under section 703 and submit it to the court, the governing body of the distressed city and the secretary; and
- (5) require and empower the receiver to implement the emergency action plan developed by the secretary under section 602 until a recovery plan developed by the receiver is approved by the court under section 703.

Section 703. Recovery plan.

(a) Issuance.—Within 30 days of the appointment of the receiver, the recovery plan required under section 702(e)(4) shall be furnished to Commonwealth Court, the secretary and the governing body and chief executive officer of the distressed city.

(b) Contents.—The receiver shall consider the plan prepared by the coordinator under section 241 and any other existing alternate plans in the development of the recovery plan. The following shall apply:

(1) The recovery plan shall provide for all of the following:

- (i) Continued provision of vital and necessary services.
- (ii) Payment of the financial obligations of the distressed city and authorities. This subparagraph includes debt obligations, municipal securities, lease rental obligations, uncontested legal obligations and consensual modifications of existing obligations.

(iii) Timely deposit of required payments to the pension fund in which the distressed city and each authority participates.

(2) The recovery plan may include:

- (i) the sale, lease, conveyance, assignment or other use or disposition of the assets of the distressed city or authority;
- (ii) the approval, modification, rejection, renegotiation or termination of contracts or agreements of the distressed city or authorities;
- (iii) the execution of new contracts or agreements; and
- (iv) other information the receiver deems appropriate.

(c) Restrictions.—The recovery plan may not do any of the following:

- (1) Unilaterally levy taxes.
- (2) Unilaterally abrogate, alter or otherwise interfere with a lien, charge, covenant or relative priority that is:
 - (i) held by a holder of a debt obligation of a distressed city; and
 - (ii) granted by the contract, law, rule or regulation governing the debt obligation.
- (3) Unilaterally impair or modify existing bonds, notes or municipal securities.
- (4) Authorize the use of the proceeds of the sale, lease, conveyance, assignment or other use or disposition of the assets of the distressed city or authority in a manner contrary to section 707.

(d) Confirmation.—Commonwealth Court shall conduct a hearing on the recovery plan within 30 days of the receipt of the plan from the receiver. The court shall confirm the plan within 60 days of the receipt of the plan unless it finds clear and convincing evidence that the plan is arbitrary, capricious or wholly inadequate to alleviate the fiscal emergency in the distressed city.

(e) Modification of plan.—The receiver shall notify the Commonwealth Court of any modification to the plan. The court may conduct a hearing on the modification within 30 days of its receipt. The court shall confirm the modification within 60 days of receipt of the modification unless it finds clear and convincing evidence that the recovery plan as modified is arbitrary, capricious or wholly inadequate to alleviate the fiscal emergency in the distressed city.

Section 704. Confirmation.

(a) Effect of confirmation.—The confirmation of the recovery plan and any modification to the receiver's plan under section 703 shall have the effect of:

- (1) imposing on the elected and appointed officials of the distressed city or an authority a mandatory duty to undertake the acts set forth in the recovery plan;
- (2) suspending the authority of the elected and appointed officials of the distressed city or an authority to exercise power on behalf of the distressed city or authority pursuant to law, charter, ordinance, rule or regulation to the extent that the power would interfere with the powers granted to the receiver or the goals of the recovery plan; and
- (3) superseding the emergency action plan developed by the secretary under section 602.

(b) Form of government.—Confirmation of the recovery plan and any modification to the plan under section 703 shall not be construed to:

- (1) change the form of government of the distressed city or an authority; or
- (2) except as set forth in subsection (a), affect powers and duties of elected and appointed officials of the distressed city or an authority.

(c) Collective bargaining.—A collective bargaining agreement or arbitration settlement executed after confirmation of a recovery plan is void to the extent that it violates, expands or diminishes the provisions

of the recovery plan.

Section 705. Receiver.

(a) Appointment.—The court shall appoint the receiver as provided under section 702.

(b) Qualifications.—The receiver shall have the following qualifications:

(1) Have a minimum of five years' experience and demonstrable expertise in business, financial or local or state budgetary matters.

(2) Be a resident of this Commonwealth for at least one year prior to the appointment.

(c) Vacancy.—A vacancy in the office of the receiver shall be filled in the same manner as the original appointment.

(d) Revocation.—Upon application by the secretary, the appointment of the receiver shall be revoked and the receiver shall be replaced by the individual named in the application. The court shall have no authority to appoint anyone other than the individual named in the application as the receiver.

(e) Compensation and expenses.—The receiver's compensation and reimbursement for actual and necessary expenses shall be paid by the Commonwealth. Compensation shall be established by the secretary.

(f) Prohibitions.—The receiver shall not:

(1) Seek or hold a position as any other elected or appointed public official within this Commonwealth or as a political party officer during the term of the receivership.

(2) Seek election as a public official or political party officer for one year after the person's service as receiver has ended.

(3) Engage in any conduct prohibited by the act of July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest Act, or 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure).

(g) Liability.—The receiver shall not be liable personally for any obligations of the distressed city. It is declared to be the intent of the General Assembly that the receiver shall enjoy sovereign and official immunity as provided in 1 Pa.C.S. § 2310 (relating to sovereign immunity reaffirmed; specific waiver) and shall remain immune from suit except as provided by and subject to the provisions of 42 Pa.C.S. Ch. 85 Subchs. A (relating to general provisions) and B (relating to actions against Commonwealth parties).

Section 706. Powers, duties and prohibited actions.

(a) Powers and duties.—Notwithstanding any other provision of law, the receiver shall have the following powers and duties:

(1) To require the distressed city to take actions necessary to implement the recovery plan under section 703.

(2) To modify the recovery plan as necessary to achieve financial stability of the distressed city in accordance with section 703.

(3) To require the distressed city to negotiate intergovernmental cooperation agreements between the distressed city and other political subdivisions in order to eliminate and avoid deficits, maintain sound budgetary practices and avoid interruption of municipal services.

(4) To submit quarterly reports to the governing body and the chief executive officer of the distressed city and to the department. The reports shall be posted on the Internet website for the distressed city.

(5) To require the distressed city to cause the sale, lease, conveyance, assignment or other use or disposition of the distressed city's assets in accordance with section 707.

(6) To approve, disapprove, modify, reject, terminate or renegotiate contracts and agreements with the distressed city, except to the extent prohibited by the Constitutions of the United States and Pennsylvania.

(7) To direct the distressed city to take any other action to implement the recovery plan.

(8) To attend executive sessions of the governing body

of the distressed city and make reports to the public on implementation of the recovery plan.

(9) Subject to the limitation on bankruptcy in Article XVI-D.1 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, to file a municipal debt adjustment action under Federal law and to act on the city's behalf in the proceeding. The power under this paragraph shall only be exercised upon the written authorization of the secretary. The filing of a municipal debt adjustment action under this paragraph and any plan of the receiver accepted by the Federal court shall be considered a modification of the recovery plan, except that the modification shall not be subject to judicial review under section 709. A recovery plan submitted to, and approved by, the Federal court under a Federal municipal debt adjustment action may include Federal remedies not otherwise available under this chapter.

(10) To meet and consult with the advisory committee under section 711.

(11) To employ financial or legal experts deemed necessary to develop and implement the recovery plan. Notwithstanding any law to the contrary, the employment of such experts shall not be subject to contractual competitive bidding procedures.

(b) Authorization prohibited.—Neither this chapter nor the recovery plan shall be interpreted to authorize the receiver to do any of the following:

(1) Unilaterally levy taxes.

(2) Unilaterally abrogate, alter or otherwise interfere with a lien, charge, covenant or relative priority that is:

(i) held by a holder of a debt obligation of a distressed city; and

(ii) granted by the contract, law, rule or regulation governing the debt obligation.

(3) Unilaterally impair or modify existing debt obligations or municipal securities.

(4) Authorize the use of the proceeds of the sale, lease, conveyance, assignment or other use or disposition of the assets of the distressed city or authority in a manner contrary to section 707.

Section 707. Use or disposition of assets.

(a) Use of proceeds.—The proceeds from any sale, lease, conveyance, assignment or other use or disposition of assets of the distressed city or authority shall be applied to the payment of outstanding debt obligations owed by the distressed city or authority, subject to any lien, charge, covenant, restriction, contract, law, rule or regulation, that encumbers or is otherwise applicable to the assets. Proceeds remaining after payment of outstanding debt obligations owed by the distressed city or authority may be used by the receiver to restructure or provide escrow for the payment of future debt obligations or to meet operating and capital needs of the distressed city or authority.

(b) Prohibitions.—Nothing under this section shall be construed to authorize the receiver to unilaterally abrogate, alter or otherwise interfere with a lien, charge, covenant or relative priority that is:

(1) held by a holder of a debt obligation of a distressed city; and

(2) granted by the contract, law, rule or regulation governing the debt obligation.

Section 708. Elected and appointed officials.

(a) Orders.—The receiver may issue an order to an elected or appointed official of the distressed city or an authority to:

(1) implement any provision of the recovery plan; and

(2) refrain from taking any action that would interfere with the powers granted to the receiver or the goals of the recovery plan.

(b) Enforcement.—An order issued under subsection (a) shall be enforceable under section 709.

Section 709. Judicial actions.

(a) Action by receiver.—The receiver may petition

Commonwealth Court to issue a writ of mandamus upon any elected or appointed official of the distressed city or authority to secure compliance with an order issued under section 708. The court shall grant or deny the relief within 14 days of the filing of the petition. The court shall grant the relief requested if it determines that the order was issued in compliance with this chapter.

(b) Action by elected or appointed officials.—Any elected or appointed official of a distressed city or authority may petition Commonwealth Court to enjoin any action of the receiver that is contrary to this chapter.

Section 710. Termination of receivership.

(a) Time.—Except as provided under subsection (b), the receivership under this chapter shall expire two years after the appointment of the receiver.

(b) Extension.—The secretary may petition Commonwealth Court for one or more extensions of the receivership. The court shall grant each extension for another two years if the secretary establishes by a preponderance of the evidence that further implementation of the recovery plan is necessary to end the fiscal emergency.

Section 711. Municipal Financial Recovery Advisory Committee.

(a) Establishment.—There is established a Municipal Financial Recovery Advisory Committee to meet and consult with the receiver in carrying out the duties under this chapter. The sole function of the advisory committee shall be to provide recommendations and feedback to the receiver on the implementation of the recovery plan.

(b) Composition.—The advisory committee established under subsection (a) shall be comprised of the following:

(1) The chief executive officer of the distressed city or a designee.

(2) The president of the governing body of the distressed city or a designee.

(3) One member appointed by the county commissioners of the county where the distressed city is located.

(4) One member appointed by the Governor.

(c) Compensation.—Members of the advisory committee shall receive no compensation for their services.

(d) Meetings.—The advisory committee shall meet with the receiver at least twice per month to discuss the recovery plan. Meetings of the advisory committee shall be in accordance with 65 Pa.C.S. Ch. 7 (relating to open meetings).

(e) Duty to consult.—The receiver shall consult with the advisory committee prior to exercising any of the powers under section 706(a)(1), (2), (3), (5), (6), (7) and (9).

(f) Termination.—The advisory committee shall terminate in conjunction with the expiration of the receivership as provided for under section 710.

Section 712. Applicability.

(a) Statement.—

(1) This chapter shall apply only to distressed cities.

(2) Except as set forth in subsection (b), nothing in this chapter is intended to limit or otherwise abrogate the applicability of any other part of this act.

(b) Conflict.—If there is a conflict between a provision of this chapter and any other provision of this act, the provision of this chapter shall prevail.

Section 3. The heading of Chapter 6 and section 601 of the act are renumbered to read:

CHAPTER [6] 20
TECHNICAL PROVISIONS

Section [601] 2001. Repeals.

Section 2501-C(e) and (f) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, are repealed insofar as they are inconsistent with this act.

The act of June 11, 1935 (P.L.323, No.146), entitled "An act designating the Department of Internal Affairs as the agency of the Commonwealth to approve or disapprove petitions to courts, and plans for the readjustment of debts of political subdivisions, under the act of Congress relating to the bankruptcy of political subdivisions; and

defining the powers and duties of said department in relation thereto," is repealed insofar as it relates to a municipality as defined in section 103 of this act.

Section 4. Section 602 of the act, amended December 19, 1988 (P.L.1272, No.157), is renumbered to read:

Section [602] 2002. Expiration.

Section 203(a)(5) shall expire upon publication in the Pennsylvania Bulletin of the notice required under section 121(f).

Section 5. Section 603 of the act is renumbered to read:

Section [603] 2003. Effective date.

This act shall take effect in 60 days.

Section 6. 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 7. This act shall take effect immediately.

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Speaker recognizes the gentleman, Mr. Grell.

Mr. GRELL. Thank you, Mr. Speaker.

The amendment I am offering substantially changes SB 1151 based on discussions and negotiations that have been going on between the House and the Senate and the Governor's Office over the course of the past 2 months. Just to familiarize the members with the issue, the underlying issue, it has to do with Act 47 and municipalities that are distressed and have come to the Commonwealth asking for assistance under Act 47.

The amendment that I am offering addresses a situation under Act 47 where a municipality enrolls in Act 47, comes to the Commonwealth and asks for assistance in developing a long-term recovery plan, and then fails or refuses to adopt a recovery plan, thereby putting their residents, their employees, and others who come into the municipality in jeopardy.

Mr. Speaker?

The SPEAKER. The House will please come to order. The members will please hold the conversations down.

Mr. GRELL. Thank you, Mr. Speaker, and I appreciate your indulgence and the indulgence of the members. This is an important and significant amendment, and I want to make sure everybody is comfortable with it when we vote on it.

Under the amendment that I am offering, the Governor would be empowered under Act 47, with respect to any third-class city that is in Act 47 who fails or refuses to adopt a fiscal long-term recovery plan, it would authorize the Governor to declare a state of fiscal emergency in the municipality and take immediate responsibility for paying out of assets of the municipality to provide for the continuation of vital services, specifically public health, water, sewer and trash collection, public safety, police, fire and emergency services, and general operations of the city, including payroll costs, pension obligations, and debt service payments.

At the same time the Governor declares a fiscal emergency with respect to any municipality that has refused to adopt a recovery plan, the Governor would be authorized to petition the Commonwealth Court of Pennsylvania for the appointment of a receiver. That process would require the Commonwealth Court to hold a hearing on the need for a receiver, and if a receiver is appointed by the Commonwealth Court, that receiver would then have 30 days to submit to the Commonwealth Court for

another hearing and for approval a long-term recovery plan to address the problems of the municipality under Act 47.

During the time from the petition for the appointment of a receiver and the actual hearing by the Commonwealth Court on the appointment of a receiver, the elected officials of the municipality would still have one final opportunity to determine their own destiny by approving an Act 47 recovery plan. If they fail once again to adopt a plan, the Commonwealth Court would be authorized to appoint a receiver and subsequently to approve a long-term recovery plan to be implemented by the receiver.

Once the plan is approved, the receiver would have the power to perform all functions necessary to implement the Act 47 plan. The elected officials of the city would not be replaced, but their powers would be limited to their ordinary powers until they run up against powers that are required for the implementation of the plan.

If a receiver is appointed, there would also be an advisory committee appointed to receive regular reports from the receiver on the progress of the Act 47 plan implementation. That advisory commission would have no specific powers but would be entitled to meet and receive information from the receiver. The advisory committee would be comprised of the chief executive of the municipality or their designee, the president of the city council or the governing body of the municipality or their designee, a representative of the county in which the municipality is located, and one representative appointed by the Governor.

The receiver would be in place for a period of 2 years, to be extended if necessary to complete the implementation of the recovery plan.

The amendment also provides that in these situations where you have a third-class city in Act 47 that refuses or fails to implement a plan, a commuter tax would not be permissible as part of any long-term recovery plan.

All of the costs of the implementation of the recovery plan would be paid with assets and revenues of the municipality. The only cost that would be borne by the State is the cost of the actual receiver who, once appointed, would obviously be required to be compensated. In order to keep the receiver, the relationship with the Governor and the Secretary of DCED (Department of Community and Economic Development) to whom the receiver will report, we believe it is appropriate that the Commonwealth should pick up that expense. But all other expenses relating to the implementation of the plan would be borne by the underlying municipality.

Thank you, Mr. Speaker. That summarizes the amendment. I believe the amendment, unfortunately with respect to the capital city of Pennsylvania, is necessary, and we are at a point of we need to take action on this.

I will assure the members that we have worked closely over the past 2 months with the prime sponsor of the bill, Senator Piccola, who is in agreement with the amendment. We have worked also with the Governor's Office, and we believe that the amendment, if adopted and not impaired by other amendments, will provide the process by which the stalemate in the capital city of Pennsylvania can be broken and that the residents, both their short-term and their long-term interests, can be protected in that fashion, and I would request the members' support of the amendment.

Thank you, Mr. Speaker.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Dauphin County, Mr. Buxton.

Mr. BUXTON. Thank you, Mr. Speaker.

Mr. Speaker, I wish to interrogate the author of the amendment for a brief question.

The SPEAKER. The gentleman indicates he will stand for interrogation. You may proceed.

Mr. BUXTON. Mr. Speaker, if your amendment is adopted today, will any substantive language remain from the original SB 1151?

Mr. GRELL. Thank you, Mr. Speaker.

The amendment that I am offering is a gut-and-replace amendment. As I said, it has been worked on with the Senator and with the Governor's Office, so there are some aspects of it that are the same, but it is a gut-and-replace amendment.

For example, one aspect that is the same – it may not be the identical language – is the prohibition against a commuter tax, which was in his legislation as well as in the amendment.

Mr. BUXTON. Mr. Speaker, that terminates my interrogation. On the amendment, please.

The SPEAKER. The gentleman is in order, on the amendment.

Mr. BUXTON. Mr. Speaker, the answer to that question is very important to the residents of Harrisburg. Ever since June when the original SB 1151 was passed and sent to this House, the news media and others have characterized SB 1151 as a takeover of the Harrisburg city government. This amendment does not take over the governance of the city of Harrisburg, which is substantially different than that which came to us from the Senate back in June. That is important to note.

I do not refer to this bill, as many do, as a "takeover," because what the bill actually does is set another step in the Act 47 process where some resolution occurs to deal with a financially distressed municipality. We have a unique situation in Harrisburg right now. We are really treading in uncharted waters. We have a local government that has not been able to agree on an Act 47 plan.

Act 47, when it was originally adopted in 1987, never envisioned that a local government could not agree on a plan of recovery until this year when the city of Harrisburg failed to come together and agree on an Act 47 plan. So we are now passed the ball here at the State Capitol to come up with a resolution to the situation in Harrisburg so that we can at least take the next step forward in coming to a resolution with our fiscal distress.

I can report to you that the Governor has cooperated 100 percent with the city of Harrisburg in trying to resolve its financial problems. He has indicated that resources could be available and has been a partner in trying to resolve this resolution since the very beginning. But, Mr. Speaker, we are here today because the city needs to move forward with a plan. Each day that the city does not have a plan in place is costing my taxpayers additional money, because the money that is being borrowed to pay the bills comes at a very high interest rate.

So therefore, I am standing today with my colleague from Cumberland County, thankful that I was part of the process of trying to put a reasonable piece of legislation together, and ask my colleagues for an affirmative vote on the Grell amendment.

Thank you, Mr. Speaker.

PARLIAMENTARY INQUIRY

The SPEAKER. The question is, will the House agree to the amendment?

Is the gentleman, Mr. Thomas, seeking recognition on the amendment?

Mr. THOMAS. Thank you, Mr. Speaker.

And, Mr. Speaker, I am glad that we have you back after the summer recess. Good to see you, and good to see leadership on both sides.

I have a question, a procedural question.

The SPEAKER. The gentleman may state his question.

Mr. THOMAS. Will amendments that have been drafted to the Grell amendment be entertained at any point?

The SPEAKER. It is the Speaker's understanding that there have been several amendments that were drafted to the original bill and that several of those amendments have been redrafted to amend the bill as amended by Grell. So it is my understanding that several of these amendments, some of which are offered by you, would be in order, as they have been redrafted on the presumption that the Grell amendment would pass.

Mr. THOMAS. Thank you. So we would entertain those amendments at some point in the process?

The SPEAKER. It is the Speaker's understanding, for your own information, that there are five amendments that you had drafted to the original bill that are also properly drafted to the bill as amended by the Grell amendment that is before us. So you would have five amendments that are in order.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, I would like to ask the maker of the amendment if he would stand for interrogation.

The SPEAKER. Is the gentleman seeking interrogation on the amendment before us?

Mr. THOMAS. Yes.

The SPEAKER. The gentleman may proceed. The gentleman, Mr. Grell, indicates he will stand for interrogation.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, can you provide me some clarification around collective-bargaining agreements, and my question is, at what point do collective-bargaining agreements continue?

Mr. GRELL. Thank you, Mr. Speaker.

The legislation, the amendment, is drafted to remain neutral on collective-bargaining agreements so that union contracts would be treated no better or no worse than they currently are under Act 47.

Mr. THOMAS. So it is designed to be neutral on collective-bargaining agreements, existing collective-bargaining agreements.

Mr. GRELL. Correct.

Mr. THOMAS. Thank you.

Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment?

(Members proceeded to vote.)

VOTE STRICKEN

The SPEAKER. The Speaker strikes that.

PARLIAMENTARY INQUIRY

The SPEAKER. Is the lady, Ms. Delozier, seeking recognition on the amendment? For what purpose does the lady rise?

Ms. DELOZIER. Thank you.

I am rising for a parliamentary inquiry, please.

The SPEAKER. The lady may state her inquiry.

Ms. DELOZIER. Thank you, Mr. Speaker. I am just requesting a ruling of the Chair.

As a wife of a Harrisburg police officer, obviously voting on something that affects salaries, pensions, and many of the other issues that we have before us, just a ruling as to whether or not I need to abstain from this vote.

The SPEAKER. In the opinion of the Chair, the lady does not have a conflict to vote on this legislation before us.

Ms. DELOZIER. Okay. Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—190

Adolph	Dunbar	Knowles	Rapp
Aument	Ellis	Kortz	Ravenstahl
Baker	Evankovich	Kotik	Readshaw
Barbin	Evans, D.	Krieger	Reed
Barrar	Evans, J.	Kula	Reese
Bear	Everett	Lawrence	Reichley
Benninghoff	Fabrizio	Longiatti	Roae
Bishop	Farry	Maher	Rock
Bloom	Fleck	Mahoney	Roebuck
Boback	Frankel	Major	Ross
Boyd	Freeman	Maloney	Sabatina
Boyle, B.	Gabler	Mann	Saccone
Boyle, K.	Galloway	Markosek	Sainato
Brennan	Geist	Marshall	Samuelson
Briggs	George	Marsico	Santarsiero
Brooks	Gerber	Masser	Santoni
Brown, R.	Gergely	Matzie	Saylor
Brown, V.	Gibbons	McGeehan	Scavello
Brownlee	Gillen	Metcalfe	Schroder
Buxton	Gillespie	Metzgar	Simmons
Caltagirone	Gingrich	Miccarelli	Smith, K.
Carroll	Godshall	Micozzie	Smith, M.
Causser	Goodman	Millard	Sonney
Christiana	Grell	Miller	Staback
Clymer	Grove	Milne	Stephens
Cohen	Hackett	Mirabito	Stern
Conklin	Hahn	Moul	Stevenson
Costa, D.	Haluska	Mullery	Sturla
Costa, P.	Hanna	Mundy	Swanger
Cox	Harhai	Murt	Tallman
Creighton	Harhart	Mustio	Taylor
Cruz	Harkins	Neuman	Toepel
Culver	Harper	O'Brien, M.	Toohil
Curry	Harris	O'Neill	Truitt
Cutler	Heffley	Oberlander	Turzai
Daley	Helm	Parker	Vereb

Davidson	Hess	Pashinski	Vitali
Davis	Hickernell	Payne	Vulakovich
Day	Hornaman	Payton	Wagner
Deasy	Hutchinson	Peifer	Waters
DeLissio	Johnson	Perry	Watson
DeLozier	Josephs	Petrarca	Wheatley
DeLuca	Kampf	Petri	White
Denlinger	Kauffman	Pickett	Williams
Dermody	Keller, F.	Preston	Youngblood
DeWeese	Keller, M.K.	Pyle	
DiGiolamo	Killion	Quigley	Smith, S.,
Donatucci	Kirkland	Quinn	Speaker

NAYS—7

Bradford	Emrick	Murphy	Thomas
DePasquale	Kavulich	Shapiro	

NOT VOTING—0

EXCUSED—6

Burns	Keller, W.	O'Brien, D.	Tobash
Hennessey	Myers		

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

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

Mr. **THOMAS** offered the following amendment No. **A05218**:

Amend Bill, page 16, by inserting between lines 3 and 4 (A05242)

Section 7. Nothing in this act shall be construed to supersede the provision of any Federal or State law relating to the rights, duties or privileges of employees of a municipality that has been declared financially distressed under the act.

Amend Bill, page 16, line 4 (A05242), by striking out "7" and inserting

8

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

The **SPEAKER**. On that question, the Speaker recognizes the gentleman, Mr. Thomas.

Mr. **THOMAS**. Thank you, Mr. Speaker.

Mr. Speaker, amendment A05218 does no more than restate what is currently in Act 47, impliedly articulated in the Grell amendment, and would do nothing to disrupt the intent of the Grell amendment. So I ask members from both sides to support it. It does no more than strengthen what is already in the Grell amendment.

The **SPEAKER**. On the question, the Speaker recognizes the gentleman from Chester County, Mr. Ross.

Mr. **ROSS**. Thank you, Mr. Speaker.

I must most respectfully disagree with my minority chair. In fact, there are some concerns about this language which could actually undercut the effectiveness of the legislation as it has been carefully negotiated with members, not only of both sides of the aisle in the House but also with the Governor and the

Senate and with various other parties that have an interest. It is balanced, it has been carefully vetted, and this suggested amendment would actually damage or destroy that. So I would ask for a "no" vote on this amendment.

The **SPEAKER**. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Luzerne, Mr. Pashinski.

Mr. **PASHINSKI**. Thank you, Mr. Speaker.

Could I have brief interrogation, please, by the maker of the amendment?

The **SPEAKER**. The amendment before us is the Thomas amendment.

Mr. **PASHINSKI**. That is right; I am sorry.

The **SPEAKER**. Who is it that you would like to interrogate?

Mr. **PASHINSKI**. I would like to interrogate the maker of the amendment.

The **SPEAKER**. The gentleman indicates he will stand for interrogation. You may proceed.

Mr. **PASHINSKI**. There seems to be a bit of confusion relative to the area regarding collective bargaining. Could you clarify for me, sir, under the Grell amendment, would the collective-bargaining agreements stay intact throughout the Grell amendment's authority?

Mr. **THOMAS**. Mr. Speaker, excellent question, and from what I understand and from what I have asked some people in the industry to comment on, and according to the maker of the amendment, collective bargaining is neutral – neutral. But throughout the Grell amendment, it is clear that there would be no abrogation of existing contracts, but once those contracts end, the door is open, and you could have a situation where the mayor, the receiver, and/or the advisory board can say, we have no obligation to continue collective bargaining; we have no obligation to continue any rights and/or conditions which existed prior to this recovery plan or during existing contracts. So it is silent and arguably out the door once current contracts expire.

So what my amendment does in strengthening the Grell amendment, because it is not adversarial, it strengthens the Grell amendment by saying that this amendment shall not, shall not be construed to supersede the provision of any Federal or State law pertaining to the rights and privileges of employees of a municipality.

Mr. **PASHINSKI**. So to clarify that, if your amendment passes and a collective-bargaining agreement ends, the same terms and conditions of that collective-bargaining agreement would be maintained until a new collective-bargaining agreement would be agreed upon. Is that correct?

Mr. **THOMAS**. This amendment would not speak to the continuity of the collective-bargaining agreement. All this amendment deals with is honoring a commitment that we all have, from both sides, to respect collective-bargaining agreements. So there is another amendment that deals with what happens once the collective-bargaining agreement ends. This amendment just restates what we all respect, which is collective-bargaining agreements.

Mr. **PASHINSKI**. Thank you, Mr. Speaker.

Thank you, Mr. Speaker.

The **SPEAKER**. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Lackawanna County, Mr. Murphy.

Mr. MURPHY. Thank you, Mr. Speaker.
I would just like to make a brief comment on the amendment in that as a former councilman in the city of Scranton, we adopted a revised recovery plan in 2002. That revised recovery plan is now in front of the Pennsylvania Supreme Court in a case they heard last June. There is yet to be a decision made as to whether or not Act 47 supersedes Act 111, which provides police and firemen with collective-bargaining rights under current State law.

So I believe it would be prudent, before the State Supreme Court weighs in on whether or not Act 47 supersedes Act 111, to proceed with caution. In an effort to proceed with that caution and ensuring that the intent of Act 47 is upheld but at the same time ensuring that the intent of Act 111 is upheld, I would ask for an affirmative vote on the amendment.

Thank you, Mr. Speaker.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman, Mr. Ross, for the second time.

Mr. ROSS. Thank you, Mr. Speaker.

After listening to the earlier colloquy, I still urge a "no" vote. It has been amply stated and is in the existing Grell amendment that was just adopted that we neither advance nor subtract any rights for collective-bargaining agreements by this language. Therefore, opening up some more vague language that is currently being proposed has the potential to create mischief, and it is not advancing or protecting anything that is not already covered.

So therefore, I continue to ask for a "no" vote.

LEAVE OF ABSENCE

The SPEAKER. The Speaker returns to leaves of absence and recognizes the majority whip, who requests a leave of absence for the gentleman, Mr. REICHLEY, for the remainder of the day. Without objection, the leave will be granted.

CONSIDERATION OF SB 1151 CONTINUED

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

The following roll call was recorded:

YEAS—79

Barbin	DeLuca	Josephs	Preston
Bishop	Dermody	Kirkland	Ravenstahl
Boyle, B.	DeWeese	Kortz	Readshaw
Boyle, K.	Donatucci	Kotik	Roebuck
Briggs	Evans, D.	Kula	Sabatina
Brown, V.	Fabrizio	Longietti	Sainato
Brownlee	Frankel	Mann	Samuelson
Buxton	Freeman	Markosek	Santarsiero
Caltagirone	Galloway	Matzie	Smith, K.
Carroll	George	McGeehan	Smith, M.
Cohen	Gerber	Mirabito	Staback
Conklin	Gergely	Mullery	Sturla
Costa, D.	Gibbons	Mundy	Thomas
Costa, P.	Goodman	Murphy	Wagner
Cruz	Haluska	Neuman	Waters
Curry	Hanna	O'Brien, M.	Wheatley
Davidson	Harhai	Parker	White
Davis	Harkins	Pashinski	Williams

Deasy	Hornaman	Payton	Youngblood
DeLissio	Johnson	Petrarca	

NAYS—117

Adolph	Evans, J.	Lawrence	Reese
Aument	Everett	Maher	Roae
Baker	Farry	Mahoney	Rock
Barrar	Fleck	Major	Ross
Bear	Gabler	Maloney	Saccone
Benninghoff	Geist	Marshall	Santoni
Bloom	Gillen	Marsico	Saylor
Boback	Gillespie	Masser	Scavello
Boyd	Gingrich	Metcalfe	Schroder
Bradford	Godshall	Metzgar	Shapiro
Brennan	Grell	Miccarelli	Simmons
Brooks	Grove	Micozzie	Sonney
Brown, R.	Hackett	Millard	Stephens
Causer	Hahn	Miller	Stern
Christiana	Harhart	Milne	Stevenson
Clymer	Harper	Moul	Swanger
Cox	Harris	Murt	Tallman
Creighton	Heffley	Mustio	Taylor
Culver	Helm	O'Neill	Toepel
Cutler	Hess	Oberlander	Toohil
Daley	Hickernell	Payne	Truitt
Day	Hutchinson	Peifer	Turzai
Delozier	Kampf	Perry	Vereb
Denlinger	Kauffman	Petri	Vitali
DePasquale	Kavulich	Pickett	Vulakovich
DiGirolo	Keller, F.	Pyle	Watson
Dunbar	Keller, M.K.	Quigley	
Ellis	Killion	Quinn	Smith, S., Speaker
Emrick	Knowles	Rapp	
Evankovich	Krieger	Reed	

NOT VOTING—0

EXCUSED—7

Burns	Keller, W.	O'Brien, D.	Tobash
Hennessey	Myers	Reichley	

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

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

Mr. **THOMAS** offered the following amendment
No. **A05224**:

Amend Bill, page 15, by inserting between lines 14 and 15
(A05242)

Section 712. Effect on contracts.

(a) Contracts and collective bargaining agreements.—

(1) A contract or collective bargaining agreement in existence in a distressed city prior to the approval or the implementation of a recovery plan shall remain in effect after approval or the implementation of the plan until the new collective bargaining agreement or arbitration settlement or award is executed.

(2) A collective bargaining agreement or arbitration settlement or award executed after the adoption or the implementation of the recovery plan shall not in any manner violate, expand or diminish the provisions of the plan. The distressed city shall execute contracts and agreements only with the approval of the person or entity charged with implementing

the recovery plan.

(b) (Reserved).

Amend Bill, page 15, line 15 (A05242), by striking out "712" and inserting

713

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

The SPEAKER. On that question, the Speaker recognizes the gentleman, Mr. Thomas.

Mr. THOMAS. Mr. Speaker, let me start off by saying to Representative Grell, I want to thank you for stepping up to the plate in trying to get this very ugly situation worked out in the capital of this great State. I know that you have talked with the mayor and talked with the Senator and stakeholders, and so I am thankful that you are moving forward. And I just need you to help me to get from third base to home rule. This would be a home rule.

Within the Grell amendment, the maker of the amendment has made it very clear that he is neutral on collective-bargaining agreements, but throughout other parts of the Grell amendment, it is clear that once existing contracts expire, there is no obligation to do anything beyond that except whatever the receiver and an advisory board deem is necessary. And there are too many police officers, firefighters, and municipal workers caught up in this madness through, in many cases, no fault of their own that we can ill afford to just embrace the Grell amendment and stop. I want you and I to join Representative Grell to get from third base to home base, and we can do that by adopting amendment 5224.

But let us talk about how it will move us from third base to home plate. My amendment says that we will honor existing collective-bargaining agreements, which is articulated in the Grell amendment, but it goes a step further and says that when these contracts expire, that there will be continuity at least until another collective-bargaining agreement, settlement, award, or some agreement is put in place; that my amendment says to police officers, firefighters, and municipal workers that we have enough confusion about the economics of our State and our world, and you need some predictability in these jobs and in the responsibilities that you have. My amendment would provide the predictability and provide security by saying that when existing contracts expire, things continue until there is another collective-bargaining agreement or settlement or award.

Mr. Speaker, that is a home-base hit where you and I can stand with Representative Grell in making sure that where there are firefighters, police officers, and municipal workers, that there is predictability, there is security, and that there will be no confusion once these existing contracts expire.

Let us do the right thing. Vote "yes" on amendment A5224. Thank you.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Chester County, Mr. Ross.

Mr. ROSS. Thank you, Mr. Speaker.

I would note that half of this amendment is already in the Grell amendment, and the other elements are existing law that does not need to be restated. It is understood that at the end of a contract, new collective bargaining will occur. It does not need to be restated. There is nothing to prevent an existing

collective-bargaining agreement from being continued by mutual agreement. So therefore, this language is unnecessary and adds confusion rather than resolves it.

So therefore, I would urge a "no" vote.

The SPEAKER. The question is, will the House agree to the amendment?

Does the gentleman, Mr. Thomas, seek recognition for the second time on the amendment?

Mr. THOMAS. Thank you, Mr. Speaker.

The SPEAKER. The gentleman may proceed.

Mr. THOMAS. Mr. Speaker, that is my chair, and my chair has said that my amendment fills the glass only halfway. But on the question of predictability, security, and continuity, it is not a whole glassful. It is not full. It is only halfway.

The maker of the amendment has made it very clear that on the question of continuing collective-bargaining agreements, he is neutral. So if he is neutral and my chairman is halfway, this takes us from third base and takes us all the way home and gives police officers, our police officers, our firefighters, and our municipal workers, we give them a home-run hit. Is that right, chairman of the local control? We take them all the way home on this by giving predictability, security, and continuity until something else happens.

Vote "yes" on the Thomas amendment.

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

The following roll call was recorded:

YEAS—84

Barbin	DeLissio	Kavulich	Preston
Bishop	DeLuca	Kirkland	Ravenstahl
Boyle, B.	Dermody	Kortz	Readshaw
Boyle, K.	DeWeese	Kotik	Roebuck
Brennan	Donatucci	Kula	Sabatina
Briggs	Evans, D.	Longietti	Sainato
Brown, V.	Fabrizio	Mahoney	Samuelson
Brownlee	Frankel	Mann	Santarsiero
Buxton	Freeman	Markosek	Santoni
Caltagirone	Galloway	Matzie	Smith, K.
Carroll	George	McGeehan	Smith, M.
Cohen	Gerber	Mirabito	Staback
Conklin	Gergely	Mullery	Sturla
Costa, D.	Gibbons	Mundy	Thomas
Costa, P.	Goodman	Murphy	Vitali
Cruz	Hanna	Neuman	Wagner
Curry	Harhai	O'Brien, M.	Waters
Daley	Harkins	Parker	Wheatley
Davidson	Hornaman	Pashinski	White
Davis	Johnson	Payton	Williams
Deasy	Josephs	Petrarca	Youngblood

NAYS—112

Adolph	Everett	Lawrence	Reed
Aument	Farry	Maher	Reese
Baker	Fleck	Major	Roae
Barrar	Gabler	Maloney	Rock
Bear	Geist	Marshall	Ross
Benninghoff	Gillen	Marsico	Saccone
Bloom	Gillespie	Masser	Saylor
Boback	Gingrich	Metcalfe	Scavello
Boyd	Godshall	Metzgar	Schroder
Bradford	Grell	Miccarelli	Shapiro
Brooks	Grove	Micozzie	Simmons
Brown, R.	Hackett	Millard	Sonney
Causer	Hahn	Miller	Stephens

Christiana	Haluska	Milne	Stern
Clymer	Harhart	Moul	Stevenson
Cox	Harper	Murt	Swanger
Creighton	Harris	Mustio	Tallman
Culver	Heffley	O'Neill	Taylor
Cutler	Helm	Oberlander	Toepel
Day	Hess	Payne	Toohil
DeLozier	Hickernell	Peifer	Truitt
Denlinger	Hutchinson	Perry	Turzai
DePasquale	Kampf	Petri	Vereb
DiGirolamo	Kauffman	Pickett	Vulakovich
Dunbar	Keller, F.	Pyle	Watson
Ellis	Keller, M.K.	Quigley	
Emrick	Killion	Quinn	Smith, S.,
Evankovich	Knowles	Rapp	Speaker
Evans, J.	Krieger		

NOT VOTING—0

EXCUSED—7

Burns	Keller, W.	O'Brien, D.	Tobash
Hennessey	Myers	Reichley	

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

On the question recurring,

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

Mr. **THOMAS** offered the following amendment No. **A05226**:

Amend Bill, page 1, line 4 (A05242), by striking out "third class cities" and inserting

municipal corporations

Amend Bill, page 1, line 5 (A05242), by striking out "third class cities" and inserting

municipal corporations

Amend Bill, page 2, line 48 (A05242), by striking out "CITIES OF THE THIRD CLASS" and inserting

MUNICIPAL CORPORATIONS

Amend Bill, page 3, line 6 (A05242), by striking out all of said line

Amend Bill, page 3, line 11 (A05242), by striking out "city" and inserting

municipal corporation

Amend Bill, page 8, line 9 (A05242), by striking out "CITIES OF THE THIRD CLASS" and inserting

MUNICIPAL CORPORATIONS

Amend Bill, page 8, line 18 (A05242), by striking out all of said line

Amend Bill, page 8, line 23 (A05242), by striking out "city" and inserting

municipal corporation

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Speaker recognizes the gentleman, Mr. Thomas.

Mr. THOMAS. Mr. Speaker, this amendment is more technical than substantive, and to that end, it no more than says that all of this will apply to the municipal corporations act. So it

is no more than a restatement of where the maker of the amendment and my chairman is on board.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Chester County, Mr. Ross.

Mr. ROSS. Thank you, Mr. Speaker.

This has always been about third-class cities up until now, and I want to share with the members that in fact we are having a much broader review of Act 47 that we are going to perform jointly with the Senate, and hopefully with the Senate and House Local Government Committees as well, that will review a wide range of Act 47 issues, and I think that is entirely appropriate. But we have an immediate crisis in front of us which relates to third-class cities. Extending it beyond that scope right now is unnecessary. There will be plenty of chance to look at this in relation to the other municipalities that are covered under Act 47 as part of the overall review that we are going to be conducting this fall.

So therefore, again, in the interest of keeping this focused, I ask for a "no" on this amendment.

AMENDMENT WITHDRAWN

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman, Mr. Thomas, for the second time.

Mr. THOMAS. Thank you.

Mr. Speaker, I remember my mama used to tell me and tell all of us that the only thing a man has between the cradle and the grave is his word, and if you cannot honor your word, then you can just hang it up. I just heard my chairman, and I think my chairman is right on point with taking a look at this whole issue. And so, Mr. Speaker, if I had an opportunity to talk to the speaker beforehand, and I found him, that if he said it out of his mouth, more often than not he will stand by it. So I withdraw my amendment in light of his comments.

The SPEAKER. The Speaker thanks the gentleman.

On the question recurring,

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

Mr. **THOMAS** offered the following amendment No. **A05228**:

Amend Bill, page 1, line 4 (A05242), by striking out "and" and inserting a comma

Amend Bill, page 1, line 5 (A05242), by inserting after "cities" and for distressed city sales and use tax

Amend Bill, page 15, by inserting between lines 23 and 24 (A05242)

CHAPTER 8

DISTRESSED CITY SALES AND USE TAX

Section 801. Definitions.

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

"Debt service reserve fund." A fund which may be created by the management board and which shall be used, when required, solely for the payment of the principal of bonds secured or otherwise guaranteed in whole or in part by the distressed city, the payment of interest on

such bonds or the payment of any redemption premium required to be paid when such bonds and notes are redeemed prior to maturity.

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

"Fund." The Distressed City Tax Fund established by this chapter.

"Tax." The tax authorized to be imposed by the governing body of a city under this chapter.

Section 802. Applicability.

The provisions of this chapter shall apply to distressed cities of the third class.

Section 803. Authorization.

Subject to section 804, a distressed city may, by ordinance, levy and assess or provide for the levying and assessment of taxes on the sale or use of tangible personal property and services for revenue purposes specified under this chapter.

Section 804. Imposition of tax.

(a) Sales.—The governing body of a distressed city may levy, assess and collect upon each separate sale at retail of tangible personal property or services, as defined in Article II of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, within that city a tax on the purchase price. The tax shall be collected by the vendor from the purchaser and shall be paid over to the Commonwealth as provided in this chapter.

(b) Use.—In any distressed city which imposes the tax authorized in subsection (a), there shall be levied, assessed and collected upon the use, within that distressed city, of tangible personal property purchased at retail, and on services purchased at retail, as defined in Article II of the Tax Reform Code of 1971, a tax on the purchase price. The tax shall be paid over to the Commonwealth by the person who makes such use. The use tax imposed pursuant to this chapter shall not be paid over to the Commonwealth by any person who has paid the tax imposed by subsection (a) or has paid the tax imposed by this subsection to the vendor with respect to such use.

Section 805. Rate.

(a) General rule.—The tax authorized under section 804 may be imposed at a rate of 1%.

(b) Uniformity.—The tax imposed under section 804 shall be uniform.

Section 806. Computation of tax.

The tax imposed under this chapter shall be computed in the manner set forth in section 503(e)(2) of the act of June 5, 1991 (P.L.9, No.6), known as the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class.

Section 807. Situs for imposition of tax.

(a) Situs for retail sales.—For purposes of this chapter and except as otherwise provided in this subsection, a sale at retail shall be deemed to be consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-State destination or to a common carrier for delivery to an out-of-State destination or the United States mails for delivery to an out-of-State destination. In the event a retailer has more than one place of business in this Commonwealth which participates in the sale, the sale shall be deemed to be consummated at the place of business of the retailer where the initial order for the tangible personal property is taken, even though the order must be forwarded elsewhere for acceptance approval of credit, shipment or billing. A sale by a retailer's employee shall be deemed to be consummated at the place of business from which that employee works.

(b) Situs for vehicle, aircraft and motorcraft sales.—The sale at retail or use of a motor vehicle, trailer, semitrailer or mobile home, as defined in 75 Pa.C.S. (relating to vehicles), or of a motorboat, aircraft or other similar tangible personal property, required under either Federal or State laws to be registered or licensed, shall be deemed to have been completed or used at the address of the purchaser or user. The tax due shall be paid by the purchaser or user directly to the Department of Transportation at the time of making application for the issuance of a certificate of title or directly to the department if licensing

by the Department of Transportation is not required or obtained.

(c) Situs for utility services.—The sale or use of steam, natural and manufactured gas, electricity and telephone and telegraph service shall be deemed to occur at the service address in the city, which is the address where the telephone equipment is located and to which the telephone number is assigned or where the telegraph originated or where the meter which registers the service is located, without regard to where the services are rendered.

Section 808. Licenses.

A license for the collection of the tax shall be issued by the department in the same manner as is provided for in section 505 of the act of June 5, 1991 (P.L.9, No.6), known as the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class. Licensees shall be entitled to the same discount as provided in section 227 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

Section 809. Administration, rules and regulations.

(a) General rule.—The department shall administer, enforce and collect any tax imposed pursuant to section 804 and shall do so under the administration, enforcement and collection procedures and subject to the fines, forfeitures, penalties and interest charges pursuant to the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

(b) Administrative costs.—The department may retain a sum equal to 1% of the revenues collected under this chapter for its administrative costs.

(c) Rules and regulations.—In addition to the rules and regulations promulgated under section 270 of the Tax Reform Code of 1971, any further rules or regulations promulgated by the department shall be applicable to the taxes imposed under section 804.

Section 810. Procedure.

(a) Ordinance.—The governing body in any distressed city desiring to impose the tax authorized by section 804 shall adopt an ordinance which shall state the tax rate and pledge to and agree with each obligee of the distressed city and its controlled authorities or discreet component units that the distressed city will not repeal the tax or reduce the rate of such tax until all bonds so secured or guaranteed by the pledge of the distressed city, together with any applicable interest, are fully paid or provided for.

(b) Notification.—A certified copy of a distressed city ordinance shall be delivered to the department no later than 90 days prior to the effective date of that ordinance.

(c) Repeal ordinance.—A certified copy of a repeal ordinance shall be delivered to the department at least 30 days prior to the effective date of the repeal.

Section 811. Distressed City Tax Fund.

(a) Establishment.—The Distressed City Tax Fund is established as a special revenue account within the State Treasury. The State Treasurer shall be custodian of the funds which shall be subject to the provisions of section 302 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

(b) Receipt and deposit.—

(1) The tax shall be received by the department and paid to the State Treasurer and, along with interest and penalties, less any administrative costs pursuant to section 807, be credited to the fund no less frequently than every two weeks.

(2) During any period prior to the credit of moneys to the fund, interest earned on moneys received by the department and paid to the State Treasurer under this chapter shall be deposited into the fund.

(c) Transfers and lapses prohibited.—All moneys in the fund shall not lapse or be transferred to any other fund, but shall remain in the fund.

(d) Disbursement.—At least weekly, the State Treasurer shall disburse the total amount of moneys which are, as of the close of business of the previous week, contained in the fund as a result of the tax to or upon the order of the management board of the distressed city for the purposes specified under this chapter. The State Treasurer shall

make the initial disbursement pursuant to this section at the end of the third week of the month immediately following the effective date of the ordinance imposing the distressed city tax.

Section 812. Debt service reserve fund.

(a) Authorization.—A distressed city may establish one or more debt service funds into which shall be deposited the proceeds of any tax levied for management purposes of assisting the distressed city or any other moneys made available to the distressed city from any source for such purpose.

(b) Dedicated uses for fund proceeds.—All moneys transferred from the fund to the debt service fund of a distressed city pursuant to this chapter shall be used when required solely for the payment of the principal of bonds secured or otherwise guaranteed in whole or in part by the distressed city or its controlled municipal authorities or discreet component units, the payment of interest on such bonds or the payment of any redemption premium required to be paid when the bonds are redeemed prior to maturity.

(c) Dissolution of the fund.—If the distressed city is no longer considered distressed, moneys in the debt service reserve fund shall be transferred to the debt service fund of the city and shall continue to be used for the purposes specified in this chapter.

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Speaker recognizes the gentleman, Mr. Thomas.

Mr. THOMAS. Mr. Speaker, as a matter of general rule, I do not support promoting additional taxes in this climate, but, Mr. Speaker, when I look at the Grell amendment, it is clear that third-class municipalities cannot do anything to raise revenues outside of what the State, Federal government, or county gives to them.

The Grell amendment forecloses this municipality and all other third-class municipalities from talking about a commuter tax or any additional revenues, and so this amendment is designed to say to third-class municipalities, if you want to do this, if you want to do something for yourself to help deal with the financial situation that you are currently in, especially when you are trying to deal with debt left by somebody else, not created of your own. The great people of Harrisburg, the anchor of this Commonwealth, want to try and help themselves, and so to that end, they would like the opportunity to levy a 1-percent sales and use tax, not forever or in perpetuity but the duration of the period in which this great city would be considered fiscally distressed.

So if the Grell amendment had kept the Act 47 recommendation of looking at commuter taxes and some other ways of helping themselves, I would not even be putting this on the table for consideration. But if the people of Harrisburg said give us a chance to do something for ourselves, this amendment will help.

Thank you. Vote "yes" on the Thomas amendment.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Chester County, Mr. Ross.

Mr. ROSS. Mr. Speaker, I first want to begin by thanking my fellow chair, minority chair of my committee, for his kind comments before, but I unfortunately once again have to ask for a negative vote on this current proposed amendment.

I would point out that both the mayor and the coordinator under Act 47 came up with plans to resolve the fiscal difficulties in the city of Harrisburg which did not have new

taxes of this sort in it. It is our job to do a focused, limited job to try and provide the tools necessary for the city of Harrisburg to get out of their fiscal difficulties. Opening up a new tax at this stage and putting that on the table after we have had good negotiated discussions that did not include an additional tax, which would at the very least be tremendously controversial, is totally unnecessary and I think would actually create a lot of problems in getting this bill passed and signed quickly, as we expect and know that it needs to be.

So I would therefore ask for a "no" vote on this amendment that offers a new tax to the city of Harrisburg.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Cambria County, Mr. Barbin.

Mr. BARBIN. Thank you, Mr. Speaker.

I rise in opposition to this amendment. I applaud the maker's intent to try to solve the problem that we have refused to solve over the last 10 years where we do not provide funding for third-class cities that are distressed. However, the way this amendment is drafted, it would be better left to the bill that will actually fix Act 47.

The problem with the amendment as it is drafted is that in most third-class cities that have passed a sales tax for a small municipality, it would not generate enough revenue in order to meet the purpose that he is seeking to meet. And since the amendment is written for all third-class cities and since it will not be effective in its purpose, I will be voting "no" to this tax increase.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes, for the second time, the gentleman, Mr. Thomas.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, I am kind of getting a feel of where people are on this, and I just hope that we have had an opportunity on behalf of the people of Harrisburg to say that they want to do something to help themselves, that they want to do something to help themselves, and at some point we should consider that. So I am going to ask Representative Grell if when this gets over to the Senate, take a look at, in conjunction with your Senator, take a look at how the city of Harrisburg can help itself and how some of these other third-class cities like Erie might want to help themselves. If we did not learn anything else from this last hurricane— What was it? A hurricane or a tornado or what was it? Whatever it was, it wreaked havoc in many of our communities, and it wreaked havoc at a time that we were not prepared to deal with the collateral consequences. We did not expect it.

Was that thunder, Chairman DeLuca? Is that something going on outside?

AMENDMENT WITHDRAWN

Mr. THOMAS. But, Mr. Speaker, my point is this: Harrisburg wants to do something to help themselves, and so to that end, I ask that you do what you can to help this out over in the Senate, and to that end, Mr. Speaker, I withdraw my amendment. Thank you.

The SPEAKER. The Speaker thanks the gentleman for withdrawing the amendment.

For what purpose does the gentleman, Mr. Conklin, rise?

Mr. CONKLIN. Just to ask a question of the maker of the amendment, Mr. Speaker.

The SPEAKER. He has withdrawn the amendment.

Mr. CONKLIN. Thank you, Mr. Speaker.

Just a quick question for the maker of the amendment.

The SPEAKER. The gentleman—

Mr. CONKLIN. Oh, sorry. I cannot hear, Mr. Speaker. I apologize.

The SPEAKER. The gentleman, Mr.— The House will please come to order. If members would kindly hold the conversations down, we would appreciate it.

The gentleman, Mr. Thomas, has withdrawn the amendment that was previously before us as you were rising to the microphone, so there is nothing before the House at the moment.

Mr. CONKLIN. Thank you, Mr. Speaker.

On the question recurring,

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

Mr. **THOMAS** offered the following amendment No. **A05230**:

Amend Bill, page 4, line 29 (A05242), by inserting after "following"

subject to an intergovernmental cooperation agreement entered into by the Commonwealth and the distressed city under section 610

Amend Bill, page 7, by inserting between lines 49 and 50 (A05242)

Section 610. Intergovernmental cooperation agreement.

The Commonwealth shall enter into an intergovernmental cooperation agreement with the distressed city for the purposes of carrying out the powers and duties of this act.

Amend Bill, page 7, line 50 (A05242), by striking out "610" and inserting

611

Amend Bill, page 12, line 23 (A05242), by inserting after "duties"

, subject to an intergovernmental cooperation agreement entered into by the Commonwealth and the distressed city under section 610

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Speaker recognizes the gentleman, Mr. Thomas.

Mr. THOMAS. Mr. Speaker, I have been around here for a little bit now, and I have enjoyed my tenure and I am excited about my colleagues from both sides of the aisle. I do not think that we could have, any of us would have had an opportunity to be a part of a brain trust like this excellent coming together of people from all across the State.

Mr. Speaker, during the early part of my career when the Honorable Robert O'Donnell was Speaker – some of you all remember that – and Philadelphia had a serious financial problem, and then later on, I believe under Speaker Ryan or another Speaker, Allegheny County was faced with this same situation, and we used the model that we used in Philadelphia, which is commonly referred to as PICA, the Philadelphia

intergovernmental cooperation agreement. PICA has done marvelous things in terms of looking at the city's financial situation and making very wise decisions in terms of how the city should be dealing with its debt situation. And I have yet to hear that the PICA model in Allegheny County has not been working. I meant to ask my friend, Representative Maher, because I know he understands about this financial stuff, whether the PICA model in Allegheny County works, but I have not heard anything to say that it is not working.

So accordingly, Mr. Speaker, intergovernmental cooperation agreements is a good model for dealing with distressed designation around fiscal issues. So my amendment only encourages that before we turn to three-member boards, receivers, advisory boards, let us look at this PICA model as a model for dealing with financial situations following declaration of distress to small or large municipalities. And you and I can rally around this recommendation since we have two situations where this model has worked.

So I hope— Now, I know my chairman is not from Philadelphia or Allegheny, but I know that he talks and interacts with members from Allegheny and Philadelphia Counties. My leader is from Allegheny County, the Democratic leader. The majority leader is from Allegheny County. I have not heard any bad news about the intergovernmental cooperation agreement in those two counties. So I think that we are on to something in articulating models that can deal with situations like the one that we are confronted, and that is all my amendment does. It allows us to support this model as a good model for dealing with the kinds of situations that are facing the city of Harrisburg.

Thank you, Mr. Speaker, and, Mr. Chairman, thank you for your support.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Chester County, Mr. Ross.

Mr. ROSS. With all due respect, I am afraid he was being a little ahead of himself in suggesting I supported this. And I do need to point out a very substantial difference between the factors that went into the PICA agreement in Philadelphia and the ICA agreement (intergovernmental cooperation agreement) in the Pittsburgh-Allegheny County area. In both cases, a majority of the city councils approved of the agreement. It was based on a majority support of the elected officials in the jurisdiction in which they were being applied.

The reason we are here today is because the majority of the city council in Harrisburg and the particular case that we are looking at here, most specifically for this legislation, has been resistant continually from approving any agreement. So if we were to adopt this amendment, we would be blessing and continuing the gridlock that we currently are seeing, because you cannot get an intergovernmental agreement adopted in a city that will not adopt this and will not have a majority vote for it.

So therefore, we would be doing nothing today; we would be continuing the gridlock that is currently occurring. So I obviously would recommend a "no" vote and ask that my colleagues follow suit on that.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman, Mr. Thomas, for the second time.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, I am always cautiously optimistic about support from whichever side of the aisle it comes. So the last speaker, I did not say that I had his support, I just said I wanted it, and there is nothing wrong with me hoping for the best from him, especially since the situation in Harrisburg is distinguishable from the situation that we faced in Philadelphia and in Allegheny County. There are four members of the Harrisburg City Council that want to declare bankruptcy. They believe that the \$314 million debt can be resolved without collateral damages by declaring bankruptcy.

Now, I just ask you to think about even entertaining something like that in the capital of this great State. That is the thing that separates. And I never mentioned city council in my conversation, because even raising the spectrum of declaring bankruptcy in this great city is just bad, just bad, and it does not remove you and I from embracing the concept of PICA boards as a model for dealing with financial distress.

Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—20

Bishop	Davidson	Josephs	Roebuck
Brown, V.	DeWeese	Kirkland	Thomas
Cohen	Freeman	Markosek	Waters
Conklin	Harkins	McGeehan	Williams
Cruz	Johnson	Parker	Youngblood

NAYS—175

Adolph	Emrick	Kortz	Rapp
Aument	Evankovich	Kotik	Ravenstahl
Baker	Evans, D.	Krieger	Readshaw
Barbin	Evans, J.	Kula	Reed
Barrar	Everett	Lawrence	Reese
Bear	Fabrizio	Longietti	Roae
Benninghoff	Farry	Maher	Rock
Bloom	Fleck	Mahoney	Ross
Boback	Frankel	Major	Sabatina
Boyd	Gabler	Maloney	Saccone
Boyle, B.	Galloway	Mann	Sainato
Boyle, K.	Geist	Marshall	Samuelson
Bradford	George	Marsico	Santarsiero
Brennan	Gerber	Masser	Santoni
Briggs	Gergely	Matzie	Saylor
Brooks	Gibbons	Metcalfe	Scavello
Brown, R.	Gillen	Metzgar	Schroder
Brownlee	Gillespie	Miccarelli	Shapiro
Buxton	Gingrich	Micozzie	Simmons
Caltagirone	Godshall	Millard	Smith, K.
Carroll	Goodman	Miller	Smith, M.
Causar	Grell	Milne	Sonney
Christiana	Grove	Mirabito	Staback
Clymer	Hackett	Moul	Stevens
Costa, D.	Hahn	Mullery	Stern
Costa, P.	Haluska	Mundy	Stevenson
Cox	Hanna	Murphy	Sturla
Creighton	Harhai	Murt	Swanger
Culver	Harhart	Mustio	Tallman
Curry	Harper	Neuman	Taylor
Cutler	Harris	O'Brien, M.	Toepel
Daley	Heffley	O'Neill	Toohil
Davis	Helm	Oberlander	Truitt
Day	Hess	Pashinski	Turzai
Deasy	Hickernell	Payne	Vereb

DeLissio	Hornaman	Peifer	Vitali
DeLozier	Hutchinson	Perry	Vulakovich
DeLuca	Kampf	Petrarca	Wagner
Denlinger	Kauffman	Petri	Watson
DePasquale	Kavulich	Pickett	Wheatley
Dermody	Keller, F.	Preston	White
DiGirolamo	Keller, M.K.	Pyle	
Donatucci	Killion	Quigley	Smith, S., Speaker
Dunbar	Knowles	Quinn	
Ellis			

NOT VOTING—1

Payton

EXCUSED—7

Burns	Keller, W.	O'Brien, D.	Tobash
Hennessey	Myers	Reichley	

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

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

Mr. FREEMAN offered the following amendment
No. **A05135**:

Amend Bill, page 8, by inserting between lines 7 and 8 (A05242)
Section 611. Expiration.

This chapter shall expire July 1, 2013.

Amend Bill, page 15, by inserting between lines 23 and 24
(A05242)

Section 713. Expiration.

This chapter shall expire July 1, 2013.

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

The SPEAKER. On that question, the Speaker recognizes the gentleman, Mr. Freeman.

Mr. FREEMAN. Thank you, Mr. Speaker.

Mr. Speaker, my amendment provides for a sunset provision on the two chapters that have been added by the Grell amendment, chapter 6 and chapter 7 to Act 47. Under my amendment, those two chapters would cease to exist after July 1 of the year 2013.

The importance of a sunset provision on those particular chapters is that the course that those chapters are charting for cities of the third class is not a course which is necessarily appropriate for all cities of the third class, and yet those chapters have a sweeping authority in the category of third-class cities. It is quite clear that the issue at stake here today before us is the financial situation of the city of Harrisburg, and yet chapters 6 and 7 paint a broader brush.

I think we all recognize that something has to be done to deal with the immediate fiscal situation in Harrisburg, and so I understand the intent of the Grell amendment, but there is no reason why this should be a permanent feature of Act 47. If we adopt my amendment, amendment A5135, we would make it a feature of Act 47 up until July 1 of 2013, basically providing a 2-year window for Harrisburg to get their act together and

address the issues that are envisioned in chapters 6 and 7 of this legislation.

Keep in mind that even with a sunset provision, we as a legislative body have the opportunity to revisit that sunset, and if we choose to, within a year or two, to repeal it, to extend chapters 6 and 7. However, I think it is important that we limit the scope of this to a 2-year window. That is also in keeping with the role envisioned for the receiver in this legislation. In this legislation, the receiver is only to be in existence for 2 years with potential renewals down the road, but since that is a 2-year window, let us keep the applicability of these chapters in a 2-year window as well, as we would achieve with my language.

I commend Representative Grell, the chairman of the Urban Affairs Committee as well, and the Representative from Harrisburg for the work they have done on this. SB 1151, when it first came over to us, was very draconian in its approach. It was overly sweeping and would, in effect, have created a takeover of the government of Harrisburg. Through their amendment, they have narrowed the scope, and I recognize that and I appreciate their fine work. They narrowed the scope primarily to financial issues. Nevertheless, it is still a dramatic departure from what was envisioned for Act 47. Act 47 was to be a participatory process with the affected distressed municipality. We are now superseding the role of the elective body of that city in that process and basically telling them this is how it has to be. I understand the circumstances are somewhat unique for the city of Harrisburg, and that is why I voted for the Grell amendment as an improvement over the original language of Senator Piccola. However, I am still very disturbed by the possibility that this could be applied to other third-class cities down the road, third-class cities whose circumstances do not quite mirror what has happened in Harrisburg. We are taking away from third-class cities the ability to chart their own destiny when it comes to how they will act within the confines of Act 47. And, therefore, I think since this language is not narrow enough in scope to pertain only to the city of Harrisburg, it is incumbent upon us to sunset this language within that 2-year window that I am proposing.

This amendment, as it is before us today, makes sense. It gives the opportunity to address the issue that the prime sponsors have been concerned with, but again, does not negatively impact the potential for this to spill over into other third-class cities that do not have the same scope of problems that Harrisburg does.

And I might add that under the gentleman from Cumberland's language, we are giving tremendous fiscal authority to the receiver. It is unprecedented in terms of the Act 47 process. We should not lightly add that to the Act 47 statute. Let us keep it as a temporary measure, not a permanent feature of that legislation, and we do so with my amendment.

I would urge the House to support my amendment and to sunset this provision after 2 years.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Chester County, Mr. Ross.

Mr. ROSS. Thank you, Mr. Speaker.

While I respect the legitimate concerns of my colleague, I do also want to emphasize that this is not a situation that a third-class city that is attempting to resolve their problems and working in a normal fashion will ever find themselves in, but if another municipality, another third-class city were in the future

to become distressed, call on Act 47, engage a coordinator, refuse the coordinator's plan, and then refuse to provide an alternative plan, there is no reason why this should not also be applied to that municipality.

Furthermore, if we are to close out chapter 7 on July 1, 2013, we may still be causing a problem in Harrisburg. I am hopeful that we do not wind up having to go through chapter 7. I am hoping that the city will choose to come to an agreed-upon settlement, but if they do not, the terms and the conditions necessary to get them out of their very deep hole may not be done by July 1, 2013. And to arbitrarily pull the plug before they have fully implemented the plan would be a mistake and would be irresponsible on our part.

Now, I, again, issue the same statement that I made earlier that we are prepared and are preparing for a more full discussion of Act 47 and how it might be improved on. We may very well have a better version of dealing with this kind of alternative in the future, but to prematurely pull this away before we know that we have a better alternative in hand would be a mistake. This was complicated. It was painful going through the process to draft this, and we should not prematurely destroy it on July 1, 2013, until we know we have something better to replace it with.

So therefore, with all due respect, I once again ask for a negative vote on this amendment.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman from Cambria County, Mr. Barbin.

Mr. BARBIN. Thank you, Mr. Speaker.

I rise in support of the motion for suspension as a Representative of a third-class municipality that is distressed.

The SPEAKER. Will the gentleman suspend.

The question before the House is the amendment. You made reference to a motion to suspend. The gentleman made a remark about supporting the motion to suspend. That is not the question before the House. This amendment is before us.

On the amendment?

Mr. BARBIN. Yes.

The SPEAKER. The gentleman may proceed.

Mr. BARBIN. Thank you, Mr. Speaker.

We have had a couple amendments. I apologize. This particular amendment is timely. And on the amendment, I would like the House to consider this: It has been said that government governs best that governs least. We have a problem that we have to resolve because the Harrisburg City Council and the Harrisburg mayor have refused to agree to an Act 47 plan. We also have a statement by the sponsor, Mr. Ross, our chairman, that we are going to deal with Act 47. My suggestion is, by voting for this amendment, what we will be able to do with the sunset is what we do with all other bills. The children's health insurance plan was sunsetted until last session. We extended it to 2013-2014. If we put in place a power that is unknown at this moment, because we do not know what facts will affect other third-class cities and we do not have a sunset, what we will do is invite problems that we do not have currently in a recession-based time.

Right now we are trying to pull ourselves out of the economy. We have multiple third-class cities that are in distress status. If we fix the problem for Harrisburg but we limit the power, which is really an unheard-of power, if the Federal government said to us, we are taking over the State legislature

because you guys have too big an unemployment compensation problem or too big a pension problem, we would all be yelling that that is an undue exercise of Federal power. The same thing could be said today about this vote to let the State take over local powers. So if we are going to do it, and I have supported the Grell amendment, we should do it in the manner that is the least restrictive, that says to everyone else, get your act in order. If you do not, 2 years from now we will take this up again, but we should have a sunset date in this because no one really can stand here and tell us how this power is going to be executed. Should we really be telling local governments across the State that we are giving a receiver power to the State to take over your business in the middle of a recession? I say no. I ask for your support for this amendment.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman, Mr. Freeman, for the second time.

Mr. FREEMAN. Thank you, Mr. Speaker.

Mr. Speaker, just to address the concerns of the gentleman from Chester who is worried that somehow by sunseting this we will not be able to get the job done. Most of the commentators have said that a 2-year window is probably more than enough time to address the finances of the city of Harrisburg. The real concern that each and every one of us in this chamber should have today is to the point as to whether we are going to allow this kind of strong authority to exist within the office of a receiver. Keep in mind, we are taking away the fiscal destiny of a duly elected body, of a local government that was elected by the people. Now, granted, the way things have unfolded here in Harrisburg, I understand the frustrations on all sides. I understand how the process seems to be broke at this point in time, but let us not make chapter 6 and chapter 7 permanent features quite yet. Let us see how it works. By waiting until July 1, 2013, we have more than enough time to at some point repeal the sunset if more time is desired on the part of the receiver and on the part of this process. But if we do not put a sunset provision in today, we are making this a permanent feature of Act 47, and we all know how difficult it is to remove a permanent feature of the law, particularly in a statute like this, which very seldom comes up before the legislative body.

I urge us to be prudent in this matter, to be careful and cautious as we try and put power in the hands of one receiver. Let us not abdicate the power of local government arbitrarily. Let us see if this legislation can address the concern and do so within a 2-year window, within a 2-year timeframe, and if it cannot, we can revisit that and repeal the sunset or extend it further. But let us not take away the one safeguard we have against an arbitrary approach to how local government is handled under Act 47.

I urge this chamber to please adopt this amendment and to build in some safeguards on what is envisioned as a significant change in the Act 47 process.

The SPEAKER. The question is, will the House agree to the amendment?

On that question, the Speaker recognizes the gentleman, Mr. Ross, for a second time.

Mr. ROSS. Thank you, Mr. Speaker.

I would just point out that there is no such thing as a permanent law in Pennsylvania. Our successors could repeal.

Just as he suggested, they may wish to adopt later. So really, this is not necessary at this point. We are going to have a more general review of Act 47 later. It creates a level of uncertainty if the receiver is not able to complete their task on time. And I therefore ask for a "no" vote.

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

The following roll call was recorded:

YEAS—85

Barbin	Dermody	Kavulich	Petrarca
Bishop	DeWeese	Kirkland	Preston
Boyle, B.	Donatucci	Kortz	Ravenstahl
Boyle, K.	Evankovich	Kotik	Roebuck
Brennan	Evans, D.	Krieger	Sabatina
Briggs	Fabrizio	Kula	Sainato
Brown, V.	Frankel	Longietti	Samuelson
Brownlee	Freeman	Mahoney	Santarsiero
Caltagirone	Galloway	Mann	Santoni
Carroll	George	Markosek	Smith, K.
Cohen	Gerber	McGeehan	Smith, M.
Conklin	Gergely	Metzgar	Staback
Costa, P.	Gibbons	Mirabito	Sturla
Cruz	Goodman	Mullery	Thomas
Curry	Haluska	Mundy	Vitali
Cutler	Hanna	Murphy	Wagner
Daley	Harhai	Neuman	Waters
Davidson	Harkins	O'Brien, M.	Wheatley
Davis	Hornaman	Parker	White
Deasy	Johnson	Pashinski	Williams
DeLissio	Josephs	Payton	Youngblood
DeLuca			

NAYS—111

Adolph	Everett	Maher	Reed
Aument	Farry	Major	Reese
Baker	Fleck	Maloney	Roae
Barrar	Gabler	Marshall	Rock
Bear	Geist	Marsico	Ross
Benninghoff	Gillen	Masser	Saccone
Bloom	Gillespie	Matzie	Saylor
Boback	Gingrich	Metcalfe	Scavello
Boyd	Godshall	Miccarelli	Schroder
Bradford	Grell	Micozzie	Shapiro
Brooks	Grove	Millard	Simmons
Brown, R.	Hackett	Miller	Sonney
Buxton	Hahn	Milne	Stephens
Causar	Harhart	Moul	Stern
Christiana	Harper	Murt	Stevenson
Clymer	Harris	Mustio	Swanger
Costa, D.	Heffley	O'Neill	Tallman
Cox	Helm	Oberlander	Taylor
Creighton	Hess	Payne	Toepel
Culver	Hickernell	Peifer	Toohil
Day	Hutchinson	Perry	Truitt
Delozier	Kampf	Petri	Turzai
Denlinger	Kauffman	Pickett	Vereb
DePasquale	Keller, F.	Pyle	Vulakovich
DiGirolamo	Keller, M.K.	Quigley	Watson
Dunbar	Killion	Quinn	
Ellis	Knowles	Rapp	Smith, S.,
Emrick	Lawrence	Readshaw	Speaker
Evans, J.			

NOT VOTING—0

EXCUSED—7

Burns	Keller, W.	O'Brien, D.	Tobash
Hennessey	Myers	Reichley	

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

On the question recurring,

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

The SPEAKER. The gentleman, Mr. Freeman, has, I believe, three other amendments. Would you like to continue to offer those amendments?

Mr. FREEMAN. No, Mr. Speaker. I withdraw my other amendments.

The SPEAKER. The Speaker thanks the gentleman.

It is the Speaker's understanding that there are no further amendments to this bill that will be offered.

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.)

RESOLUTION

Mr. HUTCHINSON called up **HR 309, PN 1969**, entitled:

A Concurrent Resolution establishing a forestry task force to study issues concerning the renewal and management of this Commonwealth's forests; providing for an advisory committee; and directing the Joint Legislative Air and Water Pollution Control and Conservation Committee to provide administrative support to the task force.

On the question,

Will the House adopt the resolution?

The SPEAKER. On that question, the Speaker recognizes the gentleman from Delaware County, Mr. Vitali.

LEAVE OF ABSENCE

The SPEAKER. The Speaker returns to leaves of absence and recognizes the majority whip, who requests a leave of absence for the gentleman, Mr. HACKETT, from Delaware County for the remainder of the day. Without objection, the leave will be granted.

CONSIDERATION OF HR 309 CONTINUED

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

Mr. VITALI. Thank you, Mr. Speaker.

I am going to be withdrawing this amendment in exchange for being able to make a few points on it because I think it is important to get this issue out as often as possible. What my amendment would have done would be to establish a

moratorium on further State forest leasing in this amendment. I think it is something that we ought to do for a number of reasons. Our State forest lands are a Commonwealth treasure, and it pains me to see what drilling is doing to them. I was in the Pine Creek Valley, Tiadaghton State Forest, a beautiful State forest, and I saw what that industrial activity did to Tiadaghton. Mr. Speaker, I saw heavy truck traffic, big roads, huge retention basins. Mr. Speaker, the clearing of land, the compaction of soil, this is a loud industrial activity that does not just affect State forests during the day, but also in the night when you see the beautiful night sky marred by the flaring of methane.

Mr. Speaker, this is an industrial activity, which mars these wild lands. Mr. Speaker, last year a DCNR (Department of Conservation and Natural Resources) report stated that no further leasing involving surface disturbance could take place on State forests without compromising their integrity. Mr. Speaker, regrettably, we have used the leasing of State forest land as a cash cow to deal with our budget issues, and that needs to stop. We have already leased out 725,000 acres of State forest land. That is about half of what we have already leased out. Mr. Speaker, there currently is an Executive order in effect, which I hope that the current Governor will maintain.

Mr. Speaker, State forests are used by hikers and hunters and fishers and boaters and mountain bikers and birders and Pennsylvanians and others and tourists of all stripes, and it is not right for us right now this year to spoil this usage for all Pennsylvanians, not only in this generation but for years to come. Mr. Speaker, I really hope that this House, this General Assembly, this administration really takes a pause and thinks twice about this very destructive activity, but I will be withdrawing this amendment because I do not think— I will be withdrawing this amendment. Thank you, Mr. Speaker.

The SPEAKER. The question is, will the House agree to the resolution?

On the question recurring,

Will the House adopt the resolution?

Mr. HANNA offered the following amendment No. **A05102**:

Amend Resolution, page 1, by inserting between lines 10 and 11

WHEREAS, The remaining unleased State forest land in the Marcellus region represents our most wild and natural areas that are environmentally sensitive or of highest recreational value and shall not be leased for gas-related activities; and

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Speaker recognizes the gentleman, Mr. Hanna.

Mr. HANNA. Thank you, Mr. Speaker.

Mr. Speaker, this amendment essentially does much of what the Representative from Delaware County was attempting to do with his amendment. Only, mine places the study language of whether or not drilling should take place on wild and natural areas in a "whereas" clause and requires that it not be open for gas-related activities.

The SPEAKER. The question is, will the House agree to the amendment?

CONSTITUTIONAL POINT OF ORDER

The SPEAKER. On that question, the Speaker recognizes the gentleman from Venango County, Mr. Hutchinson.

Mr. HUTCHINSON. Thank you, Mr. Speaker.

Mr. Speaker, I rise to move that this amendment is unconstitutional pursuant to Article III, section 4, of the Constitution for two reasons. Number one—

The SPEAKER. The gentleman will suspend.

Mr. HUTCHINSON. Yes, Mr. Speaker.

The SPEAKER. Let the Speaker read the question that you have raised before the House and then you will be recognized to justify and explain your reasoning.

The SPEAKER. The gentleman, Mr. Hutchinson, raises the point of order that the amendment to House Concurrent Resolution 309, PN 1969, is unconstitutional. The Speaker, under rule 4, is required to submit questions affecting the constitutionality of an amendment to the House for decision, which the Chair now does.

On the question,

Will the House sustain the constitutionality of the amendment?

The SPEAKER. The Chair recognizes the gentleman, Mr. Hutchinson.

Mr. HUTCHINSON. Mr. Speaker, the amendment before us is improperly asked to be added to this resolution. It is improper because, number one, the language in the amendment is prohibitive language and we do not put prohibitive language in the resolutions; and number two, this language, if it were to be legislation, it should be considered on 3 different days, which you cannot do as part of a resolution, Mr. Speaker.

The SPEAKER. The question of constitutionality of the amendment, on that question, the Speaker recognizes the gentleman, Mr. Hanna.

Mr. HANNA. Thank you, Mr. Speaker.

Mr. Speaker, the constitutionality of this amendment is being challenged based upon the false notion that if adopted my amendment would somehow have the force of law. Mr. Speaker, we all know that that is not the case. First, under the Pennsylvania Constitution, laws are made by bills, not resolutions. This is a resolution. Mr. Speaker, bills are considered on 3 separate days in each chamber, and if passed by a majority of the members elected to each chamber, bills are presented to the Governor for his signature. Only if signed, Mr. Speaker, would such a bill become a law.

This is not a bill, Mr. Speaker; this is a resolution. Mr. Speaker, none of that applies here. Before the House is amendment A05102, an amendment to a resolution, not a bill. Mr. Speaker, unlike a bill, this resolution will never become law. This resolution will never be sent to the Governor for his signature. Mr. Speaker, the purpose of resolutions are to state policies and make decisions that are solely within the purview of this legislature. That is exactly what we are attempting to do here. A05102, if adopted, will clearly communicate that the members of this legislature are opposed to further drilling in our most wild, natural, and high recreational value public forest lands. Let me repeat that. If adopted, it would clearly communicate that the members of this legislature are opposed to

further drilling in our most wild, natural, and high recreational value public forest lands. To this end, Mr. Speaker, A05102 inserts a "whereas" clause into the resolution.

Mr. Speaker, a "whereas" clause is used to state the reason or purpose of the resolution. With the addition of the amendment, we will be affirming this legislature's opposition to drilling on our most wild and natural areas that are environmentally sensitive or of the highest recreational value, areas of our public forest lands we will forever seek to protect and preserve. As such, Mr. Speaker, this amendment will make it clear that this study is essential to affirm that we must protect and preserve these public forest lands because drilling activities could devastate our forest land, which will result in many of these lands returning to their natural and pristine state.

Furthermore, Mr. Speaker, technically speaking, Mason's Manual, section 145-5, states, "Frequently in a resolution, introductory clauses are used, introduced by the word 'whereas'.... Such clauses are not a part of the resolution technically, but are introductory clauses only, and are not essential to the use or validity of the resolution." Mason's Manual makes it very clear that a "whereas" clause does not invalidate the resolution; it does not. Mr. Speaker. I repeat, a "whereas" clause is not essential to the validity of the resolution.

Mr. Speaker, if a "whereas" clause is not essential to the validity of a resolution, an amendment that solely inserts a "whereas" clause cannot make the resolution unconstitutional. For that reason, Mr. Speaker, it would be intellectually inconsistent to vote that this is unconstitutional. I urge that you vote that it is constitutional. Thank you, Mr. Speaker.

The SPEAKER. On the question of constitutionality, those voting "aye" will vote to declare the amendment to be constitutional; those voting "no" will vote to declare the amendment to be unconstitutional.

On the question recurring,

Will the House sustain the constitutionality of the amendment?

The following roll call was recorded:

YEAS—89

Barbin	DeLissio	Josephs	Preston
Bishop	DeLuca	Kavulich	Ravenstahl
Boyle, B.	DePasquale	Kirkland	Readshaw
Boyle, K.	Dermody	Kortz	Roebuck
Bradford	DeWeese	Kotik	Sabatina
Brennan	Donatucci	Kula	Sainato
Briggs	Evans, D.	Longietti	Samuelson
Brown, V.	Fabrizio	Mahoney	Santarsiero
Brownlee	Frankel	Mann	Santoni
Buxton	Freeman	Markosek	Shapiro
Caltagirone	Galloway	Matzie	Smith, K.
Carroll	George	McGeehan	Smith, M.
Cohen	Gerber	Mirabito	Staback
Conklin	Gergely	Mullery	Sturla
Costa, D.	Gibbons	Mundy	Thomas
Costa, P.	Goodman	Murphy	Vitali
Cruz	Haluska	Neuman	Wagner
Curry	Hanna	O'Brien, M.	Waters
Cutler	Harhai	Parker	Wheatley
Daley	Harkins	Pashinski	White
Davidson	Hornaman	Payton	Williams
Davis	Johnson	Petrarca	Youngblood
Deasy			

NAYS—106

Adolph	Farry	Maier	Reed
Aument	Fleck	Major	Reese
Baker	Gabler	Maloney	Roae
Barrar	Geist	Marshall	Rock
Bear	Gillen	Marsico	Ross
Benninghoff	Gillespie	Masser	Saccone
Bloom	Gingrich	Metcalfe	Saylor
Boback	Godshall	Metzgar	Scavello
Boyd	Grell	Miccarelli	Schroder
Brooks	Grove	Micozzie	Simmons
Brown, R.	Hahn	Millard	Sonney
Causar	Harhart	Miller	Stephens
Christiana	Harper	Milne	Stern
Clymer	Harris	Moul	Stevenson
Cox	Heffley	Murt	Swanger
Creighton	Helm	Mustio	Tallman
Culver	Hess	O'Neill	Taylor
Day	Hickernell	Oberlander	Toepel
Delozier	Hutchinson	Payne	Toohil
Denlinger	Kampf	Peifer	Truitt
DiGirolamo	Kauffman	Perry	Turzai
Dunbar	Keller, F.	Petri	Verb
Ellis	Keller, M.K.	Pickett	Vulakovich
Emrick	Killion	Pyle	Watson
Evankovich	Knowles	Quigley	
Evans, J.	Krieger	Quinn	Smith, S.,
Everett	Lawrence	Rapp	Speaker

NOT VOTING—0

EXCUSED—8

Burns	Hennessey	Myers	Reichley
Hackett	Keller, W.	O'Brien, D.	Tobash

Less than the majority having voted in the affirmative, the question was determined in the negative and the constitutionality of the amendment was not sustained.

LEAVE OF ABSENCE CANCELED

The SPEAKER. The Speaker returns to leaves of absence and recognizes the presence of the gentleman from Chester County, Mr. Hennessey, on the floor of the House. His name will be added to the master roll.

CONSIDERATION OF HR 309 CONTINUED

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

(Members proceeded to vote.)

LEAVE OF ABSENCE

The SPEAKER. The Speaker returns to leaves of absence and recognizes the minority whip, who requests a leave of absence for the gentleman from Allegheny County, Mr. KORTZ, for the remainder of the day. Without objection, the leave will be granted.

CONSIDERATION OF HR 309 CONTINUED

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

The following roll call was recorded:

YEAS—195

Adolph	Dunbar	Kirkland	Rapp
Aument	Ellis	Knowles	Ravenstahl
Baker	Emrick	Kotik	Readshaw
Barbin	Evankovich	Krieger	Reed
Barrar	Evans, D.	Kula	Reese
Bear	Evans, J.	Lawrence	Roae
Benninghoff	Everett	Longietti	Rock
Bishop	Fabrizio	Maher	Roebuck
Bloom	Farry	Mahoney	Ross
Boback	Fleck	Major	Sabatina
Boyd	Frankel	Maloney	Saccone
Boyle, B.	Freeman	Mann	Sainato
Boyle, K.	Gabler	Markosek	Samuelson
Bradford	Galloway	Marshall	Santarsiero
Brennan	Geist	Marsico	Santoni
Briggs	George	Masser	Saylor
Brooks	Gerber	Matzie	Scavello
Brown, R.	Gergely	McGeehan	Schroder
Brown, V.	Gibbons	Metcalfe	Shapiro
Brownlee	Gillen	Metzgar	Simmons
Buxton	Gillespie	Miccarelli	Smith, K.
Caltagirone	Gingrich	Micozzie	Smith, M.
Carroll	Godshall	Millard	Sonney
Causar	Goodman	Miller	Staback
Christiana	Grell	Milne	Stephens
Clymer	Grove	Mirabito	Stern
Cohen	Hahn	Moul	Stevenson
Conklin	Haluska	Mullery	Sturla
Costa, D.	Hanna	Mundy	Swanger
Costa, P.	Harhai	Murphy	Tallman
Cox	Harhart	Murt	Taylor
Creighton	Harkins	Mustio	Thomas
Cruz	Harper	Neuman	Toepel
Culver	Harris	O'Brien, M.	Toohil
Curry	Heffley	O'Neill	Truitt
Cutler	Helm	Oberlander	Turzai
Daley	Hennessey	Parker	Verb
Davidson	Hess	Pashinski	Vitali
Davis	Hickernell	Payne	Vulakovich
Day	Hornaman	Payton	Wagner
Deasy	Hutchinson	Peifer	Waters
DeLissio	Johnson	Perry	Watson
Delozier	Josephs	Petrarca	Wheatley
DeLuca	Kampf	Petri	White
Denlinger	Kauffman	Pickett	Williams
DePasquale	Kavulich	Preston	Youngblood
Dermody	Keller, F.	Pyle	
DeWeese	Keller, M.K.	Quigley	Smith, S.,
DiGirolamo	Killion	Quinn	Speaker
Donatucci			

NAYS—0

NOT VOTING—0

EXCUSED—8

Burns	Keller, W.	Myers	Reichley
Hackett	Kortz	O'Brien, D.	Tobash

The majority of the members elected to the House having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

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

The SPEAKER. For the information of the members, there will be no further votes.

BILL RECOMMITTED

The SPEAKER. The Speaker recognizes the majority leader, who moves that SB 1151 be recommitted to the Committee on Appropriations.

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

BILLS REMOVED FROM TABLE

The SPEAKER. The Speaker recognizes the majority leader, who moves that the following bills be removed from the tabled calendar and placed on the active calendar:

HB 823;
HB 1192;
HB 1236;
HB 1237;
HB 1438;
HB 1582; and
HB 1610.

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

BILL REMOVED FROM TABLE

The SPEAKER. The Speaker recognizes the majority leader, who moves that SB 654 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.

BILL TABLED

The SPEAKER. The Speaker recognizes the majority leader, who moves that SB 654 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.

STATEMENT BY MR. DeWEESE

The SPEAKER. The gentleman from Greene County, Mr. DeWeese, is recognized under unanimous consent.

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

Just one minute, and I think I can contain it to one minute.

I will be introducing a change to our rules and would love to have 202 of my brothers and sisters help me in cosponsorship. It would be dealing with unanimous consent, and it would assert that the Speaker would offer the name of the member who would object to unanimous consent. I have been privileged to serve in this chamber for three and a half decades and my memory tells me that we would go year after year after year and no one would take away unanimous consent.

I am asking that the conservative instincts in all of us, and there are many within my own perspective, conserve as we do the Second Amendment, I want to conserve our First Amendment. There is no more important effort in our world than under these chandeliers to have our freedom of speech. So I am going to ask that we formally go forward with a change in our rules to allow that unanimous consent be a dynamic where if someone objects, at least that person not do so anonymously, and in this age of transparency, that we have the person or persons objecting to unanimous consent at least have their names read across the record. I just was introducing that, and I thank the gentleman for allowing me to share that. Thank you.

The SPEAKER. The Speaker thanks the gentleman.

BILLS AND RESOLUTIONS PASSED OVER

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

ADJOURNMENT

The SPEAKER. Seeing no further business before the House, the Speaker recognizes the gentleman, Mr. Kevin Boyle, from Philadelphia County, who moves that this House do adjourn until Wednesday, September 28, 2011, at 11 a.m. e.d.t., unless sooner recalled by the Speaker.

On the question,
Will the House agree to the motion?
Motion was agreed to, and at 4:09 p.m., e.d.t., the House adjourned.